

# GOODS AND SERVICES TAX ACT

## PART I PRELIMINARY

Short title

1.

This Act may be cited as the Goods and Services Tax Act.

Interpretation

2.

-(1) In this Act, unless the context otherwise requires -

"account with the electronic service", in relation to any person, means a computer account within the electronic service which is assigned by the Comptroller to that person for the storage and retrieval of electronic records relating to that person;

"authentication code", in relation to any person, means an identification or identifying code, a password or any other authentication method or procedure which is assigned to that person for the purposes of identifying and authenticating the access to and use of the electronic service by that person;

"authorised person" means any person acting under the authority of the Comptroller;

"Board" means the Goods and Services Tax Board of Review established under section 50;

"Comptroller" means the Comptroller of Goods and Services Tax appointed under section 4 and includes for all purposes of this Act, except the exercise of the powers conferred upon the Comptroller by section 5 (2), a Deputy Comptroller or an Assistant Comptroller;

"computer" has the same meaning as in the Computer Misuse Act (Cap. 50A);

"computer output" has the same meaning as in the Computer Misuse Act;

"customs duty" means customs duty imposed on goods imported into Singapore under the Customs Act (Cap. 70);

"document" has the same meaning as in the Evidence Act (Cap. 97);

"electronic record" has the same meaning as in the Electronic Transactions Act (Cap. 88);

"electronic service" means the electronic service provided by the Comptroller under section 42 (1);

"excise duty" has the same meaning as in the Customs Act;

"free trade zone" has the same meaning as in the Free Trade Zones Act (Cap. 114);

"goods" excludes money;

"import" has the same meaning as in the Customs Act;

"invoice" includes any document similar to an invoice;

"input tax" has the meaning given to it by section 19;

"land" has the same meaning as in the Land Titles Act (Cap. 157);

"money" and "currency" include currencies whether of Singapore or any other country but does not include a collector's piece, investment article or item of numismatic interest;

"open market value" , in relation to a supply of goods or services, has the meaning given to it by section 17 (5) and in relation to imported goods has the meaning given to it by section 18 (3);

"output tax" has the meaning given to it by section 19;

"prescribed accounting periods" means such accounting periods as may be prescribed by regulations made under section 19;

"quarter" means a period of 3 months ending at the end of March, June, September or December;

"supply" has the meaning given to it by section 10;

"tax" means goods and services tax;

"tax invoice" means such an invoice as is required under section 41;

"taxable person" has the meaning given to it by section 8 (2);

"taxable supply" has the meaning given to it by section 8 (2A);

"unit trust" means any trust established for the purpose, or having the effect, of providing facilities for the participation by persons as beneficiaries under a trust, in profits or income arising from the acquisition, holding, management or disposal of securities or any other property.

(2) The question whether, in relation to any supply of services, the supplier or the recipient of the supply belongs in one country or another shall be determined in accordance with section 15.

Meaning of "business", etc.

### 3.

-(1) In this Act, "business" includes any trade, profession or vocation.

(2) Without prejudice to the generality of anything else in this Act, the following are deemed to be the carrying on of a business:

(a) the provision by any club, association, society, management corporation or organisation (for a subscription or other consideration) of the facilities or advantages available to its members or subsidiary proprietors, as the case may be; and

(b) the admission, for a consideration, of persons to any premises.

(3) Where a body has objects which are in the public domain and are of a political, religious,

philanthropic or patriotic nature, it is not to be treated as carrying on a business only because its members subscribe to it, if a subscription obtains no facility or advantage for the subscriber other than the right to participate in its management or receive reports on its activities.

(4) Where a person, in the course or furtherance of a trade, profession or vocation, accepts any office, services supplied by him as the holder of that office are treated as supplied in the course or furtherance of the trade, profession or vocation.

(5) Anything done in connection with the termination or intended termination of a business is treated as being done in the course or furtherance of that business.

(6) Subject to any order made under section 10 (3), the disposition of a business as a going concern, or of its assets or liabilities (whether or not in connection with its re-organisation or winding up), is a supply made in the course or furtherance of that business.

(7) In subsection (2), "management corporation" and "subsidiary proprietors" have the same meanings as in the Land Titles (Strata) Act (Cap. 158).

## PART II ADMINISTRATION

### Comptroller and other officers

4.

For the due administration of this Act, the Minister may, by notification in the Gazette, appoint a Comptroller of Goods and Services Tax and such Deputy Comptrollers, Assistant Comptrollers and other officers and persons as may be necessary.

### Responsibility of Comptroller and delegation of powers

5.

-(1) The Comptroller shall be responsible generally for the carrying out of the provisions of this Act and for the collection of tax and shall pay all amounts collected in respect thereof into the Consolidated Fund.

(2) The Comptroller may, subject to such conditions or restrictions as he thinks fit, delegate to any public officer or person employed in the administration of this Act all or any of the powers, functions and duties vested in him by this Act.

### Official secrecy

6.

-(1) Every person having any official duty or being employed in the administration of this Act -

(a) shall regard and deal with all documents, information, returns and assessments relating to the business, the value of the supply of any goods and services, or the income of any taxable person as secret and confidential; and

(b) may be required by the Minister to make and subscribe a declaration to that effect in the form determined by the Minister before the Comptroller or a Magistrate.

(2) Subject to subsections (4) and (5), every person having possession or control over any document, information, return or assessment in relation to the business, the supply of any goods or services or the income of any taxable person, who at any time otherwise than for the purpose

of this Act or with the express authority of the President -

(a) communicates or attempts to communicate such information or anything contained in such documents, returns or copies to any person; or

(b) suffers or permits any person to have access to any such information or to anything contained in such documents, returns or copies, shall be guilty of an offence.

(3) No person appointed under, or who is employed in carrying out, the provisions of this Act or who is referred to in subsection (4) or (5) shall be required to produce in any court any return, document or assessment, or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his duties under this Act except as may be necessary -

(a) for the purpose of carrying into effect the provisions of this Act; or

(b) in order to institute a prosecution, or in the course of a prosecution, for any offence committed in relation to goods and services tax, income tax and customs and excise duties.

(4) The Comptroller shall permit the Minister, the Auditor-General or any officer duly authorised in that behalf by the Auditor-General to have such access to any record or document as may be necessary for the performance of his official duties.

(5) The Comptroller may transmit or communicate any document, information, return or assessment referred to in subsection (2) to the following persons which may be required by them in the performance of their official duties:

(a) the Comptroller of Income Tax;

(b) the Director-General of Customs;

(c) the Commissioner of Estate Duties;

(d) the Comptroller of Property Tax;

(e) the Chief Assessor; and

(f) the Commissioner of Stamp Duties.

(6) Notwithstanding anything in this section, the Comptroller may, for the purpose of enabling the Chief Statistician to perform his duties under the Statistics Act (Cap. 317), furnish and permit the Chief Statistician access to any prescribed information and records.

## PART III IMPOSITION AND EXTENT OF TAX

Goods and services tax

7.

A tax to be known as Goods and Services Tax shall be charged in accordance with the provisions of this Act on the supply of goods and services in Singapore (including anything treated as such a supply) and on the importation of goods into Singapore.

Scope of tax

## 8.

-(1) Tax shall be charged on any supply of goods or services made in Singapore where it is a taxable supply made by a taxable person in the course or furtherance of any business carried on by him.

(2) A person is a taxable person for the purposes of this Act while he is or is required to be registered under this Act. (2A) A taxable supply is a supply of goods or services made in Singapore other than an exempt supply.

(3) Tax on any supply of goods or services is a liability of the person making the supply and (subject to provisions on accounting and payment) becomes due at the time of supply.

(4) Tax on the importation of goods shall be charged, levied and payable as if it were customs duty or excise duty and as if all goods imported into Singapore are dutiable and liable to customs duty or excise duty.

## Registration

## 9.

-(1) The First Schedule shall have effect in relation to the registration of taxable persons.

(2) The Minister may by order amend the First Schedule.

## Meaning of "supply"

## 10.

-(1) The Second Schedule shall apply for determining what is, or is to be treated as, a supply of goods or a supply of services.

(2) Subject to any provision made by the Second Schedule and to orders made under subsection (3) -

(a) "supply" in this Act includes all forms of supply, but not anything done otherwise than for a consideration;

(b) anything which is not a supply of goods but is done for a consideration (including, if so done, the granting, assignment or surrender of any right) is a supply of services.

(3) The Minister may by order amend the Second Schedule and may also provide by order with respect to any description of transaction -

(a) that it is to be treated as a supply of goods and not as a supply of services;

(b) that it is to be treated as a supply of services and not as a supply of goods; or

(c) that it is to be treated as neither a supply of goods nor a supply of services.

(4) Without prejudice to subsection (3), an order made under that subsection may provide that paragraph 5 (3) of the Second Schedule is not to apply, in relation to goods of any prescribed description used or made available for use in prescribed circumstances, so as to make that a supply of services under that paragraph.

(5) For the purposes of this section, where goods are manufactured or produced from any other goods, those other goods shall be treated as incorporated in the first-mentioned goods.



## Time of supply

### 11.

- (1) This section and section 12 shall apply for determining the time when a supply of goods or services is to be treated as taking place for the purposes of the charge to tax.
- 2) Subject to section 12, a supply of goods shall be treated as taking place -
- (a) if the goods are to be removed, at the time of the removal;
  - (b) if the goods are not to be removed, at the time when they are made available to the person to whom they are supplied;
  - (c) if the goods (being sent or taken on approval or sale or return or similar terms) are removed before it is known whether a supply will take place, at the time when it becomes certain that the supply has taken place or 12 months after the removal, whichever is the earlier.
- (3) Subject to section 12, a supply of services shall be treated as taking place at the time when the services are performed.

## Further provisions relating to time of supply

### 12.

- (1) If, before the time applicable under section 11 (2) or (3), the person making the supply issues a tax invoice in respect of it or if, before the time applicable under section 11 (2) (a) or (b) or section 11 (3), he receives a payment in respect of it, the supply shall, to the extent covered by the invoice or payment, be treated as taking place at the time the invoice is issued or the payment is received, as the case may be, or whichever is the earlier.
- (2) If, within 14 days after the time applicable under section 11 (2) or (3), the person making the supply issues a tax invoice in respect of it, then, unless he has notified the Comptroller in writing that he elects not to avail himself of this subsection, the supply shall (to the extent that it is not treated as taking place at the time mentioned in subsection (1)) be treated as taking place at the time the invoice is issued.
- (3) The Comptroller may, at the request of a taxable person, direct that subsection (2) shall apply in relation to supplies made by him (or such supplies made by him as may be specified in the direction) as if for the period of 14 days there were substituted such longer period as may be specified in the direction.
- (4) Where a taxable person provides a document to himself which -
- (a) purports to be a tax invoice in respect of a supply of goods or services to him by another taxable person; and
  - (b) is in accordance with regulations made under section 41 and the Comptroller has approved that it be treated as the tax invoice required by the regulations to be provided by the supplier, subsections (2) and (3) shall have effect in relation to that supply as if -
    - (i) the provision of the document to himself by the first-mentioned taxable person were the issue by the supplier of a tax invoice in respect of the supply; and
    - (ii) any notice of election given or request made by the first-mentioned taxable person for the purposes of those provisions had been given or made by the supplier.

(5) The Comptroller may, at the request of a taxable person, by direction in writing alter the time at which supplies made by him (or such supplies made by him as may be specified in the direction) are to be treated as taking place, either -

(a) by directing those supplies to be treated as taking place -

(i) at times or on dates determined by or by reference to the occurrence of some event described in the direction; or

(ii) at times or on dates determined by or by reference to the time when some event so described would in the ordinary course of events occur, the resulting times or dates being in every case earlier than would otherwise apply; or

(b) by directing that, notwithstanding subsections (2) and (3), those supplies shall (to the extent that they are not treated as taking place at the time mentioned in subsection (1)) be treated as taking place -

(i) at the beginning of the relevant working period (as defined in his case in and for the purposes of the direction); or

(ii) at the end of the relevant working period (as so defined).

(6) Where there is a supply of goods by virtue only of a transfer or disposal of assets under paragraph 5 (1) of the Second Schedule, the supply is treated as taking place when the goods are transferred or disposed of as mentioned in that paragraph.

(7) Where there is a supply of services by virtue only of paragraph 5 (3) of the Second Schedule, the supply is treated as taking place when the goods are appropriated to the use mentioned in that paragraph.

(8) The Minister may by regulations make provision with respect to the time at which (notwithstanding subsections (1) to (3), (6) and (7) and sections 11 and 38 (4)) a supply is to be treated as taking place in cases where -

(a) it is a supply of goods or services for a consideration the whole or part of which is determined or payable periodically, or from time to time, or at the end of any period;

(b) it is a supply of goods for a consideration the whole or part of which is determined at the time when the goods are appropriated for any purpose;

(c) there is a supply of services by virtue of paragraph 5 (3) of the Second Schedule; or

(d) there is a supply to which sections 27, 37A and 38 apply.

(9) For any case referred to in subsection (8), the regulations may provide for goods or services to be treated as separately and successively supplied at prescribed times or intervals.

(10) In this section, "tax invoice" means such an invoice as is required under section 41 (1) or would be so required if the person to whom the supply is made were a taxable person.

Place of supply

-(1) This section shall apply for determining, for the purposes of the charge to tax, whether goods or services are supplied in Singapore.

(2) If the supply of any goods does not involve their removal from or to Singapore, they shall be treated as supplied in Singapore if they are in Singapore and otherwise shall be treated as supplied outside Singapore.

(3) If the supply of any goods involves their removal from Singapore, they shall be treated as supplied in Singapore and if it involves their removal to Singapore, they shall be treated as supplied outside Singapore.

(4) A supply of services shall be treated as made -

(a) in Singapore if the supplier belongs in Singapore; and

(b) in another country (and not in Singapore), if the supplier belongs in that other country.

(5) The Minister may by regulations provide, in relation to services generally or to particular services specified in the regulations, for varying the rules for determining where a supply of services is made.

Reverse charge on supplies received from abroad

#### 14.

-(1) Subject to subsection (2), where any supply of prescribed services, not being services within any of the descriptions specified in the Fourth Schedule, are -

(a) supplied by a person who belongs in a country other than Singapore; and

(b) received by a person (referred to in this section as the recipient) who belongs in Singapore for the purposes of any business carried on by him, then all the same consequences shall 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 services in Singapore in the course or furtherance of his business, and that supply were a taxable supply.

(2) Supplies which are treated as made by the recipient under subsection (1) are not to be taken into account as supplies made by him when determining the allowance of input tax in his case under section 20 (1).

(3) For the purposes of subsection (1) -

(a) the supply of services treated as made by the recipient shall be assumed to have been made at the time when the supplies are paid for or on the last day of the prescribed accounting period in which the services are performed, whichever is the earlier; and

(b) notwithstanding section 17 (2), the value of the supply of services treated as made by the recipient shall be taken to be such amount as is equal to whatever consideration the services were in fact supplied to him.

(4) The Minister may make regulations -

(a) to prescribe the services for the purposes of subsection (1); and

(b) to exempt all or any class of persons from the provisions of this section.



Place where supplier or recipient of services belongs

15.

-(1) Subsection (3) shall apply for determining, in relation to any supply of services, whether the supplier belongs in one country or another.

(2) Subsections (4) and (5) shall apply for determining, in relation to any supply of services, whether the recipient belongs in one country or another.

(3) The supplier of services shall be treated as belonging in a country if -

(a) he has in that country a business establishment or some other fixed establishment and no such establishment elsewhere;

(b) he has no such establishment in any country but his usual place of residence is in that country; or

(c) he has such establishments both in that country and elsewhere and the establishment of his which is most directly concerned with the supply is in that country.

(4) If the supply of services is made to an individual and received by him otherwise than for the purposes of any business carried on by him, he shall be treated as belonging in whatever country he has his usual place of residence.

(5) Where subsection (4) does not apply, the person to whom the supply is made shall be treated as belonging in a country if -

(a) either of the conditions mentioned in subsection (3) (a) or (b) is satisfied; or

(b) he has such establishments as are mentioned in subsection (3) both in that country and elsewhere and the establishment of his at which, or for the purposes of which, the services are most directly used or to be used is in that country.

(6) For the purposes of this section (but not for any other purpose) -

(a) a person carrying on a business through a branch or agency in any country shall be treated as having a business establishment there; and

(b) "usual place of residence", in relation to a body corporate, means the place where it is incorporated or otherwise legally constituted.

Rate of tax

16.

Tax shall be charged at the rate of 4% for the year 2003 and 5% for the year 2004 and subsequent years, and shall be charged on -

(a) the supply of goods or services, by reference to the value of the supply as determined under this Act; and

(b) the importation of goods, by reference to the value of the goods as determined under this Act.

Value of supply of goods or services

## 17.

-(1) For the purposes of this Act and subject to the Third Schedule, the value of any supply of goods or services shall be determined in accordance with this section.

(2) If the supply is for a consideration in money, its value shall be taken to be such amount as, with the addition of the tax chargeable, is equal to the consideration.

(3) If the supply is not for a consideration or is for a consideration not consisting or not wholly consisting of money, the value of the supply shall be taken to be its open market value.

(4) Where a supply of any goods or services is not the only matter to which a consideration in money relates, the supply shall be deemed to be for such part of the consideration as is properly attributable to it.

(5) For the purposes of this Act, the open market value of a supply of goods or services shall be taken to be the amount that would fall to be taken as its value under subsection (2) if the supply were for such consideration in money as would be payable by a person who has no relationship with any person which would affect that consideration.

(6) The Minister may by order amend the Third Schedule and provide for the determination of the value of a supply of goods or services otherwise than in accordance with this section.

### Value of imported goods

## 18.

-(1) For the purposes of this Act and subject to the Third Schedule, the value of imported goods shall be determined in accordance with this section.

(2) If the goods are imported at a price in money payable as on a transfer of the property, there being no other consideration, the value is an amount equal to the price, plus (so far as not already included) -

(a) all taxes, duties and other charges levied either outside or, by reason of importation, within Singapore (except goods and services tax); and

(b) all costs by way of commission, packing, transport and insurance and all other costs, charges and expenses incidental to the sale and the delivery of the goods up to the port or place of importation.

(3) Where subsection (2) does not apply, the value of the goods is their open market value as determined in accordance with any written law relating to the valuation of goods for customs purposes, plus (so far as not already included in that value) all such taxes, duties, charges and costs as are specified in subsection (2) (a) and (b) unless the Comptroller in his discretion determines that the value of the goods is an amount equal to the price as stated in the invoice plus the taxes, duties, charges and costs as specified in subsection (2) (a) and (b).

## PART IV CREDIT FOR INPUT TAX AGAINST OUTPUT TAX

### Credit for input tax against output tax

## 19.

-(1) A taxable person shall, in respect of supplies made by him, account for and pay tax by

reference to such accounting periods as the Minister may by regulations prescribe (referred to in this Act as a prescribed accounting period) at such time and in such manner as may be determined by the regulations and such regulations may make different provisions for different circumstances.

(2) Subject to this section, a taxable person is entitled at the end of each such period to credit for so much of his input tax as is allowable under section 20, and then to deduct that amount from any output tax that is due from him.

(3) Subject to subsection (4) -

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

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

(ii) tax paid or payable by him on the importation of any goods, being (in either 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) "output tax" means tax on supplies which a taxable person makes.

(4) Where goods or services supplied to a taxable person, or goods imported by him, 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 shall be apportioned so that only so much as is referable to his business purposes is counted as his input tax.

(5) Subject to subsections (6) and (7), if either no output tax is due at the end of the period, or the amount of the credit exceeds that of the tax, then, the amount of the credit or, as the case may be, the amount of the excess shall be paid to the taxable person by the Comptroller.

(6) The whole or any part of the credit may, subject to and in accordance with regulations, be held over to be credited in and for a subsequent period; and the regulations may allow for it to be so held over either on the taxable person's own application or in accordance with general or special directions given by the Comptroller from time to time.

(7) Where at the end of any period an amount is due under subsection (5) to a taxable person who has failed to submit returns, to comply with any reasonable request by the Comptroller for information or to pay tax or penalty for any period as required by this Act, the Comptroller may -

(a) withhold payment of that amount until that person has submitted the returns, complied with the request or paid the tax or penalty, as the case may be; and

(b) deduct from the amount due any tax or penalty which the taxable person is liable to pay and which remains unpaid.

(8) No deduction shall be made under subsection (2) nor shall any payment be made under subsection (5), except on a claim made in such manner and within such time as may be prescribed by regulations.

(9) In the case of a person who has made no taxable supplies in the period concerned or any previous period, payment under subsection (5) shall be made subject to such conditions (if any) imposed by the Comptroller as he thinks fit, including conditions as to repayment in specified circumstances.

(10) Subject to subsections (8) and (9), any payment due under subsection (5) shall be paid within such time as may be prescribed by regulations.

(11) If the Comptroller fails to make payment within the prescribed time, interest on such amount as is outstanding shall, subject to such conditions as may be prescribed, be paid to the taxable person at such rate as may be prescribed and calculated in accordance with the regulations.

(12) Except as the Comptroller otherwise allows, where -

(a) a taxable person fails to pay his supplier the consideration or any part thereof for the supply of any goods or services made by his supplier to him; and

(b) the taxable person has credited under subsection (2) the input tax to which the consideration or the part thereof which he failed to pay relates, the taxable person shall account of an amount equal to such input tax -

(i) in the prescribed accounting period during which the initial specified period expires; and

(ii) in accordance with the method which he was required to use when he first credited the input tax, and the taxable person shall repay such amount to the Comptroller at the same time as any tax in respect of the prescribed accounting period would be payable by him.

(12A) Where a taxable person -

(a) has complied with subsection (12); and

(b) during the subsequent specified period, pays his supplier the whole or part of the consideration for the supply of goods or services referred to in subsection (12) (a), the taxable person shall be entitled to treat an amount equal to the input tax relating to the payment referred to in paragraph (b) as if it were input tax for the prescribed accounting period during which the payment was made.

(13) The Minister may by regulations provide -

(a) for tax on the supply of goods or services to a taxable person, or paid or payable by him on the importation of goods, to be treated as his input tax only if and to the extent that the charge to tax is evidenced and quantified by reference to such documents as may be specified in the regulations or as the Comptroller may direct either generally or in particular cases or classes of cases;

(b) for a taxable person to count as his input tax, in such circumstances, to such extent and subject to such conditions as may be prescribed, tax on the supply to him of goods or services or paid by him on the importation of goods notwithstanding that he was not a taxable person at the time of the supply or payment;

(c) for a taxable person that is a body corporate to count as its input tax, in such circumstances, to such extent and subject to such conditions as may be prescribed, tax on the supply or importation of goods acquired for it before its incorporation or on the supply of services before that time for its benefit or in connection with its incorporation;

(d) in the case of a person who has been, but is no longer, a taxable person, for him to be paid by the Comptroller the amount of any tax on a supply of services made to him for the purposes of



the business carried on by him when he was a taxable person.

(14) The Minister may by regulations provide, in relation to such supplies and importations as the regulations may specify, that tax charged on them or any part thereof is to be excluded from any credit under this section; and -

(a) any such provision may be framed by reference to the description of goods or services supplied or goods imported, the person by whom they are supplied or imported or to whom they are supplied, the purposes for which they are supplied or imported, or any circumstances whatsoever; and

(b) such regulations may contain provision for consequential relief from output tax.

(15) In this section -

"initial specified period" means a period of 12 months from the due date for payment of the consideration or the part thereof, as the case may be, by the taxable person to his supplier;

"subsequent specified period" means a period commencing on the day immediately following the end of the initial specified period, and ending on a day 6 years from the end of the prescribed accounting period during which the relevant input tax was first credited under subsection (2).

Input tax allowable under section 19

## 20.

-(1) The amount of input tax for which a taxable person is entitled to credit at the end of any prescribed accounting period shall be so much of the input tax for the period (that is input tax on supplies and importations in the period) as is allowable by or under regulations as being attributable to supplies within subsection (2).

(2) The supplies within this subsection are the following supplies made or to be made by the taxable person in the course or furtherance of his business:

(a) taxable supplies;

(aa) supplies permitted to be made under section 27 or regulations made under section 27 without payment of the tax chargeable on the supplies;

(b) supplies outside Singapore which would be taxable supplies if made in Singapore;

(c) such other supplies outside Singapore as the Minister may by regulations specify for the purposes of this subsection;

(d) supplies which section 37 or regulations made under section 37A provide are to be disregarded for the purposes of this Act and which would otherwise be taxable supplies.

(3) Regulations may provide for treating some or all supplies of goods or services by any person as taxable supplies -

(a) where the tax attributable to exempt supplies would be less than such amount, or less than such part of the whole of the input tax, as may be prescribed;

(b) where such supplies are made to a taxable person for the purpose of any business carried on by him; or



(c) in other prescribed circumstances.

(4) The Minister may make regulations for securing a fair and reasonable attribution of input tax to supplies within subsection (2), and any such regulations may provide for –

(a) determining a proportion by reference to which input tax for any prescribed accounting period is to be provisionally attributed to those supplies;

(b) adjusting, in accordance with a proportion determined in like manner for any longer period comprising 2 or more prescribed accounting periods or parts thereof, the provisional attribution for any of those periods; and

(c) the making of payments in respect of input tax, by the Comptroller to a taxable person (or a person who has been a taxable person) or by a taxable person (or a person who has been a taxable person) to the Comptroller, in cases where events prove inaccurate an estimate on the basis of which an attribution was made.

(5) Without prejudice to the generality of subsection (4), regulations made under that subsection may –

(a) make different provisions for different circumstances and, in particular, for different descriptions of goods or services; and

(b) contain such incidental and supplementary provisions as appear to the Minister necessary or expedient.

## PART V RELIEFS

Zero-rating for exports and international services

21.

–(1) Subject to this section, a supply of goods is zero-rated only if the goods are exported and a supply of services is zero-rated only if the services are international services.

(2) Where a taxable person supplies goods or services and the supply is zero-rated, then, whether or not tax would be chargeable on the supply apart from this section –

(a) no tax shall be charged on the supply; but

(b) it shall in all other respects be treated as a taxable supply,

and accordingly the rate at which tax is treated as charged on the supply shall be nil.

(3) A supply of services shall be treated as a supply of international services where the services or the supply are for the time being of any of the following descriptions:

(a) services (not being ancillary transport activities such as loading, unloading and handling) comprising the transport of passengers or goods –

(i) from a place outside Singapore to another place outside Singapore;

(ii) from a place in Singapore to a place outside Singapore; or

(iii) from a place outside Singapore to a place in Singapore;

(b) services (including any ancillary transport activities such as loading, unloading and handling) comprising the transport of goods from a place in Singapore to another place in Singapore to the extent that those services are supplied by the same supplier as part of the supply of services to which paragraph (a) (ii) or (iii) applies;

(c) services (other than the letting on hire of any means of transport) comprising the insuring or the arranging of the insurance or the arranging of the transport of passengers or goods to which any provision of paragraphs (a) and (b) applies;

(d) the letting on hire of any means of transport for use in a place outside Singapore throughout the period of the hiring which -

(i) are exported by the lessor to such a place; or

(ii) are in such a place at the time of the supply;

(e) services supplied directly in connection with land or any improvement thereto situated outside Singapore;

(f) services supplied directly in connection with goods situated outside Singapore when the services are performed;

(g) services supplied directly in connection with goods for export outside Singapore and supplied to a person who belongs in a country other than Singapore, at the time the services are performed;

(h) prescribed financial services supplied directly in connection with goods for export outside Singapore;

(i) services of any of the following descriptions which are performed wholly outside Singapore:

(i) cultural, artistic, sporting, educational or entertainment services;

(ii) exhibition or convention services; or

(iii) services ancillary to, including that of organising the performance outside Singapore of the services referred to in sub-paragraphs (i) and (ii);

(j) services supplied -

(i) under a contract with a person who belongs in a country outside Singapore; and

(ii) which directly benefit a person who belongs in a country other than Singapore and who is outside Singapore at the time the services are performed, not being services which are supplied directly in connection with -

(A) land or any improvement thereto situated inside Singapore; or

(B) goods situated inside Singapore at the time the services are performed, other than goods referred to in paragraph (g);

(k) prescribed services supplied -

- (i) under a contract with a person wholly in his business capacity (and not in his private or personal capacity) and who in that capacity belongs in a country outside Singapore; and
  - (ii) which directly benefit 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;
- (l) prescribed services in connection with -
- (i) the handling of ships or aircraft; or
  - (ii) the handling or storage of goods carried in any ship or aircraft;
  - (m) pilotage, salvage or towage services performed in relation to ships or aircraft;
  - (n) services comprising the surveying of any ship or aircraft or the classification of any ship or aircraft for the purposes of any register;
  - (o) the supply (including the letting on hire) of any ship or aircraft;
  - (p) prescribed services comprising the repair, maintenance, broking or management of any ship or aircraft;
  - (q) prescribed services comprising the provision of any means of telecommunication transmitted -
    - (i) from a place outside Singapore to another place outside Singapore;
    - (ii) from a place in Singapore to a place outside Singapore; or
    - (iii) from a place outside Singapore to a place in Singapore;
  - (r) services supplied in relation to a trust, where the services and the person supplying the services satisfy such conditions as may be prescribed;
  - (s) services supplied -
    - (i) under a contract with a person who belongs in a country outside Singapore; and
    - (ii) which directly benefit a person who belongs in a country other than Singapore, relating to the co-location in Singapore of computer server equipment belonging to the person referred to in sub-paragraph (i) or (ii); or
    - (t) prescribed services in connection with the provision of an electronic system relating to the import of goods into or the export of goods out of Singapore.

(4) For the purposes of subsection (3) -

- (a) "aircraft" means an aircraft which is not used or intended for use for recreation or pleasure;

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

"ship" means a ship (including an oil rig) which is not designed or adapted for use for recreation or pleasure and excludes any vessel licensed under the Maritime and Port Authority of

Singapore Act (Cap. 170A) as a passenger harbour craft or pleasure craft;

(b) the services in subsection (3) (e) include -

(i) services in the course of the construction, alteration, repair, maintenance or demolition of any building or any civil engineering work; and

(ii) services such as are supplied by estate agents and auctioneers, architects, surveyors, engineers and others involved in matters relating to land;

(c) the supply in subsection (3) (o) of a ship or, as the case may be, an aircraft includes the supply of services under a charter of that ship or aircraft except where the services supplied under such a charter consist of any of the following:

(i) transport of passengers;

(ii) accommodation;

(iii) entertainment;

(iv) catering of food or beverage;

(v) education, being services performed substantially in Singapore.

(4A) For the purposes of subsection (3) (j), (k) and (s), the person with whom the contract is made and the person who directly benefits from the services may be the same person or different persons.

(5) Where a description referred to in subsection (3) is a transaction which would not otherwise be a supply of services, the transaction shall, for the purposes of this Act, be treated as a supply of services in Singapore.

(6) A supply of goods is zero-rated where the Comptroller is satisfied that the person supplying the goods -

(a) has exported them; or

(b) has shipped them for use as stores on a voyage or flight to or from a destination outside Singapore or as merchandise for sale by retail to persons carried on such a voyage or flight in a ship or aircraft,

and in either case, if such other conditions or restrictions, if any, as may be prescribed by the Minister in regulations or as the Comptroller may impose are fulfilled.

(7) The Minister may by regulations provide for the zero-rating of supplies of goods, or of such goods as may be specified in the regulations, in cases where the Comptroller is satisfied that the goods have been or are to be exported and such other conditions, if any, as may be specified in the regulations or as the Comptroller may impose are fulfilled.

(8) Where the supply of any goods has been zero-rated under subsection (6) or regulations made under subsection (7) and -

(a) the goods are found in Singapore after the date on which they were alleged to have been or were to be exported or shipped; or

(b) any condition specified in the regulations made under subsection (6) or (7) or imposed by the Comptroller is not complied with,

and the presence of the goods in Singapore after that date or the failure to comply with the condition has not been authorised for the purposes of this subsection by the Comptroller, the tax that would have been chargeable on the supply but for the zero-rating shall become payable immediately by the person to whom the goods were supplied or by any person in whose possession the goods are found in Singapore and the goods shall be liable to seizure.

(9) The Comptroller may, if he thinks fit, waive payment of the whole or part of the tax payable under subsection (8).

Exempt supply

## 22.

-(1) A supply of goods or services is an exempt supply if it is of a description or of a class for the time being specified in the Fourth Schedule.

(2) The Minister may by order vary the description of financial services in paragraphs 1, 3 and 4 of the Fourth Schedule by adding to or deleting from it or by varying any description or class of financial services for the time being specified in it.

(3) The Fourth Schedule may be varied so as to describe a supply of financial services by reference to other matters unrelated to the characteristics of the services.

Relief on supply of certain secondhand goods

## 23.

-(1) The Minister may by regulations make provision for securing a reduction of the tax chargeable on the supply of goods of such descriptions as may be specified in the regulations in cases where no tax was chargeable on a previous supply of the goods and such other conditions are satisfied as may be specified in the regulations or as may be imposed by the Comptroller.

(2) Tax chargeable on the supply of goods referred to in subsection (1) shall (unless otherwise provided in regulations made under this section) be reduced to the tax charged as if the supply of such goods was for a consideration equal to the excess of A - B,

where	A is the consideration for which the goods are supplied; and
	B is the consideration for which the goods were acquired,

and accordingly where there is no excess, the tax shall not be charged.

(3) Regulations made under this section may include provisions -

(a) for giving relief from the tax chargeable on the importation of goods of the description specified in the regulations; and

(b) for securing a similar reduction where no tax was chargeable on the importation of goods of that description as where no tax was chargeable on a previous supply of the goods.

(4) Regulations made under this section may extend to cases where the previous supply or the importation took place before tax was chargeable on any supply or importation.



(5) This section shall, with the necessary modifications, apply in relation to cases where consequential relief from tax was given on a previous supply by regulations made under section 19 (14) but the relief did not extend to the whole amount of the tax.

(6) Regulations made under this section may make different provisions for goods of different descriptions and for different circumstances.

(7) In this section, references to a supply on which no tax was chargeable include references to a transaction treated by virtue of an order under section 10 (3) as neither a supply of goods nor a supply of services.

(8) This section shall not apply to -

(a) a supply which is a letting on hire;

(b) a supply if an invoice or similar document showing an amount as being tax or as being attributable to tax is issued in respect of the supply; and

(c) any supply by a taxable person where he fails to keep such records and accounts as the Comptroller may in writing specify or to comply with such conditions as the Comptroller may impose.

Relief from tax on importation and supply of goods

#### 24.

(1) The Minister may by order make provision for giving relief from the whole or part of the tax chargeable on the importation of goods or the subsequent supply of imported goods, subject to such conditions (including conditions prohibiting or restricting the disposal of or dealing with the goods) as may be imposed by or under the order, if and so far as the relief appears to the Minister to be necessary or expedient.

(2) The Minister may by order make provision for remitting or repaying if he thinks fit and subject to such conditions as may be imposed in the order the whole or part of the tax chargeable on the importation of any goods which are shown to the satisfaction of the Comptroller to have been previously exported from Singapore.

(3) The Minister may by order make provision for remitting or repaying, subject to such conditions as may be imposed in the order the whole or part of the tax chargeable on the importation of any goods if the Comptroller is satisfied that -

(a) the whole or substantially the whole of the goods have been or are to be re-exported; or

(b) the whole or substantially the whole of the goods have been or are to be incorporated or affixed to goods which have been or are to be exported, and where the Comptroller thinks fit to do so in all the circumstances and having regard to the tax chargeable on the supply of similar goods in Singapore.

(4) The Minister may, having regard to any international agreement or arrangement and subject to such conditions as he may impose, give to any person -

(a) relief from, or a remission or refund of, the whole or part of any tax chargeable on the importation of goods or supply of goods or services by him; or

(b) a refund of the whole or part of any tax on the supply of goods or services to him -

(i) which, if he were a taxable person, would be his input tax; or

(ii) for which, as a taxable person, he is not entitled to any credit as input tax under this Act, if the relief, remission or refund appears to the Minister to be necessary or expedient to give effect to the agreement or arrangement.

(5) In any case where -

(a) it is proposed that goods which have been imported by any person (referred to in this subsection as the original importer) with the benefit of relief under subsection (1) or (4) shall be transferred to another person (referred to in this subsection as the transferee); and

(b) on an application made by the transferee, the Comptroller directs that this subsection shall apply, this Act shall have effect as if, on the date of the transfer of the goods (and in place of the transfer) the goods were exported by the original importer and imported by the transferee and, accordingly, where appropriate, any provision made under subsection (1) or (4) shall have effect in relation to the tax chargeable on the importation of goods by the transferee.

Refund or remission of tax in certain cases

## 25.

(1) The Minister may by regulations provide for the refund or remission of tax chargeable on the supply of goods or services, or on the importation of goods on a claim made in cases of bad debt or insolvency or in such other circumstances and by such person or body as may be prescribed.

(2) Without prejudice to the generality of subsection (1), such regulations may -

(a) require a claim to be made within such time and in such form and manner as may be specified by or under the regulations;

(b) require a claim to be evidenced and quantified by reference to such records and other documents preserved for such period, not exceeding 3 years from the making of the claim, as may be so specified;

(c) provide for determining what amount (if any) is the outstanding amount of the consideration in particular cases including but not limited to those cases involving part payment or mutual debts;

(d) provide for the apportionment of tax attributable to the supply of goods or services for the purposes of carrying on the business or of exempt supplies or of any other purpose;

(e) require the repayment or recovery of a refund or remission under this section where any requirement of the regulations is not complied with or in such other circumstances as may be prescribed;

(f) prohibit the selling, giving or receiving in prescribed circumstances of goods in respect of which a claim for refund has been submitted or endorsed by the prescribed person;

(g) provide for the seizure and forfeiture of goods referred to in paragraph (f); and

(h) make different provisions for different circumstances.

26.

–(1) Except where the contrary intention appears, any written law relating to customs or excise duties on imported goods shall, with such exceptions, modifications and adaptations as the Minister may by order prescribe, apply (so far as relevant) in relation to any tax chargeable on the importation of goods as it applies in relation to any customs or excise duties.

(2) Without prejudice to the generality of subsection (1), the Director-General of Customs may, by virtue of that subsection, exercise any power conferred on him by any written law relating to customs or excise duties (including the power to issue permits and impose conditions on the import, export, transshipment and removal of goods) as if the reference to customs duty or excise duty in that written law included a reference to tax chargeable on the importation of goods.

(3) In this section, "any written law relating to customs or excise duties" means –

(a) the provisions of the Customs Act (Cap. 70);

(b) the provisions of the Postal Services Act (Cap. 237A) relating to customs or excise duties on postal articles; and

(c) any other provision of any written law relating generally to customs or excise duties on imported goods.

Importation and supply of goods by taxable persons

27.

–(1) The Minister may by regulations –

(a) in relation to goods imported by any taxable person in the course or furtherance of any business carried by him, permit those goods to be –

(i) delivered or removed without payment of the tax chargeable on the importation; or

(ii) delivered or removed, and supplied to any other person, without payment of the tax chargeable on the importation or on the supply; and

(b) in relation to goods supplied by any taxable person in the course or furtherance of any business carried on by him to another taxable person, permit those goods to be supplied without payment of the tax chargeable on the supply.

(2) Regulations made under subsection (1) may –

(a) require a taxable person referred to in that subsection to account for the tax chargeable on the importation or supply of the goods in such form and manner and within such time as may be prescribed, notwithstanding such tax is not payable; and

(b) where any requirement of the regulations is not complied with or in such other circumstances as may be prescribed, require the tax chargeable on the importation or supply to be paid.

(3) The Comptroller may, for the protection of revenue, impose conditions or restrictions in relation to any import or supply of goods referred to in subsection (1).

(4) The Comptroller may publish the names and such other particulars of the taxable persons to

whom regulations made under this section apply in such form or manner as he thinks fit.

## PART VI SPECIAL CASES

### Application to Government

#### 28.

(1) This Act shall apply in relation to taxable supplies made by the Government in the course or furtherance of a business (other than such taxable supplies as the Minister may, by order in the Gazette, prescribe) as it applies in relation to taxable supplies made by a taxable person in the course or furtherance of a business.

(2) Where the supply by a ministry or department of the Government or an organ of State of any goods or services does not amount to the carrying on of a business but it appears to the Minister that similar goods or services are or might be supplied by taxable persons in the course or furtherance of any business, then, if and to the extent that the Minister so directs, the supply of those goods or services by that ministry, department or organ shall be treated for the purposes of this Act as a supply in the course or furtherance of any business carried on by it.

### Insurance indemnity payments

#### 29.

The Minister may by regulations provide -

(a) that where a taxable person receives any indemnity payment pursuant to a contract of insurance, that payment shall, to the extent that it relates to a loss incurred in the course of making a taxable supply, be treated as consideration received for a supply of services performed on the day of receipt of that indemnity payment by that taxable person in the course or furtherance of that person's business; and

(b) for the calculation of the deduction of an amount equal to the prescribed fraction of any payment made by a taxable person to indemnify another person pursuant to any contract of insurance from any output tax that is due from the taxable person and the manner in which such deductions is to be allowed.

### Persons treated as a group

#### 30.

(1) Where, under the provisions of any regulations made under subsection (3), any 2 or more persons are treated as members of a group and registered in the name of a representative member -

(a) any supply of goods or services by a member of the group to another member of the group shall be disregarded;

(b) any business carried on by a member of the group shall be treated as carried on by the representative member;

(c) any other supply of goods or services by or to a member of the group shall be treated as a supply by or to the representative member; and

(d) any tax paid or payable by a member of the group on the importation of any goods shall be treated as paid or payable by the representative member and the goods to be treated for the



purposes of sections 26 and 45 (6) and (6A) as imported by the representative member.

(2) All members of the group shall be liable jointly and severally for any tax due from the representative member.

(3) Where the Comptroller, in accordance with regulations made by the Minister, approves an application for 2 or more persons to be treated as members of a group, then, from the beginning of a prescribed accounting period they shall be so treated, and one of them shall be the representative member.

(4) Notwithstanding subsection (1), any regulations made under subsection (3) may provide -

(a) for the circumstances in which 2 or more persons are eligible to make an application to be treated as members of a group;

(b) for the manner and time within which any application to be treated as members of a group is to be made;

(c) for the Comptroller, if he thinks it necessary for the protection of the revenue, to refuse an application to be treated as members of a group;

(d) for the Comptroller to impose such conditions as he may think fit;

(e) for the Comptroller, if he thinks it necessary for the protection of the revenue, to reduce or disallow credit for any amount of input tax where that amount of input tax would otherwise have been attributable to exempt supplies if the application under subsection (3) had not been approved;

(f) for the circumstances in which the Comptroller may terminate the registration of a group; and

(g) for the application of the provisions of this section, with such exceptions, modifications and adaptations as may be prescribed, where a business, or part of a business, carried on by a taxable person is transferred to another taxable person who is treated as a member of a group under this section.

## Partnerships

### 31.

-(1) The registration under this Act -

(a) of persons carrying on a business in partnership shall be in the name of the firm; and

(b) of the same persons carrying on separate businesses in partnership may, if the Comptroller thinks fit, be in the separate names of the respective firms.

(2) No account shall be taken, in determining for any purpose of this Act whether goods or services are supplied to or by such persons, of any change in the partnership.

(3) Without prejudice to section 36 of the Partnership Act (Cap. 391) (rights of persons dealing with firm against apparent members of firm), until the date on which a change in the partnership is notified to the Comptroller in writing, a person who has ceased to be a member of a partnership shall be regarded as continuing to be a partner for the purposes of this Act and, in particular, for the purpose of any liability for tax on the supply of goods or services by the



partnership.

(4) Where a person ceases to be a member of a partnership during a prescribed accounting period (or is treated as so doing by virtue of subsection (3)) any notice, whether of assessment or otherwise, which is served on the partnership and relates to, or to any matter arising in, that period or any earlier period during the whole or part of which he was a member of the partnership shall be treated as served also on him.

(5) Without prejudice to section 16 of the Partnership Act (notice to acting partner to be notice to the firm), any notice, whether of assessment or otherwise, which is addressed to a partnership by the name in which it is registered by virtue of subsection (1) and is served in accordance with this Act shall be treated for the purposes of this Act as served on the partnership and, accordingly, where subsection (4) applies, as served also on the former partner.

(6) Subsections (1) and (4) shall not affect the extent to which, under section 9 of the Partnership Act, a partner is liable for tax owed by the firm.

(7) Where a person is a partner in a firm during part only of a prescribed accounting period, his liability for tax on the supply by the firm of goods or services during that accounting period shall be such proportion of the firm's liability as may be just.

(8) Where any notice is required to be given under this Act by a partnership, it shall be the joint and several liability of all partners to give such notice, except that if a notice is given by one partner this shall be a sufficient compliance with any such requirement.

Business carried on in divisions or by unincorporated bodies, personal representatives, etc.

## 32.

-(1) The Minister may by regulations provide for the registration under this Act of a taxable person carrying on more than one business or a business in several divisions, if the taxable person so requests and the Comptroller sees fit, to be in the names of those businesses or divisions.

(2) The Minister may by regulations make provisions for determining the persons responsible for carrying out the requirements of this Act, imposed on a person carrying on a business where the business is carried on in partnership or by a club, association, society or organisation the affairs of which are managed by its members or a committee or committees of its members.

(3) The registration under this Act of any such club, association, society or organisation may be in the name of the club, association, society or organisation; and in determining whether goods or services are supplied to or by such a club, association, society or organisation, no account shall be taken of any change in its members.

(4) Where a taxable person dies, or goes into liquidation or receivership, or becomes bankrupt or incapacitated, the Comptroller may, from the date of the death, liquidation, receivership, bankruptcy or incapacity until such time when another person is registered in respect of the taxable supplies made or intended to be made by that taxable person in the course or furtherance of his business or in the case of incapacity until such time as the incapacity ceases, deem any person carrying on that business to be a taxable person.

(5) Any requirement to pay tax imposed under subsection (4) on any person carrying on the business shall only apply to that person to the extent of the assets of the deceased or incapacitated person over which he has control.

(6) Any person carrying on the business referred to in subsection (4) shall, within 21 days of commencing to do so, inform the Comptroller in writing of that fact and of the date of the death or of the liquidation, receivership or bankruptcy, or of the nature of the incapacity and the date on which it began.

## Agents

### 33.

(1) Where a person who is accountable for any tax, or on whom any duties are imposed by or under this Act, does not have his usual place of residence in Singapore, the Comptroller may, by notice in writing served on any agent, manager or factor who has acted on behalf of that person in matters by reference to which that person is accountable or on whom the duties are imposed, direct that he shall be substituted for that person as the person accountable for the tax or that he shall be under an obligation to discharge those duties or any of them.

(2) For the purposes of this Act, goods imported by a taxable person and supplied by him as agent for a person who is not a taxable person may be treated as imported and supplied by the taxable person as principal.

(3) For the purposes of subsection (2), 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 under this Act.

(3A) For the purpose of subsection (3), a person shall be treated as belonging in Singapore if -

(a) he has in Singapore a business establishment or some other fixed establishment and no such establishment elsewhere;

(b) he has no such establishment in any country but his usual place of residence is in Singapore; or

(c) he has such establishments both in Singapore and elsewhere and the establishment of his which is most directly concerned with the supply is in Singapore.

(4) Where goods or services are supplied through an agent who acts in his own name, the Comptroller may, if he thinks fit, treat the supply both as a supply to the agent and as a supply by the agent.

(5) For the purposes of this section -

(a) a person carrying on a business through a branch or an agency in any country shall be treated as having a business establishment there; and

(b) "usual place of residence", in relation to a body corporate, means the place where it is incorporated or otherwise legally constituted.

## Repayment of tax to persons in business overseas

### 33A.

(1) The Minister may by regulations provide for the repayment, to persons carrying on business in countries other than Singapore, of tax on the importation of goods by them which would be their input tax if they had been taxable persons in Singapore.

(2) Repayment shall be made in such cases only, and subject to such conditions as the regulations may prescribe or as the Comptroller may impose (either generally or in particular cases).

(3) Regulations made under this section may provide -

(a) for claims and repayments to be made only through agents in Singapore;

(b) either generally or for specified purposes -

(i) for the agents to be treated under this Act as if they were taxable persons; and

(ii) for treating claims as if they were returns under this Act and repayments as if they were repayments of input tax; and

(c) for generally regulating the methods by which the amount of any repayment is to be determined and the repayment is to be made.

Transfers of going concerns

#### 34.

Where a business carried on by a taxable person is transferred to another person as a going concern, then -

(a) for the purpose of determining whether the transferee is liable to be registered under this Act he shall be treated as having carried on the business before as well as after the transfer and supplies by the transferor shall be treated accordingly; and

(b) any records relating to the business which under section 46 are required to be preserved for any period after the transfer shall be preserved by the transferee instead of by the transferor, unless the Comptroller, at the request of the transferor, otherwise directs.

Transfers of going concerns: input tax deemed deducted

#### 34A.

(1) Where -

(a) a business or part thereof carried on by a taxable person is transferred as a going concern to a transferee who is also a taxable person together with the assets of such business; and

(b) by virtue of any order made under section 10 (3) (c), the supply of such assets to the taxable person is treated as neither a supply of goods nor a supply of services, the transferee shall be deemed to have incurred input tax on the value of the supply of such assets, and to have deducted such input tax from any output tax due from him on the day of the supply.

(2) For the purposes of this section, the value of the supply of any assets as referred to in subsection (1) shall be calculated in accordance with section 17 without the addition of tax.

(3) The Minister may make regulations to provide for any provision of this Act which relates to a person who deducts input tax under section 19 to apply to a transferee referred to in subsection (1).

(4) Regulations made under subsection (3) may provide -

(a) for the modification of any such provision of this Act in order that it may properly apply to a transferee referred to in subsection (1); and

(b) for such incidental and supplementary matters as appear to the Minister necessary or expedient.

Betting, sweepstakes, lotteries and gaming

### 35.

–(1) The Minister may by regulations make provisions for modifying the provisions of this Act in their application to transactions involving betting, sweepstakes, lotteries, fruit machines or gaming and persons ordinarily engaged in such transactions as may be specified in the regulations, subject to such conditions as may be so specified.

(2) Any regulations made under this section may make different provisions with respect to different transactions or different circumstances.

(3) In this section, "lotteries" and "fruit machines" have the same meanings as in the Private Lotteries Act (Cap. 250).

Commodity, futures or securities markets and exchanges

### 36.

–(1) The Minister may by regulations make provisions for modifying the provisions of this Act in their application to dealings on commodity, futures or securities markets or exchanges and such persons ordinarily engaged in such dealings as may be specified in the regulations, subject to such conditions as may be so specified.

(2) Without prejudice to the generality of subsection (1), any regulations made under this section may include provisions –

(a) for the registration under this Act of any body of persons representing persons ordinarily engaged in dealing on a commodity, futures or securities market or exchange and for disregarding such dealings by persons so represented in determining liability to be registered under this Act, and for disregarding such dealings between persons so represented for all the purposes of this Act;

(b) for refunding or crediting, to such persons as may be specified in the regulations, input tax attributable to such dealings on a commodity, futures or securities market or exchange as may be so specified, and may contain such incidental and supplementary provisions as appear to the Minister to be necessary or expedient.

(3) Any regulations made under this section may make different provisions with respect to different markets or exchanges and with respect to different commodities, futures or securities.

Goods subject to a warehousing regime

### 37.

–(1) Where imported goods subject to a duty (whether customs or excise duty or both customs duty and excise duty) or on which tax would apart from this section be chargeable are supplied while they are subject to a warehousing regime and before the duty point, then –

(a) if there is more than one such supply, any but the last such supply shall, except where the contrary intention appears, be disregarded for the purposes of this Act;



(b) the supply or, if more than one, the last such supply shall be treated for the purposes of this Act as taking place at the duty point and the value of the supply shall be treated as including the duty, if any; and

(c) the tax on the supply shall be payable at the duty point, together with the duty, if any, by the person who is required to pay the duty or, if no duty is payable, by the person by whom the goods are removed; except as otherwise provided by regulations under this section.

(2) Where goods produced or manufactured in Singapore subject to excise duty or such goods mixed with imported goods subject to a duty (whether customs or excise duty or both customs duty and excise duty) are supplied while they are subject to a warehousing regime and before the duty point, then -

(a) if there is more than one such supply, any but the last such supply shall, except where the contrary intention appears, be disregarded for the purposes of this Act;

(b) the supply or, if more than one, the last such supply shall be treated for the purposes of this Act as taking place at the duty point and the value of the supply shall be treated as including the duty; and

(c) the tax on the supply shall be payable at the duty point, together with the duty, by the person who is required to pay the duty, except as otherwise provided by regulations made under this section.

(2A) Notwithstanding subsection (2), if the goods are permitted to be removed from a warehousing regime without payment of the duty, the supply (or last supply) shall be treated as taking place when the goods are so removed, the value of the supply shall not be treated as including the duty and the tax on the supply shall be payable by the person by whom the goods are removed.

(3) The Minister may by regulations make provision -

(a) for enabling goods which are supplied as mentioned in subsection (1) or (2), and are so supplied to a taxable person for the purpose of a business carried on by him, to be removed from a warehousing regime without payment of the tax on the supply;

(b) for that tax to be accounted for together with the tax chargeable on the supply of goods or services by him; and

(c) for the licensing of warehouses or other premises for the purposes of this section and such regulations may provide for the imposition of conditions thereon and the payment of any prescribed fee.

(4) No person shall remove from a warehousing regime any goods subject to a duty (whether customs or excise duty or both customs duty and excise duty) or on which tax would apart from this section be chargeable except -

(a) after payment of the duty or tax payable or chargeable thereon; or

(b) in accordance with such conditions as the Comptroller may impose.

(5) In the application of the Customs Act (Cap. 70), by virtue of section 26, to any goods which are not subject to either customs or excise duty, such goods shall be construed as being under "customs control" within the meaning of section 3 (2) of the Customs Act if they are subject to



a warehousing regime under this section; and shall be construed as removed from customs control if they are removed from a warehousing regime.

(6) In this section -

"duty point", in relation to any goods, means -

(a) in the case of goods which are subject to customs or excise duty or both customs duty and excise duty, the time when the requirement to pay the customs or excise duty takes effect, whichever is the earlier; or

(b) in the case of goods which are not subject to either customs or excise duty, the time when the goods are removed from the warehousing regime;

"warehouse" means any warehouse or factory warehouse licensed under the Customs Act or any warehouse or other designated premises licensed by the Comptroller pursuant to regulations made under subsection (3) (c) where goods may be stored without payment of any one or more of the following:

(a) customs or excise duty;

(b) goods and services tax on the importation of the goods into Singapore.

(7) A reference in this section to goods being subject to a warehousing regime shall be a reference to goods being kept in a warehouse or within the free trade zone or being transported between warehouses without the payment of any duty or tax; and a reference to the removal of goods from a warehousing regime shall be construed accordingly.

Treatment or processing of goods for and to a person belonging in a country other than Singapore

#### 37A.

-(1) The Minister may by regulations make provisions for a supply, made by a taxable person approved by the Comptroller, which comprises the treatment or processing of goods for and to a person who belongs in a country other than Singapore to be disregarded for the purposes of this Act subject to such conditions or restrictions as may be prescribed or as the Comptroller may impose for the protection of the revenue.

(2) Regulations made under subsection (1) may require that another taxable person, who receives such treated or processed goods from the taxable person referred to in subsection (1), shall account for and pay the tax as if the recipient had himself supplied the goods in Singapore in the course or furtherance of his business, and as if that supply were a taxable supply.

Customers to account for tax on certain supplies

#### 38.

-(1) Where any person makes any prescribed supply of goods or services to another person and that supply is a taxable supply but not a zero-rated supply, the prescribed supply shall be treated for the purposes of the First Schedule -

(a) as a taxable supply of that other person (as well as a taxable supply of the person who makes it); and

(b) in so far as that other person is supplied in connection with the carrying on by him of any business, as a supply made by him in the course or furtherance of that business.

(1A) Nothing in subsection (1) (b) shall require any supply to be disregarded for the purposes of the First Schedule on the grounds that it is a supply of capital assets of that other person's business.

(2) Where a taxable person makes any prescribed supply of goods or services to a person who -

(a) is himself a taxable person at the time when the prescribed supply is made; and

(b) is supplied in connection with the carrying on by him of any business, 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.

(3) 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 shall apply for the purposes of this section in relation to any person who is required under subsection (2) to account for and pay any tax as if that tax were tax on a supply made by him.

4) Section 12 (1) to (5) shall not apply for determining when any prescribed supply of goods or services is to be treated as taking place.

(5) In this section, "prescribed supply", in relation to goods or services, means such supply of -

(a) goods consisting in or containing any precious or semi-precious metal or stones;

(b) services relating to, or to anything containing, any precious or semi-precious metal or stones;

(c) goods or services comprising in or relating to land or any interest in or right over land, as may be specified or described in regulations made by the Minister.

Supplies spanning change of rate, etc.

39.

(1) This section shall apply where there is a change in the rate of tax in force under section 16 or in the descriptions of exempt or zero-rated supplies.

(2) Subject to subsections (2A) and (2E), where -

(a) a supply affected by the change would, apart from section 12 (1), (2), (3) or (5), be treated under section 11 (2) or (3) as made wholly or partly at a time when it would not have been affected by the change; or

(b) a supply not so affected would, apart from section 12 (1), (2), (3) or (5), be treated under section 11 (2) or (3) as made wholly or partly at a time when it would have been so affected, the rate at which tax is chargeable on the supply, or any question whether it is zero-rated or exempt, shall, if the person making it so elects, be determined without regard to section 12 (1), (2), (3) or (5).

(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.

(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 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

(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 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.

(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).

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

(3) Any power to make regulations under this Act with respect to the time when a supply is to be treated as taking place shall include power to provide for this section to apply as if the references to section 12 (1), (2), (3) and (5) mentioned in subsection (2) included references to specified provisions of the regulations.

(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

(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).

(5) No election may be made under this section in respect of a supply to which paragraph 6 of the Second Schedule applies.

(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 -

"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.

Adjustment of contracts on changes in tax

#### 40.

-(1) Where, after the making of a contract for the supply of goods or services and before the goods or services are supplied, there is a change in the tax charged on the supply, then, unless express provision for the exclusion of any such change in the tax charged is contained in the contract or where the change in the tax has been taken into account, every such contract shall be deemed to be modified as follows:

(a) where the change in the tax renders that supply liable to be charged with tax or increases the amount of any tax charged or chargeable in relation to that supply, the supplier may add to the agreed price in the contract the amount of that tax or the increase in that tax;

(b) where the change in the tax renders that supply exempt from tax or reduces the amount of any tax charged or chargeable in relation to that supply, the supplier may deduct from the agreed price in the contract the amount of that tax or the reduction of that tax.

(2) References in this section to a change in the tax charged on a supply include references to a change to or from no tax being charged on the supply whether before or after 1st April 1994.



## PART VII ACCOUNTING AND ASSESSMENTS

### Accounting for and payment of tax

#### 41.

-(1) The Minister may -

(a) make regulations to require the keeping of accounts, the making of returns and the payment of tax in such form and manner and within such time as may be specified in the regulations; and

(b) require taxable persons supplying goods or services to other taxable persons to provide them with invoices (referred to in this section as tax invoices) containing statements of such particulars as may be so specified including but not limited to particulars of the supply, the tax chargeable on it and the persons by and to whom the goods or services are supplied.

(2) Regulations made under this section may, where they require a tax invoice to be provided in connection with any description of supply, require it to be provided within a prescribed time after the supply is treated as taking place, and may allow for that time to be extended in accordance with general or special directions given by the Comptroller.

(3) Regulations made under this section may make special provision for such taxable supplies by retailers of any goods or of any description of goods or of services or any description of services as may be determined by or under the regulations and, in particular -

(a) for permitting the value which is to be taken as the value of the supplies in any prescribed accounting period or part thereof to be determined, subject to any limitations or restrictions, by such method or one of such methods as may have been described in any notice in writing issued by the Comptroller in pursuance of the regulations and not withdrawn by a further notice in writing or as may be agreed with the Comptroller;

(b) for determining the proportion of the value of the supplies which is to be attributed to any description of supplies; and

(c) for adjusting that value and proportion for periods comprising 2 or more prescribed accounting periods or parts thereof.

(4) Regulations made under this section may make provision -

(a) whereby, in such cases and subject to such conditions as may be determined by or under the regulations, tax in respect of a supply may be accounted for and paid by reference to the time when consideration for the supply is received; and any such regulations may make such modification of this Act (including in particular, but without prejudice to the generality of the power, the provisions as to the time when, and the circumstances in which, credit for input tax is to be allowed) as appear to the Minister necessary or expedient;

(b) for the keeping of accounts in electronic form in a computer;

(ba) for the making and submission of returns through the electronic service, and for -

(i) requiring any prescribed class of persons to make and submit prescribed types of returns through the electronic service, except -

(A) in such exceptional circumstances as the Comptroller may, in his discretion, determine; or

- (B) in such other circumstances as may be prescribed; and
- (ii) any procedure relating to the making and submission of returns through the electronic service;
- (bb) for the making of declarations to verify returns through the electronic service;
- (c) for treating tax chargeable in one prescribed accounting period as chargeable in another such period;
- (d) with respect to the making of entries in accounts for the purpose of making adjustments, whether for the correction of errors or otherwise;
- (e) for the correction of errors including errors in electronic transmission and messages;
- (f) for requiring that tax on the supply of goods or services to a person other than a taxable person be included in the price or other consideration for the supply quoted, advertised or published unless exempted under such regulations and subject to such conditions as the Comptroller may impose; and
- (g) for requiring taxable persons to display or indicate such information, sign or document relating to the price of goods or services, the registration of the taxable person or the tax as may be specified and in such manner as may be provided in the regulations.
- (5) Regulations made under this section may make different provisions for different circumstances and may provide for different dates as the commencement of prescribed accounting periods applicable to different persons.
- (6) The provisions made by regulations under this section for cases where goods are treated as supplied by a taxable person by virtue of paragraph 6 of the Second Schedule may require the tax chargeable on the supply to be accounted for and paid, and particulars thereof to be provided, by such other person and in such manner as may be specified by the regulations.
- (7) Where, at the end of a prescribed accounting period, the amount of tax due from any person or the amount due to any person under section 19 (5) would be less than \$5 or such other amount as the Minister may by order prescribe, that amount shall be treated as nil.

#### Electronic service

#### 42.

- (1) The Comptroller may provide an electronic service for -
- (a) the registration of taxable persons;
- (b) the filing or submission of any return, declaration or document; and
- (c) the service of any notice, direction, order, permit, receipt or document by the Comptroller.
- (2) For the purposes of the electronic service, the Comptroller may assign to any person -
- (a) an authentication code; and
- (b) an account with the electronic service.

(3) Any person may -

(a) register himself, or request to cancel his registration, as a taxable person; or

(b) file or submit any return, declaration or document, if he is required to do so, through the electronic service.

(4) Any agent who is authorised by his principal in the prescribed manner may -

(a) register his principal, or request to cancel his principal's registration, as a taxable person; or

(b) file or submit any return, declaration or document on behalf of his principal, through the electronic service.

(5) Where any return, declaration or document is filed or submitted on behalf of any person under subsection (4) -

(a) it shall be deemed to have been filed or submitted with the authority of that person; and

(b) that person shall be deemed to be cognizant of all matters therein.

(6) Where any return, declaration or document is filed or submitted through the electronic service using the authentication code assigned to any person before that person has requested, in the prescribed manner, for the cancellation of the authentication code -

(a) the return, declaration or document shall, for the purposes of this Act, be presumed to have been filed or submitted by that person unless he adduces evidence to the contrary; and

(b) where that person alleges that he did not file or submit the return, declaration or document, the burden shall be on him to adduce evidence of that fact.

(7) Where any person has given his consent for any notice, direction, order, permit, receipt or other document to be served on him through the electronic service, the Comptroller may serve that document on that person by transmitting an electronic record of that document to that person's account with the electronic service.

(8) Notwithstanding any other written law, in any proceedings under this Act -

(a) an electronic record of any return, declaration or document that was filed or submitted, or any notice, direction, order, permit, receipt or document that was served, through the electronic service; or

(b) any copy or print-out of that electronic record, shall be admissible as evidence of the facts stated or contained therein if that electronic record, copy or print-out -

(i) is certified by the Comptroller to contain all or any information filed, submitted or served through the electronic service in accordance with this section; and

(ii) is duly authenticated in the manner specified in subsection (10) or is otherwise authenticated in the manner provided in the Evidence Act (Cap. 97) for the authentication of computer output.

(9) For the avoidance of doubt -

(a) an electronic record of any return, declaration or document that was filed or submitted, or any notice, direction, order, permit, receipt or document that was served, through the electronic service; or

(b) any copy or print-out of that electronic record, shall not be inadmissible in evidence merely because the return, declaration or document was filed or submitted, or the notice, direction, order, permit, receipt or document was served, without the delivery of any equivalent document or counterpart in paper form.

(10) For the purposes of this section, a certificate -

(a) giving the particulars of -

(i) any person whose authentication code was used to file, submit or serve the return, declaration, notice, direction, order, permit, receipt or document; and

(ii) any person or device involved in the production or transmission of the electronic record of the return, declaration, notice, direction, order, permit, receipt or document, or the copy or print-out thereof;

(b) identifying the nature of the electronic record or copy thereof; and

(c) purporting to be signed by the Comptroller or by a person occupying a responsible position in relation to the operation of the electronic service at the relevant time, shall be sufficient evidence that the electronic record, copy or print-out has been duly authenticated, unless the court, in its discretion, calls for further evidence on this issue.

(11) Where the electronic record of any return, declaration, notice, direction, order, permit, receipt or other document, or a copy or print-out of that electronic record, is admissible under subsection (8), it shall be presumed, until the contrary is proved, that the electronic record, copy or print-out accurately reproduces the contents of that document.

(12) The Comptroller may, for the purposes of the electronic service, approve the use of any symbol, code, abbreviation or notation to represent any particulars or information required under this Act.

(13) The Minister may make regulations which are necessary or expedient for carrying out the purposes of this section, including regulations prescribing -

(a) the procedure for the use of the electronic service, including the procedure in circumstances where there is a breakdown or interruption of the electronic service;

(b) the procedure for the correction of errors in, or the amendment of, any return, declaration or document that is filed or submitted through the electronic service;

(c) the manner in which a person who has given his consent for a notice, a direction, an order, a permit, a receipt or any other document to be served on him through the electronic service shall be notified of the transmission of an electronic record of that document to his account with the electronic service;

(d) the manner in which authentication codes are to be assigned; and

(e) anything which may be prescribed under this section.



43.

-(1) For the purposes of any provision contained in or having effect under this Act which relates to tax invoices, a person shall be treated as issuing, or as providing another person with, a tax invoice if the requisite particulars are recorded in a computer and transmitted by electronic means and without the delivery of any equivalent document or counterpart in paper form.

(2) Any provision in this Act relating to tax invoices shall be treated as complied with by the production by means of a computer of any material other than a document in writing, by delivering any such material so produced or by making any such transmission as is mentioned in subsection (1) where the person producing or delivering the material or making the transmission and, in the case of delivered material or a transmission, the person receiving it has complied with such requirements as may be imposed by the Comptroller from time to time.

Giving of receipts

44.

-(1) Every taxable person shall issue a serially printed receipt for all consideration in money received in respect of every taxable supply (except for a supply in respect of which a tax invoice has been issued) and shall retain a duplicate of each receipt.

(1A) Where a computer or other machine is used for recording taxable supplies, receipts may be dispensed with if the Comptroller is satisfied that such computer or machine substantially records accurately all moneys received in respect of taxable supplies.

(2) The Comptroller, or an officer duly authorised by him in that behalf, may direct any taxable person to issue and retain the receipts and their duplicates referred to in subsection (1) in the form and manner approved by the Comptroller, or an officer duly authorised by him, as the case may be.

(3) The Comptroller, or an officer duly authorised by him in that behalf, may waive all or any of the provisions of subsection (1) in respect of any taxable person.

(4) Any person who contravenes this section or any direction issued under this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

Power of Comptroller to assess tax due

45.

-(1) Where a person has failed to make any returns required under this Act or to keep any documents and afford the facilities necessary to verify such returns or where it appears to the Comptroller that such returns are incomplete or incorrect, the Comptroller may to the best of his judgment assess the amount of tax due from that person and notify him of it.

(2) In any case where -

(a) an amount has been repaid to any person as being a repayment of tax, which ought not to have been repaid; or

(b) an amount has been paid to any person as being due to him in accordance with section 19 (5), which ought not to have been paid to him, the Comptroller may assess that amount as being tax due from him for the prescribed accounting period in which the amount was repaid or, as the case

may be, paid and accordingly notify him of the assessment.

(3) Where a person is assessed under subsections (1) and (2) in respect of the same prescribed accounting period, the assessments may be combined and notified to him as one assessment.

(4) Where the person failing to make a return, or making a return which appears to the Comptroller to be incomplete or incorrect, was required to make the return as a personal representative, trustee in bankruptcy, receiver, liquidator or person otherwise acting in a representative capacity in relation to another person, subsection (1) shall apply as if the reference to tax due from him included a reference to a tax due from that other person.

(5) An assessment under subsection (1) or (2) of an amount of tax due for any prescribed accounting period shall not be made more than 7 years after the end of the prescribed accounting period.

(5A) Notwithstanding subsection (5), where, in the opinion of the Comptroller, any form of fraud or wilful default has been committed by or on behalf of any person in connection with or in relation to tax, the Comptroller may for the purpose of making good any loss of tax or payment or refund of tax attributable to fraud or wilful default, make an assessment at any time.

(6) Where a taxable person has acquired or imported any goods in the course or furtherance of any business carried on by him, the Comptroller may require him from time to time to account for the goods.

(6A) If the taxable person fails to prove that -

(a) the goods have been or are available to be supplied by him or have been exported from Singapore otherwise than by way of supply; or

(b) the goods have been lost or destroyed, the Comptroller may assess to the best of his judgment and notify the taxable person of the amount of tax that would have been chargeable in respect of the supply of the goods if they had been supplied by him.

(7) In any case where -

(a) as a result of a person's failure to make a return for a prescribed accounting period, the Comptroller has made an assessment under subsection (1) for that period;

(b) the tax assessed has been paid but no proper return has been made for the period to which the assessment related; and

(c) as a result of a failure to make a return for a later prescribed accounting period, being a failure by the person referred to in paragraph (a) or a person acting in a representative capacity in relation to him, as mentioned in subsection (4), the Comptroller finds it necessary to make another assessment under subsection (1), then, if the Comptroller thinks fit, having regard to the failure referred to in paragraph (a), he may specify in the assessment referred to in paragraph (c) an amount of tax greater than that which he would otherwise have considered to be appropriate.

(8) Where it appears to the Comptroller that the amount which ought to have been assessed in an assessment under this section exceeds the amount which was so assessed, the Comptroller may -

(a) under the same provision as that assessment was made; and

(b) within the period during which that assessment could have been made, make a supplementary assessment of the amount of the excess and shall notify the person accordingly.

(9) Where an amount has been assessed and notified to any person under subsection (1), (2), (6A) or (8), it shall, subject to the provisions of this Act as to review and appeals, be deemed to be an amount of tax due from him and may be recovered accordingly, unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.

(10) The Comptroller may at any time make all such alterations in or additions to an assessment made under this section as he thinks necessary to ensure the correctness thereof and notify the person accordingly.

(11) For the purposes of this section, notification to a personal representative, trustee in bankruptcy, receiver, liquidator or person otherwise acting as aforesaid shall be treated as notification to the person in relation to whom he so acts.

#### Duty to keep records

#### 46.

-(1) Every taxable person shall keep the following records:

- (a) his business and accounting records;
- (b) his accounts as required by regulations made under section 41;
- (c) copies of all tax invoices and receipts issued by him;
- (d) tax invoices received by him;
- (e) documentation relating to importations and exportations by him;
- (f) all credit notes, debit notes or other documents which evidence an increase or decrease in consideration that are received, and copies of all such documents issued by him; and
- (g) such other records as may be prescribed.

(2) Any records kept in pursuance of this section are to be preserved for a period of not less than 7 years.

(3) The duty under this section to preserve records may be discharged by the preservation of the information contained therein by such means as the Comptroller may approve.

(3A) Where the information is so preserved, a copy of any document forming part of the records shall, subject to subsections (4) and (5), be admissible in evidence in any proceedings, whether civil or criminal, to the same extent as the records themselves.

(4) The Comptroller may, as a condition of approving under subsection (3) any means of preserving information contained in any records, impose such reasonable requirements as appear to him necessary for securing that the information will be as readily available to him as if the records themselves had been preserved.

(5) A statement contained in a document produced by a computer shall not by virtue of subsection (3A) be admissible in evidence in civil or criminal proceedings except in accordance with the Evidence Act (Cap. 97).

(6) Any person who without reasonable excuse fails to comply with this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both and, in the case of a second or subsequent conviction, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both.

Comptroller may disregard certain transactions and dispositions

47.

-(1) Where the Comptroller is satisfied that the purpose or effect of any arrangement is directly or indirectly -

(a) to alter the incidence or postpone the time due of any tax which is payable by or which would otherwise have been payable by any person;

(b) to relieve any person from any liability to pay tax or to make a return under this Act;

(c) to reduce or avoid any liability imposed or which would otherwise have been imposed on any person by this Act; or

(d) to obtain any credit or refund of input tax or any increase thereof for any person which would not otherwise have been obtained, the Comptroller may, without prejudice to such validity as it may have in any other respect or for any other purpose, disregard or vary the arrangement and make such adjustments as he considers appropriate so as to counteract any tax advantage obtained or obtainable by that person from or under that arrangement.

(2) Without prejudice to the generality of subsection (1), the Comptroller may, for the purposes of this section, deem -

(a) any person (not being, apart from this section, a taxable person) who is a party to or has participated in any way in any arrangement, to be a taxable person;

(b) any supply of goods or services, whether or not a taxable supply, that is affected by or is part of any arrangement, to be both made to and made by any taxable person or a person deemed to be taxable under paragraph (a);

(c) any supply of goods or services to take place in any prescribed accounting period that, but for any arrangement affected by this section, would have been the prescribed accounting period in which the supply was made;

(d) any supply of goods or services to have been made, or consideration for such supply to be given, at open market value.

(3) In this section -

"arrangement" means any agreement, contract, plan, understanding, scheme, trust, grant, covenant, disposition, transaction and includes all steps by which it is carried into effect;

"tax advantage" includes -

(a) any reduction in the liability of any person to pay tax;

(b) any increase in the entitlement of a person to a credit or refund of input tax;



(c) any reduction in the total consideration payable by any person in respect of any supply of goods or services; or

(d) any postponement of the time when tax is due or payable.

(4) This section shall not apply to any arrangement carried out for bona fide commercial reasons and had not as one of its main purposes the avoidance or reduction of tax or the obtaining of any tax advantage.

#### Assessment of penal tax

#### 48.

-(1) Where the Comptroller is satisfied that any person has wilfully with intent to evade or to assist any other person to evade tax -

(a) omitted or understated any output tax or overstated any input tax in any return made under this Act;

(b) made any false statement or entry in any return, claim or application made under this Act;

(c) given any false answer, whether verbally or in writing, to any question or request for information asked or made in accordance with the provisions of this Act;

(d) prepared or maintained or authorised the preparation or maintenance of any false books of account or other records or falsified or authorised the falsification of any books of account or records; or

(e) made use of any fraud, art or contrivance whatsoever or authorised the use of any such fraud, art or contrivance, the Comptroller may to the best of his judgment assess by way of penalty for that offence a tax (referred to in this section as the penal tax) not exceeding 3 times the amount of tax which has or would have been undercharged in consequence of the offence or which would have been undercharged if the offence had not been detected and notify the person accordingly.

(2) Where an amount has been assessed and notified to any person under subsection (1), it shall, subject to the provisions of this Act as to review and appeals, be deemed to be an amount of tax due from him and may be recovered accordingly, unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.

(3) For the purposes of this section, notification to a personal representative, trustee in bankruptcy, receiver, liquidator or person otherwise acting as aforesaid shall be treated as notification to the person in relation to whom he so acts.

(4) The assessment or recovery of penal tax shall not be in any manner barred or affected by the fact that the person referred to in subsection (1) -

(a) has been convicted of an offence under section 62 where the assessment or recovery of penal tax was made pursuant to an order made by the court on such conviction; or

(b) has not been convicted of any offence under this Act but no proceedings shall be taken in respect of any offence against a person who has paid the penal tax assessed against him for that same offence.

(5) References in this section to evading tax and to making use of any fraud, art or contrivance

whatsoever or authorising the use of any such fraud, art or contrivance shall be construed in accordance with section 62 (5) and (3), respectively.

## PART VIII BOARD OF REVIEW

Application for review and revision

49.

-(1) Any person may apply to the Comptroller, by notice of objection in writing, for review and revision of any decision made by the Comptroller with respect to any of the following matters:

- (a) the registration or cancellation of registration of any person under this Act;
- (b) the tax chargeable on the supply of any goods or services or on the importation of any goods;
- (c) the amount or proportion of any input tax or interest thereon which may be credited or allowable to a person;
- (d) the proportion of any supplies that is to be taken as consisting of taxable supplies;
- (e) a claim for or the amount of any refunds under section 25;
- (f) any direction or supplementary direction made under paragraph 2 of the First Schedule;
- (g) any direction under paragraph 1 or 2 of the Third Schedule;
- (h) any refusal to permit the value of supplies to be determined by a method described in a notice issued under section 41 (3) (a);
- (i) any requirements imposed by the Comptroller in a particular case under section 43 (2);
- (j) an assessment -
  - (i) under section 45 (1) or (2) in respect of a period for which the appellant has made a return under this Act;
  - (ii) under section 45 (6A) or (8); or
  - (iii) of penal tax under section 48, or the amount of such an assessment;
- (k) the declaration to be the agent of another person under section 79;
- (l) the requirement of any security under section 81 (3);
- (m) a claim for the repayment of an amount under section 90.

(2) Any application for review and revision under this section shall be made within 30 days of the date the person has been notified of the decision to which he objects or such other extended time as the Comptroller may allow.

(3) The Comptroller shall consider the application under subsection (2) and shall, within a reasonable time, inform the person of the decision on the application.

50.

-(1) For the purposes of hearing appeals, there shall be a Goods and Services Tax Board of Review consisting of not more than 50 members appointed by the Minister to hold office for such period as may be determined by the Minister and shall be eligible for reappointment.

(2) The Minister may at any time remove any member of the Board from office without giving any reason.

(3) A member may resign his office by notice in writing to the Minister.

(4) The Minister may appoint from amongst the members of the Board -

(a) a Chairman of the Board; and

(b) such number of Deputy Chairmen of the Board as the Minister thinks fit.

(4A) No person may be appointed as Chairman of the Board or Deputy Chairman of the Board unless he is either qualified to be a District Judge or is a public accountant within the meaning of the Accountants Act (Cap. 2).

(4B) Meetings of the Board shall be presided by -

(a) the Chairman of the Board;

(b) in the absence of the Chairman of the Board -

(i) where there is only one Deputy Chairman of the Board present, the Deputy Chairman; and

(ii) where there is more than one Deputy Chairman of the Board present, such Deputy Chairman as may be chosen by the Deputy Chairmen present; and

(c) where neither the Chairman of the Board nor any Deputy Chairman of the Board is present, such member of the Board as may be chosen by the members present.

(5) The Minister may appoint one or more secretaries to the Board and such other officers of the Board as may be necessary.

(6) All the powers, functions and duties of the Board may be exercised, discharged and performed by any committee of the Board consisting of not less than 3 members of the Board, at least one of whom shall be the Chairman of the Board or a Deputy Chairman of the Board.

(6A) Any act, finding or decision of any such committee shall be deemed to be the act, finding or decision of the Board.

(7) The secretary shall, from time to time, summon such members of the Board as may be nominated by the Chairman of the Board to constitute a committee of the Board for the purposes of giving effect to the provisions of this Part, and it shall be the duty of such members to attend at the times and place specified in the summons.

(8) All matters coming before the Board or a committee of the Board at any sitting thereof shall be decided by a majority of votes of the members of the Board present and, in the event of an equality of votes, the Chairman of the Board, the Deputy Chairman of the Board or such other

member as may be presiding, as the case may be, shall have a second or casting vote.

(8A) Meetings of a committee shall be presided by -

(a) where the Chairman of the Board is a member of the committee, the Chairman; and

(b) where the Chairman of the Board is not a member of the committee and -

(i) there is only one Deputy Chairman of the Board on the committee, the Deputy Chairman; or

(ii) there is more than one Deputy Chairman of the Board on the committee, such Deputy Chairman as the Chairman may determine.

(8B) Where the Chairman of the Board or any Deputy Chairman of the Board, as the case may be, is absent from any meeting of a committee at which he ought under subsection (8A) to be presiding, the meeting shall be presided by -

(a) where there is only one Deputy Chairman who is a member of the committee present, the Deputy Chairman;

(b) where there is more than one Deputy Chairman who is a member of the committee present, such Deputy Chairman as may be chosen by the Deputy Chairmen present; and

(c) where there is no Deputy Chairman who is a member of the committee present, such member of the Board as may be chosen by the members present.

(9) Members of the Board shall be entitled to receive such remuneration and such travelling and subsistence allowances as the Minister may determine.

(10) The Minister may make regulations prescribing -

(a) the manner in which appeals shall be made to the Board;

(b) the procedure to be adopted by the Board in hearing appeals and the records to be kept by the Board;

(c) the places where and the times at which appeals shall be heard by the Board;

(d) the fees to be paid in respect of any appeal under this Part; and

(e) the costs in respect of appeals to the Board.

Right of appeal

51.

-(1) Any person who disagrees with the decision of the Comptroller on his application for review and revision under section 49 may appeal to the Board by -

(a) lodging with the secretary, within 30 days from the date of the decision of the Comptroller on the application for review and revision, a written notice of appeal in such form as the Board may determine; and

(b) lodging with the secretary, within 30 days of the date on which such notice of appeal was lodged, a petition of appeal containing a statement of the grounds of appeal.



(2) A notice of appeal shall contain -

(a) an address for service;

(b) a list of the names of any members of the Board to whom the appellant objects; and

(c) the reasons for such objection.

(2A) An appellant shall not be entitled to object to the Chairman of the Board or any Deputy Chairman of the Board and to more than one-third of the total number of members of the Board.

(3) On receipt of a notice of appeal, the secretary shall immediately forward one copy thereof to the Comptroller who may, within 3 days of the receipt of such copy, lodge with the secretary a list of any members of the Board to whom he objects and the reasons for such objection.

(3A) The Comptroller shall not be entitled to object to the Chairman of the Board or any Deputy Chairman of the Board and the number of members of the Board objected to by the Comptroller shall not, when added to the number objected to by the appellant, exceed one-half of the total number of members of the Board.

(4) The Chairman of the Board, or such Deputy Chairman of the Board as the Chairman may authorise, shall determine whether the reason for any objection to any member under subsection (2) or (3) is valid.

(4A) Where the Chairman of the Board or a Deputy Chairman of the Board determines under subsection (4) that the reason for any objection is valid, the member of the Board in respect of whom the objection was made shall not attend the hearing of the appeal of the appellant.

(4B) Where the Chairman of the Board or a Deputy Chairman of the Board determines under subsection (4) that the reason for any objection is not valid, the Chairman or Deputy Chairman shall reject that objection and inform the appellant or the Comptroller accordingly.

(4C) Where an objection has been rejected by the Chairman of the Board or a Deputy Chairman of the Board under subsection (4B), the member of the Board in respect of whom that objection was made may attend the hearing of the appeal of the appellant.

(4D) The decision of the Chairman of the Board or a Deputy Chairman of the Board under subsection (4) shall be final.

(5) The Chairman of the Board may, in his discretion and on such terms as he thinks fit, permit any person to proceed with an appeal notwithstanding that the notice of appeal or petition of appeal was not lodged within the time limited therefor by this section, if it is shown to the satisfaction of the Chairman that the person was prevented from lodging the notice or petition in due time owing to absence, sickness or other reasonable cause and that there has been no unreasonable delay on his part.

(6) Except with the consent of the Board and on such terms as the Board may determine, an appellant may not at the hearing of his appeal rely on any grounds of appeal other than the grounds stated in his petition of appeal.

(7) An appeal under this section shall not be heard unless the appellant has made all the returns which he was required to make under this Act and has paid the amounts shown in those returns as payable by him.

(8) Where the appeal is against a decision with respect to any of the matters mentioned in section 49 (1) (b), (j) or (l), it shall not be heard unless –

(a) the amount which the Comptroller has determined to be payable as tax has been paid or deposited with him; or

(b) on being satisfied that the appellant would otherwise suffer hardship, the Comptroller agrees or the Board decides that it should be heard notwithstanding that that amount has not been so paid or deposited.

(9) Where there is an appeal against a decision to make such a direction as is mentioned in section 49 (1) (f), the Board shall not allow the appeal unless it considers that the Comptroller could not reasonably have been satisfied as to the matters set out in sub-paragraph (2) or (4), as the case may be, of paragraph 2 of the First Schedule.

(10) Where on an appeal under this section it is found –

(a) that the whole or part of any amount paid or deposited under subsection (8) is not due; or

(b) that the whole or part of any amount due to the appellant under section 19 (5) has not been paid, so much of that amount as is found not to be due or not to have been paid shall be repaid (or, as the case may be, paid).

(11) Where the appeal has been heard notwithstanding that an amount determined by the Comptroller to be payable as tax has not been paid or deposited and it is found on the appeal that that amount is due, the Board may, if it thinks fit, direct that that amount shall be paid.

Hearing and disposal of appeals

## 52.

–(1) On receipt of a petition of appeal, the secretary shall immediately forward a copy thereof to the Comptroller and shall, as soon as is possible, fix a time and place for the hearing of the appeal and shall give 14 days' notice thereof both to the appellant and to the Comptroller.

(2) The appellant and the Comptroller or an officer authorised by him shall attend, either in person or by an advocate and solicitor or accountant, at such times and places as may be fixed for the hearing of the appeal.

(2A) Where it is proved to the satisfaction of the Board that, owing to absence, sickness or other reasonable cause, any person is prevented from so attending, the Board may postpone the hearing of the appeal for such reasonable time as it thinks necessary.

(3) The onus of proving that the decision of the Comptroller on the application for review and revision under section 49 is incorrect shall be on the appellant.

(4) The Board shall have the following powers:

(a) to summon to attend at the hearing of an appeal any person whom it may consider able to give evidence in respect of the appeal, to examine such person as a witness either on oath or otherwise and to require such person to produce such records, documents or sample of any goods as the Board may think necessary for the purposes of the appeal;

(b) to allow any person so attending any reasonable expenses necessarily incurred by him in so attending; such expenses shall form part of the costs of the appeal and shall be paid by the

appellant or the Comptroller, as the Board may direct;

(c) all the powers of a District Court with regard to the enforcement of attendance of witnesses, hearing evidence on oath and punishment for contempt; and

(d) subject to section 51 (6), to admit or reject any evidence adduced, whether oral or documentary and whether admissible or inadmissible under the provisions of any written law relating to the admissibility of evidence.

(5) Every person examined as a witness by or before the Board, whether on oath or otherwise, shall be legally bound to state the truth and to produce such records, documents or sample of any goods as the Board may require.

(6) The costs of an appeal shall be in the discretion of the Board and shall either be fixed by the Board or, on the order of the Board, taxed by the Registrar, Deputy Registrar or an Assistant Registrar of the Supreme Court or the Subordinate Courts in accordance with regulations made under section 50 (10).

(7) Where the Comptroller is awarded costs of an appeal, he shall be entitled to his reasonable costs of the appeal, including a fee for any counsel or legal officer appearing on his behalf in the appeal, and the amount of such costs shall be added to the tax charged (if any) and be recoverable therewith.

(8) The Board may, after hearing an appeal, confirm, vary or annul the decision of the Comptroller appealed against and make such order as it thinks fit.

(9) Where the Board after hearing an appeal does not vary or annul the decision of the Comptroller, the Board may, if in its opinion the appeal was vexatious or frivolous, order the appellant to pay, as costs of the Board and in addition to any costs awarded to the Comptroller, a sum not exceeding \$1,000 which sum shall be added to the tax charged (if any) and be recoverable therewith.

(10) Every member of the Board, when and so long as he is acting as such, shall be deemed to be a public servant within the meaning of the Penal Code (Cap. 224) and shall enjoy the same judicial immunity as is enjoyed by a District Judge.

(11) All proceedings in appeals to the Board under this Act shall be deemed to be judicial proceedings within the meaning of the Penal Code.

(12) Where, on appeal against a decision with respect to any of the matters mentioned in section 49 (1) (j) -

(a) it is found that the amount specified in the assessment is less than it ought to have been; and

(b) the Board gives a direction specifying the correct amount, the assessment shall have effect as an assessment of the amount specified in the direction and that amount shall be deemed to have been notified to the appellant.

Hearing of appeal in absence of member of Board

### 53.

-(1) Notwithstanding anything to the contrary in this Part, if, in the course of any appeal, or, in the case of a reserved judgment in any such appeal, at any time before delivery of the

judgment, any member of the Board hearing the appeal is unable, through illness or any other cause, to continue to hear or to determine the appeal, the remaining members of the Board, not being less than 2, shall, if the parties consent, hear and determine the appeal and the Board shall, for the purposes of the appeal, be deemed to be duly constituted notwithstanding the absence or inability to act of the member.

(2) Notwithstanding section 50 (8), in any case referred to in subsection (1), the appeal shall be decided in accordance with the opinion of the majority of the remaining members of the Board and, except where there are only 2 remaining members, if there is an equality of votes, the Chairman of the Board or in his absence the member presiding shall have a second or casting vote.

(3) The appeal shall be reheard -

(a) if the parties do not consent to the proceedings continuing by the remaining members of the Board under subsection (1); or

(b) if the appeal is heard or determined by only 2 remaining members of the Board and they are unable to reach a unanimous decision.

Appeals to High Court

54.

-(1) Except as provided in this section, the decision of the Board shall be final.

(2) The appellant or the Comptroller may appeal to the High Court from the decision of the Board upon any question of law or of mixed law and fact except on any case where the Board has determined that the tax payable or any amount due to the appellant is less than \$500 excluding the amount of costs awarded.

(3) The procedure governing and the costs of such appeals to the High Court shall be the same as for appeals to the High Court from decisions of District Courts in civil matters.

(4) The High Court shall hear and determine any such appeal and may confirm, vary or annul the decision of the Board on appeal and make such further or other order on such appeal, whether as to costs or otherwise, as to the Court may consider fit.

(5) There shall be such further right of appeal from decisions of the High Court under this section as exists in the case of decisions made by that Court in the exercise of its original civil jurisdiction.

Cases stated for High Court

55.

-(1) The Board may at any time and in regard to any appeal, with or without proceeding to the determination of the appeal, state a case on a question of law for the opinion of the High Court.

(2) A case stated shall set forth the facts and any finding of fact by the Board, the decision, if any, of the Board, and the question for the opinion of the High Court, and shall be signed by the Chairman of the Board or member presiding or in their absence, by any other member attending the sitting at which the appeal was heard.

(3) The secretary shall transmit the case, when stated and signed in accordance with subsection



(2), to the High Court, and shall send a copy thereof to the appellant and to the Comptroller.

(4) The High Court may cause a case stated to be returned to the Board for amendment and the Board shall amend the case stated accordingly.

(5) In considering any case stated, the High Court shall give the appellant and the Comptroller an opportunity to present arguments before the Court.

(6) The High Court shall hear and determine any question of law arising on a case stated and may in accordance with its decision thereon confirm, vary or annul any decision by the Board in the appeal, or may remit the case to the Board with the opinion of the Court on that case.

(7) The Board shall give effect to the opinion by its decision in the appeal or by revising any previous decision made by it in the appeal to the extent to which that previous decision does not accord with the opinion of the High Court.

Proceedings before Board of Review and Supreme Court

#### 56.

-(1) Subject to subsections (2) and (3), all proceedings before the Board and in appeals to, or in cases stated for the opinion of, the High Court and in appeals from decisions of the High Court under section 54 shall be heard in camera.

(2) Where the Comptroller or the appellant at the hearing before the Board (referred to in this section as the appellant) applies to the Board, the High Court or the Court of Appeal, as the case may be, that the proceedings be heard by way of a hearing open to the public, the Board or the Court may direct that the proceedings be so heard, notwithstanding any objection from the other party to the proceedings.

(3) Where in the opinion of the Board, the High Court or the Court of Appeal any proceedings heard in camera ought to be reported, the Board, the High Court or the Court of Appeal may publish or authorise the publication of the facts of the case, the arguments and the decision relating to these proceedings without disclosing the identity of the appellant concerned.

Decision to be final and conclusive

#### 57.

Except as expressly provided in this Act -

(a) where no valid notice of appeal has been lodged within the time limits under section 51 against the decision of the Comptroller on any matter referred to in section 49;

(b) where such notice has been lodged but it has been withdrawn before the decision has been determined on appeal;

(c) where an agreement (whether in writing or otherwise) has been reached on the decision made between the Comptroller and the person who lodged the notice and the Comptroller has in consequence varied the decision in writing; or

(d) where the decision has been determined on appeal, the decision as made, varied in consequence of the agreement or determined on appeal shall be final and conclusive for the purposes of this Act.

## PART IX OFFENCES AND PENALTIES

### General penalties

#### 58.

Any person guilty of an offence under this Act for which no penalty is provided shall be liable on conviction to a fine not exceeding \$5,000 and in default of payment to imprisonment for a term not exceeding 6 months.

Penalty for incorrect return

#### 59.

-(1) Subject to the provisions of Part VIII, any person who -

(a) makes an incorrect return by omitting or understating any output tax or by overstating any input tax of which he is required by this Act to make a return; or

(b) gives any incorrect information in relation to any matter affecting his own liability to tax or the liability of any other person or of a partnership, shall be guilty of an offence and shall on conviction pay a penalty equal to the amount of tax which has been undercharged in consequence of such incorrect return or information, or which would have been so undercharged if the return or information had been accepted as correct.

(2) Any person who without reasonable excuse or through negligence -

(a) makes an incorrect return by omitting or understating any output tax or by overstating any input tax of which he is required by this Act to make a return; or

(b) gives any incorrect information in relation to any matter affecting his own liability to tax or the liability of any other person or of a partnership, shall be guilty of an offence and shall on conviction -

(i) pay a penalty equal to double the amount of tax which has been undercharged in consequence of such incorrect return or information, or which would have been so undercharged if the return or information had been accepted as correct; and

(ii) be liable to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 years or to both.

Penalty for failure to pay or make returns within prescribed period

#### 60.

-(1) If any tax is not paid by a taxable person within the periods prescribed in regulations made under section 41 -

(a) a penalty equal to 5% of the amount of tax payable shall be added thereto; and

(b) if the amount of tax outstanding is not paid within 60 days of the imposition of the penalty as provided by paragraph (a), an additional penalty of 2% of the tax outstanding shall be payable for each completed month that the tax remains unpaid commencing from the date on which the tax became payable, but the total additional penalty shall not exceed 50% of the amount of tax outstanding.

(2) If any return is not made by a taxable person within the periods prescribed in regulations made under section 41, that taxable person shall be liable to pay a penalty of \$200 for each

completed month that he continues not to submit the return but the total penalty shall not exceed \$10,000.

Penalty for failure to register

**61.**

Any person who –

(a) fails to comply with paragraphs 4, 5, 6 or 15 (2) and (3) of the First Schedule (duty to notify liability for registration or change in nature of supplies, etc., by a person exempted from registration); or

(b) fails to apply for registration as required by the First Schedule, shall be guilty of an offence and shall on conviction –

(i) pay a penalty equal to 10% of the tax due in respect of each year or part thereof commencing from the date on which he is required to make the notification or to apply for registration, as the case may be;

(ii) be liable to a fine not exceeding \$10,000; and

(iii) be liable to a further penalty of \$50 for every day during which the offence continues after conviction.

Penalty provisions relating to fraud, etc.

**62.**

–(1) Any person who wilfully with intent to evade or to assist any other person to evade tax –

(a) omits or understates any output tax or overstates any input tax in any return made under this Act;

(b) makes any false statement or entry in any return, claim or application made under this Act;

(c) gives any false answer, whether verbally or in writing, to any question or request for information asked or made in accordance with the provisions of this Act;

(d) prepares or maintains or authorises the preparation or maintenance of any false books of account or other records or falsifies or authorises the falsification of any books of account or records; or

(e) makes use of any fraud, art or contrivance whatsoever or authorises the use of any such fraud, art or contrivance, shall be guilty of an offence and shall on conviction –

(i) pay a penalty assessed under section 48 of 3 times the amount of tax which has or would have been undercharged in consequence of the offence or which would have been undercharged if the offence had not been detected; and

(ii) be liable to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 7 years or to both.

(2) Whenever in any proceedings under this section it is proved that any false statement or entry is made in any return, claim or application furnished under this Act by or on behalf of any person or in any books of account or other records maintained by or on behalf of any person,

that person shall be presumed, until the contrary is proved, to have made that false statement or entry with intent to evade tax.

(3) A reference in this section to a person who makes use of any fraud, art or contrivance whatsoever or authorises the use of any such fraud, art or contrivance includes a reference to a person who, without the authority of the Comptroller -

(a) destroys, damages, erases or otherwise manipulates data stored in, or used in connection with, a computer; or

(b) introduces into, or records or stores in, a computer by any means data for the purpose of -

(i) destroying, damaging, erasing or altering other data stored in that computer; or

(ii) interfering with, interrupting or obstructing the lawful use of that computer or the data stored in that computer; or

(c) otherwise uses a computer, the purpose or effect of which is to evade tax.

(4) For the purposes of subsection (3), "data" includes any computer program or part of a computer program being a program approved by the Comptroller for use in relation to the electronic service or for use under section 43, 44 or 46 or any regulations made under section 41.

(5) A reference in this section to evading tax includes a reference to obtaining any of the following:

(a) a payment under section 19 (5);

(b) credit for input tax under section 19 or 20 or any regulations made thereunder;

(c) a refund under any regulations made under section 25 (1), in circumstances where the person concerned is not entitled to that payment, credit or refund.

Improperly obtaining refund

## 63.

Any person who knowingly -

(a) causes;

(b) attempts to cause;

(c) does any act with intent to cause; or

(d) makes default in the performance of any duty imposed upon him by this Act with intent to cause, the refund to that person by the Comptroller of any amount in excess of the amount properly so refundable to him, shall be guilty of an offence and shall be liable on conviction -

(i) to pay a penalty of 3 times the amount refunded or to be refunded in excess of the amount properly so refundable; and

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



## Offences in relation to goods and invoices

### 64.

–(1) If any person acquires possession of or deals with any goods, or accepts the supply of any services, having reason to believe that tax on the supply of the goods or services or on the importation of the goods has been or will be evaded, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 and to a penalty of 3 times the amount of the tax.

(2) If a person other than –

(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) a person authorised to do so under any subsidiary legislation made under this Act; or

(e) a person acting on behalf of the Government, issues an invoice or receipt showing an amount as being tax or as being attributable to tax, he shall be guilty of an offence and shall on conviction pay a penalty of 3 times the amount of tax so shown, and shall also be liable to a fine not exceeding \$10,000.

## Penalties for offences by authorised and unauthorised persons

### 65.

Any person who –

(a) being a person appointed for the due administration of this Act or any assistant employed in connection with the assessment and collection of tax –

(i) withholds for his own use or otherwise any portion of the amount of tax collected;

(ii) demands from any person an amount in excess of the authorised assessment or tax;

(iii) renders a false return, whether verbal or in writing, of the amounts of tax collected or received by him; or

(iv) defrauds any person, embezzles any money or otherwise uses his position so as to deal wrongfully either with the Comptroller or any other individual; or

(b) not being authorised under this Act to do so, collects or attempts to collect tax under this Act, 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 3 years or to both.

## Penalty for obstructing Comptroller in carrying out his duties

### 66.

Any person who at any time hinders or obstructs the Comptroller or any officer acting in the discharge of his duties under this Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

Tax to be payable notwithstanding any proceedings for penalties and penalties not part of tax

**67.**

-(1) The institution of proceedings for, or imposition of, a penalty, fine or term of imprisonment under this Act shall not relieve any person from liability to payment of any tax for which he is or may be liable.

(2) Any penalty imposed under this Act shall not be deemed to be part of the tax paid for the purposes of claiming relief under this Act.

## **PART X PROCEEDINGS**

Comptroller, etc., may direct prosecution

**68.**

-(1) Subject to section 69, the Comptroller or such other officer as may be authorised by the Comptroller in that behalf may direct any prosecution for any offence under this Act and may authorise the incurring of such expense as may be necessary to the prosecution.

(2) Any officer employed in the administration of this Act may conduct such prosecution on behalf of the Comptroller.

Sanction for prosecution

**69.**

No prosecution shall be commenced in respect of an offence under section 6, 62, 63, 65 or 66 except at the instance, or with the sanction, of the Public Prosecutor.

Saving for criminal proceedings

**70.**

Nothing in this Act shall affect any criminal proceedings under any other written law.

Provisions as to evidence in legal proceedings

**71.**

-(1) Statements made or documents produced by or on behalf of any person shall not be inadmissible in evidence against him in any proceedings to which this section applies by reason only that he was or may have been induced to make the statements or produce the documents by any inducement or promise lawfully given or made by a person having any official duty under, or being employed in the administration of, this Act.

(2) This section shall apply to any proceedings against the person in question -

(a) under the provisions of section 59 or 62; or

(b) for the recovery of any sum due from him whether by way of tax or penalty.

Evidence by certificate, etc.

**72.**

-(1) A certificate purporting to be under the hand of the Comptroller -

(a) that a person was or was not, at any date, registered under this Act;

(b) that any return required by or under this Act has not been made or had not been made at any date;

(c) that any return made under this Act has been made by the person named therein;

(d) that any tax shown as due in any return or assessment made under this Act has not been paid;  
or

(e) that any penalty and the amount thereof shown as due from the person named therein, shall be sufficient evidence of that fact until the contrary is proved.

(2) Any document purporting to be a certificate under subsection (1) shall, until the contrary is proved, be deemed to be such a certificate.

#### Service of summons

#### 73.

-(1) Every summons issued by a court against any person in connection with any offence under this Act may be served on the person -

(a) by delivering the summons to the person or to some adult member of his family at his last known place of residence;

(b) by leaving the summons at his usual or last known place of residence or business in an envelope addressed to the person;

(c) by sending the summons by registered post addressed to the person at his usual or last known place of residence or business; or

(d) where the person is a body of persons or a company -

(i) by delivering the summons to the secretary or other like officer of the body of persons or company at its registered office or principal place of business; or

(ii) by sending the summons by registered post addressed to the body of persons or company at its registered office or principal place of business.

(2) Any summons sent by registered post to any person in accordance with subsection (1) shall be deemed to be duly served on the person to whom the letter is addressed at the time when the letter would, in the ordinary course of post, be delivered and in proving service of the summons, it shall be sufficient to prove that the envelope containing the summons was properly addressed, stamped and posted by registered post.

#### Offences by bodies of persons and by agents and employees

#### 74.

-(1) Where an offence under this Act has been committed by a company, firm, society or other body of persons, any person who at the time of the commission of the offence was a director, manager, secretary or other similar officer or a partner of the company, firm, society or other body of persons or was purporting to act in that capacity shall be deemed to be guilty of that offence unless he proves that -

(a) the offence was committed without his consent or connivance; and

(b) he exercised all such diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

(2) Where any person would be liable under this Act to any punishment or penalty for any act, omission, neglect or default he shall be liable to the same punishment or penalty for every such act, omission, neglect or default of any agent or employee, or of the employee of the agent provided that the act, omission, neglect or default was committed by -

(a) the employee in the course of his employment;

(b) the agent when acting on behalf of the person; or

(c) the employee of the agent when acting in the course of his employment in such circumstances that had the act, omission, neglect or default been committed by the agent, his principal would have been liable under this section.

#### Composition of offences

##### 75.

-(1) The Comptroller or any person authorised by him may in his discretion compound any offence under this Act which is prescribed to be a compoundable offence by accepting from the person reasonably suspected of having committed the offence a sum not exceeding \$5,000.

(2) On payment of such sum of money, no further proceedings shall be taken against that person in respect of such offence.

(3) The Minister may make regulations to prescribe the offences which may be compounded.

(4) All sums received for the composition of offences under this section shall be paid into the Consolidated Fund.

#### Jurisdiction of court

##### 76.

A District Court or a Magistrate's Court shall have jurisdiction to hear and determine all offences under this Act and, notwithstanding anything to the contrary in the Criminal Procedure Code (Cap. 68), shall have power to impose the full penalty or punishment in respect of any offence under this Act.

#### Proceedings for offences and penalties under Customs Act

##### 77.

Parts XIV and XV of the Customs Act (Cap. 70) (Provisions as to Trials and Proceedings; and Offences and Penalties) and such other related provisions of that Act as the Minister may by order specify shall apply, with such exceptions, adaptations and modifications as may be prescribed in that order, in relation to offences under this Act (which include any act or omission in respect of which a penalty is imposed) and penalties imposed under this Act as they apply in relation to offences and penalties under the Customs Act as defined in that Act; and accordingly in those provisions as it applies by virtue of this section the reference to customs duty or excise duty shall be construed as a reference to the tax.

## PART XI COLLECTION AND ENFORCEMENT



78.

(1) Tax due from any person shall, notwithstanding any objection or appeal against any decision of the Comptroller, be recoverable as a debt due to the Government and the Comptroller may, in his own name, sue for such tax by way of a specially endorsed writ of summons.

(2) Where an invoice shows a supply of goods or services as taking place with tax chargeable on it, there shall be recoverable from the person who issued the invoice an amount equal to that which is shown on the invoice as tax or, if the tax is not separately shown, to so much of the total amount shown as payable as is to be taken as representing tax on the supply.

(3) Subsection (2) shall apply whether or not -

(a) the invoice is a tax invoice issued under section 41;

(b) the supply shown on the invoice actually takes or has taken place, or the amount shown as tax, or any amount of tax, is or was chargeable on the supply; or

(c) the person issuing the invoice is a taxable person.

(3A) Any sum recoverable from a person under subsection (2) shall, if it is in any case tax, be recoverable as such and shall otherwise be recoverable as a debt due to the Government.

(4) In any proceedings referred to in subsection (1), the production of a certificate signed by the Comptroller that any tax and the amount thereof shown as due in any return or assessment made in pursuance of this Act from a person named therein shall be sufficient evidence of that fact and the amount so due and shall be sufficient authority for the court to give judgment for that amount.

(5) The Minister may by regulations make provision for -

(a) authorising distress to be levied on the goods and chattels of any person refusing or neglecting to pay any tax due from him or any amount recoverable as if it were tax due from him;

(b) the disposal of any goods or chattels on which distress is levied under the regulations; and

(c) the imposition and recovery of costs, charges, expenses and fees in connection with anything done under the regulations.

(6) Any penalty imposed under this Act shall, for the purposes of this Act and the Limitation Act (Cap. 163), be recoverable as if it were tax due and payable under this Act and accordingly section 6 (4) of the Limitation Act shall not apply to such penalty. (7) For the purposes of this section, tax includes any penalty or any other money which a person is liable to pay to the Comptroller under this Act.

Power to appoint agent for recovery of tax

79.

(1) The Comptroller may by notice in writing, if he thinks it necessary, declare any person to be the agent of any taxable person.

(2) The person declared the agent under subsection (1) shall be the agent of the taxable person for the purposes of this Act and may be required to pay any tax due or which may become due in

respect of taxable supplies made before the date of the notice, from any moneys, including pensions, salary, wages or any other remuneration, which, at the date of receipt of the notice or at any time not later than 90 days thereafter may be held by him for or due by him to the person whose agent he has been declared to be, and in default of such payment, the tax shall be recoverable from him in the manner provided by section 78.

(3) For the purposes of this section, the Comptroller may require any person to give him information as to any moneys, funds or other assets which may be held by him for, or of any moneys due by him to, any other person.

(4) For the purposes of payment of any tax due from any moneys referred to in subsection (2) in a joint account at any bank or from the proceeds of sale of any immovable property owned by 2 or more persons as joint owners, the following provisions shall apply:

(a) the person declared by the Comptroller under subsection (1) to be the agent of any person who is an owner of such moneys shall -

(i) within 14 days of the receipt of the notice under subsection (1), send a notice by registered post addressed to every owner of such moneys at the address last known to the agent informing the owner of such declaration; and

(ii) retain such amount of the moneys as is presumed under paragraph (b) to be owned by the person from whom tax is due and, subject to paragraph (c), within 42 days of the receipt of the notice under subsection (1), pay over the tax due from such amount to the Comptroller;

(b) it shall be presumed, until the contrary is proved, that the holders of a joint account at any bank shall have equal share of the moneys in the account as at the date of receipt of the notice under subsection (1) and that the joint owners of any immovable property shall share the proceeds of sale of the property equally;

(c) any owner of such moneys who objects to the share presumed under paragraph (b) shall give notice of his objection in writing to the person declared to be the agent under subsection (1) within 28 days of the receipt of the notice of the agent under paragraph (a) (i), or within such further period as the Comptroller in his discretion may allow, and furnish proof as to his share of the moneys;

(d) where an objection under paragraph (c) has been received, the person declared to be the agent shall -

(i) retain the amount of such moneys referred to in paragraph (a) (ii) until such time as the Comptroller by notice under paragraph (e) informs him of his decision on the objection; and

(ii) inform the Comptroller of the objection within 7 days of the receipt of the objection;

(e) the Comptroller shall consider the objection and shall by notice in writing inform the person declared to be the agent of his decision and the agent shall, notwithstanding any appeal under paragraph (f), pay over any tax due from the share of moneys decided by the Comptroller as the amount, not exceeding the amount presumed under paragraph (b) to be the share of the person by whom the tax is payable, held by him for or due by him to the person;

(f) any owner of such moneys aggrieved by the decision of the Comptroller under paragraph (e) may appeal against the decision to the Board of Review and the provisions of Part VIII shall apply, with the necessary modifications, to the appeal; and

(g) for the purpose of this subsection, "joint account" means any account in the names of 2 or more persons but excludes any partnership account, trust account and any account where a minor is one of the joint account holders.

(5) Any person making any payment to the Comptroller under this section shall be deemed to have been acting under the authority of the person by whom any tax is payable and is hereby indemnified in respect of such payment.

(6) For the purposes of this section, "tax" includes any penalty or any other money which a person is liable to pay to the Comptroller under this Act.

#### Indemnification of agent

#### 80.

Every person liable under this Act for the payment of tax on behalf of another person may retain out of any money coming to his hands on behalf of the other person so much thereof as shall be sufficient to pay the tax; and shall be indemnified against any person for all payments made by him in pursuance and by virtue of this Act.

#### Power to require security and production of evidence

#### 81.

-(1) The Comptroller may, as a condition of allowing or repaying any input tax to any person, require the production of such documents relating to the tax as may have been supplied to that person.

(2) The Comptroller may, if he thinks it necessary for the protection of the revenue, require as a condition of making any payment under section 19 (5) the giving of such security for the amount of the payment as appears to him appropriate.

(3) Where it appears to the Comptroller requisite to do so for the protection of the revenue, he may require any person, as a condition of his importing any goods or supplying goods or services under a taxable supply, to give security, or further security, of such amount and in such manner as he may determine, for the payment of any tax which is or may become due from him.

(4) Any person who without any reasonable cause fails to furnish such security as is required under subsection (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

(5) In this section -

"document" includes, in addition to a document in writing -

(a) any map, plan, graph or drawing;

(b) any photograph;

(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 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 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;

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

#### Recovery of tax from persons leaving Singapore

### 82.

(1) Where the Comptroller is of the opinion that any person is about or likely to leave Singapore without paying all tax assessed on or due from him under this Act, the Comptroller may issue a certificate containing particulars of such tax and a direction to the Controller of Immigration that such person be prevented from leaving Singapore without paying the tax or furnishing security to the satisfaction of the Comptroller for payment thereof.

(2) Subject to the provisions of any order issued or made under any written law for the time being in force relating to banishment or immigration, the Controller of Immigration shall pursuant to the direction take, or cause to be taken by any immigration officer, such measures as may be necessary to prevent the person named in the direction from leaving Singapore until payment of the tax has been made or secured, including the use of such force as may be necessary and, if appropriate, the detention of any passport, certificate of identity or other travel document and any exit permit or other document authorising such person to leave Singapore.

(3) At the time of issue of the certificate under subsection (1), the Comptroller shall issue to the person named in the certificate a notification thereof by personal service or registered post. (3A) Any proceedings under this section shall not be invalidated on the ground that the notification under subsection (3) had not been received.

(4) Payment of the tax to a customs or immigration officer or production of a certificate signed by the Comptroller stating that the tax has been paid or secured, shall be sufficient authority for allowing such person to leave Singapore.

(5) Any person who, knowing that a direction has been issued under subsection (1) for the prevention of his departure from Singapore, voluntarily leaves or attempts to leave Singapore without paying all tax assessed on or due from him under this Act or furnishing security to the satisfaction of the Comptroller for payment thereof, shall be guilty of an offence and may be arrested, without warrant, by any immigration officer.

(6) No civil or criminal proceedings shall be instituted or maintained against the Government, the Controller of Immigration or any customs or immigration officer in respect of anything lawfully done under this section.

#### Power to take samples

### 83.

(1) The Comptroller or an officer authorised by him, if it appears to him necessary for the protection of the revenue against mistake or fraud, may at any time take, from the goods in the possession of any person who supplies goods, such samples as the Comptroller or the authorised person may require with a view to determining how the goods or the materials of which they are made ought to be or to have been treated for the purposes of tax.



(2) Any sample taken under this section shall be disposed of and accounted for in such manner as the Comptroller may direct.

#### Seizure of goods

##### 83A.

-(1) Any authorised person may seize any goods together with the receptacle or package in which the goods are found where the relevant provision of this Act, with the exception of section 26, provides for seizure of those goods.

(2) Whenever any goods are seized, the authorised person shall immediately give notice of the seizure and the grounds thereof to the owner of the goods, if known, except that the notice shall not be required to be given where the seizure is made on the person, or in the presence of the offender or the owner or his agent.

(3) Any goods of a perishable nature or any animal or bird seized may be sold immediately and the proceeds of sale held to abide the result of any prosecution or claim.

(4) Any goods which are of a dangerous character or which cannot be removed without undue expense may be destroyed on the instructions of the Comptroller.

(5) The Comptroller may, in his discretion, release any goods seized to the importer, owner or person having custody of the goods subject to such conditions and on such security as the Comptroller may require.

(6) Where the goods liable to seizure are found in any vehicle, vessel not exceeding 200 tons net registered tonnage or aircraft, such vehicle, vessel or aircraft may be seized in order to facilitate the removal or transportation of those goods.

#### Goods liable to seizure liable to forfeiture

##### 83B.

-(1) All goods liable to seizure under the provisions of this Act shall be liable to forfeiture except for the vehicle, vessel or aircraft seized under section 83A (6).

(2) An order for the forfeiture or for the release of anything liable to forfeiture under the provisions of this Act shall be made by the court before which the prosecution with regard thereto has been held.

(3) An order for the forfeiture of goods shall be made if it is proved to the satisfaction of the court that an offence under this Act has been committed and that the goods were the subject-matter, or were used in the commission, of the offence, notwithstanding that no person may have been convicted of the offence.

(4) All goods forfeited shall be delivered to an authorised person and shall be disposed of in accordance with the directions of the Comptroller.

Goods seized in respect of which there is no prosecution, deemed to be forfeited if not claimed within one month

##### 83C.

-(1) If there is no prosecution with regard to any goods seized under this Act, the goods shall be taken and deemed to be forfeited at the expiration of one month from the date of seizure

unless a claim thereto is made before that date in accordance with this section.

(2) Any person asserting that he is the owner of the goods may, personally or by his agent authorised in writing, give written notice to the Comptroller that he claims the goods.

(3) On receipt of the notice, the Comptroller may, in his discretion, direct that the goods be released or may direct that the matter be referred to a District Judge or a Magistrate for his decision.

(4) The District Judge or the Magistrate shall issue a summons requiring the person asserting that he is the owner of the goods and the person from whom they were seized, if the person is known, to appear before him, and upon his appearance or default to appear, due service of the summons being proved, the District Judge or the Magistrate shall proceed to the examination of the matter.

(5) On proof that an offence under this Act has been committed and that the goods were the subject-matter, or were used in the commission, of the offence, the District Judge or the Magistrate shall order the goods to be forfeited, or may in the absence of such proof order their release.

(6) In any proceedings under subsections (4) and (5), the burden of proof shall lie on the person asserting that he is the owner of the goods and on the person from whom they were seized, as the case may be.

No costs or damages arising from seizure to be recoverable unless seizure without reasonable or probable cause

#### 83D.

No person shall, in any proceedings before any court in respect of the seizure of any goods seized in exercise or the purported exercise of any power conferred under this Act, be entitled to the costs of the proceedings or to any damages or other relief other than an order for the return of the goods or the payment of their value unless the seizure was made without reasonable or probable cause.

Power of Comptroller to obtain information and furnishing of information

#### 84.

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

(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 in 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 purposes of this section.

(2) The Comptroller may require any person to give orally or in writing, as may be required, all such information concerning his or any other person's transactions made in the course of a business as may be demanded of him by the Comptroller for the purposes of this Act.

(3) No person shall, by virtue of this section, be obliged to disclose any particulars which he is under any statutory obligation to observe secrecy.

(4) The Minister may by regulations make provision for requiring taxable persons to notify the Comptroller of such particulars of changes in circumstances relating to those persons or any business carried on by them as appear to the Comptroller to be required for the purpose of keeping the register kept under this Act up to date.

(5) In this section, "document" has the same meaning as in section 81.

## PART XII GENERAL PROVISIONS

Receipts and notices may be given by authorised officer

### 85.

-(1) All notices, orders, permits, receipts and other documents of whatsoever nature which the Comptroller is empowered to give by this Act may be given by any officer authorised by the Comptroller.

(2) Where any such notice, order, permit, receipt or other document requires authentication, the signature or an official facsimile thereof of the Comptroller or any officer authorised by the Comptroller affixed thereto shall be sufficient authentication.

Orders and regulations

### 86.

(1) The Minister may make orders and regulations generally to give effect to the provisions of this Act and to prescribe anything which may be prescribed under this Act and such orders or regulations may provide that a contravention thereof shall be punishable with a fine not exceeding \$10,000 or with imprisonment for a term not exceeding 2 years or with both.

(2) All orders and regulations made under this Act shall be presented to Parliament as soon as possible after publication in the Gazette.

(3) Any direction which may be made or issued by the Comptroller under this Act may be made by notice in writing issued by the Comptroller.

(4) The notice referred to in subsection (3) may be withdrawn or varied by a subsequent notice in writing issued by the Comptroller.

#### Service of notices

#### 87.

(1) Except where it is provided by this Act that service shall be effected either personally or by registered post, every notice, direction, order or document required or authorised by this Act to be served on any person may be served -

(a) by delivering it to the person or to some adult member or employee of his family at his last known place of residence;

(b) by leaving it at his usual or last known place of residence or business in an envelope addressed to him;

(c) by sending it by ordinary post addressed to the person at his usual or last known place of residence or business; or

(d) where the person has given his consent for it to be served on him through the electronic service, by transmitting an electronic record of it to his account with the electronic service.

(2) Where a notice is served by ordinary or registered post, it shall be deemed to have been duly served at the time the notice would have been received in the ordinary course of post if the notice is addressed -

(a) in the case of a company incorporated in Singapore, to the registered office of the company;

(b) in the case of a company incorporated outside Singapore, either to the individual authorised to accept service of process under the Companies Act (Cap. 50) at the address filed with the Registrar of Companies, or to the registered office of the company wherever it may be situated;

(c) in the case of an individual, partnership or a body of persons, to the last known business or private address of such individual, partnership or body of persons.

(3) Where any notice is served by registered post in accordance with subsection (2), in proving service of the notice, it shall be sufficient to prove that the envelope containing the notice was properly addressed, stamped and posted by registered post.

(3A) Where a person has given his consent for a notice to be served on him through the electronic service, the notice shall be deemed to have been served at the time when an electronic record of the notice enters his account with the electronic service.



(4) Subject to subsection (7), every notice to be given by the Comptroller under this Act shall be signed by the Comptroller or by some person or persons from time to time authorised by him in that behalf.

(5) Every such notice shall be valid if the signature or an official facsimile thereof of the Comptroller or of such person or persons is duly printed or written thereon.

(6) Subject to subsection (7), any notice under this Act requiring the attendance of any person or witness before the Comptroller shall be signed by the Comptroller or by a person duly authorised by him.

(7) 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, the notice need not be signed if it is served on him by transmitting an electronic record of the notice to his account with the electronic service.

Free postage

**88.**

All returns, additional information and resulting correspondence and payment of tax under the provisions of this Act may be sent post-free to the Comptroller in envelopes marked "Goods and Services Tax".

Remission of tax or penalty

**89.**

-(1) The Comptroller may, on the ground of poverty or where it is just and equitable to do so, give to any person or class of persons -

(a) relief from, or a remission or refund of, the whole or part of any tax chargeable on the importation of goods or supply of goods or services by that person or class of persons;

(b) a refund of the whole or part of any tax on the supply of goods or services to that person or class of persons -

(i) which, if he or they were taxable persons, would be his or their input tax; or

(ii) for which, as a taxable person or as taxable persons, he or they would not be entitled to any credit as input tax under this Act; or

(c) relief or remission from the whole or part of any penalty payable by that person or class of persons.

(2) The Minister may give to any person or class of persons -

(a) relief from, or a remission or refund of, the whole or part of any tax chargeable on the importation of goods or supply of goods or services by that person or class of persons;

(b) a refund of the whole or part of any tax on the supply of goods or services to that person or class of persons -

(i) which, if he or they were taxable persons, would be his or their input tax; or

(ii) for which, as a taxable person or as taxable persons, he or they would not be entitled to

any credit as input tax under this Act; or

(c) relief or remission from the whole or part of any penalty payable by that person or class of persons.

(3) The Minister may, if he thinks fit, and upon such conditions as he may impose, exempt any taxable person or class of taxable persons from collecting and accounting for tax on any taxable supply of goods or services.

Return of tax or penalty overpaid or erroneously paid

#### 90.

-(1) Where a claim is made in writing in such form and manner as the Comptroller may determine and within 6 years that any money has been overpaid or erroneously paid as tax or penalty under this Act, it shall be lawful for the Comptroller to refund such money to the claimant if it is proved to the satisfaction of the Comptroller that the money has been so overpaid or erroneously paid.

(2) The Comptroller may reduce or altogether withhold any refund due under this section to the extent that the refund would unjustly enrich the claimant.

(3) Except as provided in this section, the Comptroller shall not be liable to repay any money which has been overpaid or erroneously paid as tax or penalty under this Act.

Transitional provisions

#### 91.

-(1) Tax shall not be charged on any supply or importation taking place before 1st April 1994.

(2) Notwithstanding anything in section 11 of this Act or in section 28 of the Customs Act (Cap. 70) as applied by section 26 of this Act -

(a) a payment made or invoice issued before 1st April 1994 may be disregarded in determining for the purposes of this section whether a supply takes place before that date if, or to the extent that, it appears to the Comptroller that it would not have been so made or issued but for the tax;

(b) goods which on 1st April 1994 have not been released from customs control and in respect of which the rate of the customs duty and the valuation thereof are determined under section 21 of the Customs Act shall be treated for the purposes of this section as imported on the date on which such rate and valuation are determined under that section; and

(c) goods, other than goods referred to in paragraph (b), which have been deemed to be imported under section 28 of the Customs Act shall be treated for the purposes of this section as imported on the date on which they are deemed to be imported under that section.

(3) A person who, on 1st April 1994, will be liable to be registered shall notify the Comptroller of that fact within 10 days of the earliest date after 26th November 1993 on which he knows or could with reasonable diligence have known that he will be so liable or within such longer time as the Comptroller may allow, and the Comptroller shall register any such person with effect from 1st April 1994.

(4) The Minister may by regulations make such further transitional provisions as he may consider necessary and expedient including but not limited to modifying the provisions of this Act in its

application to the time and value of any supply of goods or services, for zero-rating or exempting supplies of goods or services the contracts in respect of which were made before 1st April 1994 and for the adjustment of the consideration under such contracts.

(5) In this section, "customs control" has the same meaning as in section 3 (2) of the Customs Act.

## FIRST SCHEDULE REGISTRATION

Liability to be registered

### 1.

-(1) Subject to sub-paragraphs (3) to (5), a person who makes taxable supplies but is not registered is liable to be registered -

(a) at the end of any quarter where the total value of all his taxable supplies made in Singapore in that quarter and the 3 quarters immediately preceding that quarter has exceeded \$1 million; or

(b) at any time, if there are reasonable grounds for believing that the total value of his taxable supplies in the period of 12 months then beginning will exceed \$1 million.

(2) Where a business carried on by a taxable person is transferred to another person as a going concern and the transferee is not registered at the time of the transfer, then, subject to sub-paragraphs (3) to (5), the transferee becomes liable to be registered at that time if -

(a) the total value of all his taxable supplies made in Singapore in the quarter of the time of the transfer and the 3 quarters immediately preceding that quarter has exceeded \$1 million; or

(b) there are reasonable grounds for believing that the total value of his taxable supplies in the period of 12 months then beginning will exceed \$1 million.

(3) A person is not liable to be registered by virtue of sub-paragraph (1) (a) or (2) (a) after the end of any quarter if the Comptroller is satisfied that the value of his taxable supplies in the next 4 quarters will not exceed \$1 million.

(4) In determining the value of a person's supplies for the purposes of sub-paragraph (1) (a) or (2) (a), supplies made at a time when he was previously registered shall be disregarded if -

(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.

(5) In determining the value of a person's supplies for the purpose of sub-paragraph (1) or (2), 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.

### 2.

-(1) Without prejudice to section 47 and to paragraph 1, if the Comptroller makes a direction under this paragraph, the persons named in the direction shall be treated as a single taxable person carrying on the activities of a business described in the direction and that taxable person shall be liable to be registered with effect from the date of the direction or, if the

direction so provides, from such later date as may be specified therein.

(2) The Comptroller may make a direction under this paragraph naming any person where the Comptroller is satisfied -

- (a) that he is making or has made taxable supplies;
- (b) that the activities in the course of which he makes or made those taxable supplies form only part of certain activities which should properly be regarded as those of the business described in the direction, the other activities being carried on concurrently or previously (or both) by one or more other persons;
- (c) that, if all the taxable supplies of that business were taken into account, a person carrying on that business would, at the time of the direction, be liable to be registered by virtue of paragraph 1; and
- (d) that the main reason or one of the main reasons for the person concerned carrying on the activities first referred to in sub-paragraph (b) in the way he does is the avoidance of a liability to be registered (whether that liability would be his, another person's or that of 2 or more persons jointly).

(3) A direction made under this paragraph shall be served on each of the persons named in it.

(4) Where, after a direction has been given under this paragraph specifying a description of business, it appears to the Comptroller that a person who has not been named in that direction is making taxable supplies in the course of activities which should properly be regarded as part of the activities of that business, the Comptroller may make and serve on him a supplementary direction referring to the earlier direction and the description of business specified in it and adding that person's name to those of the persons named in the earlier direction with effect from -

- (a) the date on which he began to make those taxable supplies; or
- (b) if it was later, the date on which the single taxable person referred to in the earlier direction became liable to be registered.

(5) If, immediately before a direction (including a supplementary direction) is made under this paragraph, any person named in the direction is registered in respect of the taxable supplies made by him as mentioned in sub-paragraph (2) or (4), he shall cease to be liable to be so registered with effect from whichever is the later of -

- (a) the date with effect from which the single taxable person concerned became liable to be registered; and
- (b) the date of the direction.

(6) In relation to a business specified in a direction under this paragraph, the persons named in the direction, together with any person named in a supplementary direction relating to that business (being the persons who together are to be treated as the taxable person), are in sub-paragraphs (7) and (8) referred to as "the constituent members".

(7) Where a direction is made under this paragraph, then, for the purposes of this Act -

- (a) the taxable person carrying on the business specified in the direction shall be registrable



in such name as the persons named in the direction may jointly nominate by notice in writing given to the Comptroller not later than 14 days after the date of the direction or, in default of such a nomination, in such name as may be specified in the direction;

(b) any supply of goods or services by or to one of the constituent members in the course of the activities of the taxable person shall be treated as a supply by or to that person;

(c) each of the constituent members shall be jointly and severally liable for any tax due from the taxable person;

(d) without prejudice to sub-paragraph (c), any failure by the taxable person to comply with any requirement imposed by or under this Act shall be treated as a failure by each of the constituent members severally; and

(e) subject to sub-paragraphs (a) to (d), the constituent members shall be treated as a partnership carrying on the business of the taxable person and any question as to the scope of the activities of that business at any time shall be determined accordingly.

(8) If it appears to the Comptroller that any person who is one of the constituent members should no longer be regarded as such for the purposes of sub-paragraph (7) (c) and (d) and the Comptroller gives notice to that effect, that person shall not have any liability by virtue of those sub-paragraphs for anything done after the date specified in that notice and, accordingly, on that date he shall be treated as having ceased to be a member of the partnership referred to in sub-paragraph (7) (e).

End of liability to be registered

### 3.

-(1) Subject to sub-paragraph (2), a registered person who makes taxable supplies shall cease to be liable to be registered at any time if the Comptroller is satisfied that the value of his taxable supplies in the period of 12 months then beginning will not exceed \$1 million.

(2) A person shall not cease to be liable to be registered by virtue of sub-paragraph (1) if the Comptroller is satisfied that the reason the value of his taxable supplies will not exceed \$1 million is that in the period in question he will cease making taxable supplies, or will suspend making them for a period of 30 days or more.

(3) In determining the value of a person's supplies for the purposes of sub-paragraph (1), 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.

Notification of liability and registration

### 4.

-(1) A person who by virtue of paragraph 1 (1) (a) is liable to be registered after the end of any quarter shall notify the Comptroller in such form as the Comptroller may determine of that liability within 30 days of the end of that quarter.

(2) The Comptroller shall register any such person (whether or not he so notifies the Comptroller) with effect from the end of the month following the month in which the 30th day falls or from such earlier date as may be agreed between the Comptroller and him.

### 5.

-(1) 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 any period shall notify the Comptroller in such form as the Comptroller may determine of that liability within 30 days of the beginning of that period.

(2) Subject to sub-paragraph (3), the Comptroller shall register any such person (whether or not he so notifies the Comptroller) with effect from the end of the 30 days or from such earlier date as may be agreed between the Comptroller and him.

(3) Where there are reasonable grounds for believing that the value of such a person's taxable supplies in the first 30 days of the period will exceed \$1 million, the Comptroller may, if he thinks fit, register him with effect from the beginning of the period.

#### 6.

-(1) A person who becomes liable to be registered by virtue of paragraph 1 (2) shall notify the Comptroller of the liability within 30 days of the time when the business is transferred.

(2) The Comptroller shall register any such person (whether or not that person so notifies the Comptroller) with effect from the time when the business is transferred.

#### 7.

Where a person becomes liable to be registered by virtue of paragraph 1 (1) (a) and by virtue of paragraph 1 (2) at the same time, the Comptroller shall register him in accordance with paragraph 6 (2) rather than paragraph 4 (2).

#### Voluntary registration

#### 8.

-(1) Where a person who is not liable to be registered satisfies the Comptroller that he -

(a) makes supplies which are -

(i) taxable supplies; or

(ii) exempt supplies of financial services specified in paragraph 1 of the Fourth Schedule, where the financial services are international services under section 21 (3); or

(b) is carrying on a business and intends to make such supplies in the course or furtherance of that business, the Comptroller may, subject to such conditions as the Comptroller may think fit to impose, and if that person so requests, register him with effect from such date as may be agreed between the Comptroller and him.

(2) Subject to paragraph 12 (2), a person registered under sub-paragraph (1) shall remain registered for a period of not less than 2 years or such other shorter period as the Comptroller may determine.

(3) Conditions under sub-paragraph (1) -

(a) may be imposed wholly or partly by reference to, or without reference to, any condition prescribed for the purposes of this paragraph; and

(b) may (whenever imposed) be subsequently varied by the Comptroller.

(4) The Comptroller may cancel the registration of a person under this paragraph if he does not begin to make taxable supplies by the date specified in his request or if he is in breach of any condition imposed under sub-paragraph (1).

## 9.

-(1) Where a person who is not liable to be registered under this Act and is not already so registered satisfies the Comptroller that he -

- (a) makes supplies within paragraph (b), (c) or (d) of section 20 (2); or
- (b) is carrying on a business and intends to make such supplies in the course or furtherance of that business, and (in either case) is within sub-paragraph (2), the Comptroller may, subject to such conditions as the Comptroller may think fit to impose, and if that person so requests, register him with effect from such date as may be agreed between the Comptroller and him.

(2) A person is within this sub-paragraph if -

(a) he has a business establishment in Singapore or his usual place of residence is in Singapore; and

(b) he does not make and does not intend to make taxable supplies.

(3) Conditions under sub-paragraph (1) -

(a) may be imposed wholly or partly by reference to, or without reference to, any condition prescribed for the purposes of this paragraph; and

(b) may (whenever imposed) be subsequently varied by the Comptroller.

(4) The Comptroller may cancel the registration of a person under this paragraph if he does not begin to make supplies referred to in sub-paragraph (1) (a) by the date specified in his request or if he is in breach of any condition imposed under sub-paragraph (1).

(5) For the purposes of this paragraph -

(a) a person carrying on a business through a branch or an agency in Singapore shall be treated as having a business establishment in Singapore; and

(b) "usual place of residence", in relation to a body corporate, means the place where it is incorporated or otherwise legally constituted.

Notification of end of liability, etc.

## 10.

A person registered under paragraph 4, 5, 6 or 8 who ceases to make or have the intention of making taxable supplies shall notify the Comptroller in writing of that fact and the date thereof within 30 days of the day on which he does so.

## 11.

A person registered under paragraph 9 who -

(a) ceases to make or have the intention of making supplies within paragraph 9 (1) (a); or

(b) makes or forms the intention of making taxable supplies, shall notify the Comptroller of that fact within 30 days of the day on which he does so unless, in the case of a person ceasing as mentioned in sub-paragraph (a), he would, when he so ceases, be otherwise liable or entitled to be registered under this Act if his registration and any provision preventing a person from being liable to be registered under different provisions at the same time were disregarded.

## Cancellation of registration

### 12.

-(1) Subject to sub-paragraph (2), where a registered person satisfies the Comptroller that he is not liable to be registered, the Comptroller shall, if that person so requests, cancel his registration with effect from the day on which the request is made or from such later date as may be agreed between the Comptroller and him.

(2) The Comptroller may refuse to cancel the registration of any person registered under paragraph 8 where the Comptroller is not satisfied that that person has ceased to make taxable supplies and if he thinks it necessary for the protection of the revenue.

### 13.

-(1) Where the Comptroller is satisfied that a registered person has ceased to be registrable, the Comptroller may cancel his registration with effect from the day on which he so ceased or from such later date as may be agreed between the Comptroller and him.

(2) In this paragraph and paragraph 14, "registrable" means liable or eligible to be registered under paragraph 8 (1).

### 14.

Where the Comptroller is satisfied that on the day on which a registered person was registered he was not registrable, the Comptroller may cancel his registration with effect from that day.

## Exemption from registration

### 15.

-(1) Notwithstanding the preceding provisions of this Schedule, where a person who makes or intends to make taxable supplies satisfies the Comptroller that any such supply is zero-rated or would be zero-rated if he were a taxable person, the Comptroller may, if he thinks fit and on that 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.

(2) Where there is a material change in the nature of the supplies made by a person exempted from registration under this paragraph, he shall notify the Comptroller of the change -

(a) within 30 days of the date on which it occurred; or

(b) if no particular day is identifiable as the day on which it occurred, within 30 days of the end of the quarter in which it occurred.

(3) Where there is a material alteration in any quarter in the proportion of taxable supplies of such a person that are zero-rated, he shall notify the Comptroller of the alteration within 30 days of the end of the quarter.

## Supplementary

### 16.

The value of a supply of goods or services shall be determined for the purposes of this Schedule on the basis that no tax is chargeable on the supply.

### 17.

-(1) Any notification required or request made under this Schedule shall be made in such form and shall contain such particulars as the Comptroller may determine.

(2) Any person who is required under this Schedule to notify the Comptroller of his liability to be registered or who requests to be registered shall include in his notification or request a declaration to the effect that all the information entered in or accompanying it is true and complete.

(3) Where the notification or request referred to in sub-paragraph (2) is made by a partnership, it shall include, on such form as the Comptroller may determine, the name, address and signature of each partner.

(4) Every registered person except one to whom paragraph 10, 11, 12, 13 or 14 applies shall, within 30 days after any change has been made in the name, constitution or ownership of his business, or after any other event has occurred which may necessitate the variation of the register or cancellation of his registration, notify the Comptroller in writing of such change or event and furnish him with the full particulars thereof.

#### 18.

-(1) References in this Schedule to registration are references to registration in a register kept with the Comptroller in such form as he may determine for the purposes of this Act and references in this Schedule to supplies are references to supplies made in the course or furtherance of a business.

(2) The Comptroller may allow inspection of the register referred to in sub-paragraph (1) under such circumstances and on such terms as he may impose.

#### 19.

References in this Schedule to a person making taxable supplies shall include a reference to all the members of a partnership where such persons are carrying on business in partnership.

## SECOND SCHEDULE MATTERS TO BE TREATED AS SUPPLY OF GOODS OR SERVICES

### Transfer

#### 1.

-(1) Any transfer of the whole property in goods is a supply of goods; but, subject to sub-paragraph (2), the transfer -

- (a) of any undivided share of the property; or
- (b) of the possession of goods, is a supply of services.

(2) If the possession of goods is transferred -

- (a) under an agreement for the sale of the goods; or
- (b) under agreements which expressly contemplate that the property also will pass at some time in the future (determined by, or ascertainable from, the agreements but in any case not later than when the goods are fully paid for), it is then in either case a supply of the goods.

### Treatment or process

#### 2.

Where a person produces goods by applying to another person's goods a treatment or process, he shall be treated as supplying those goods.



Supply of utilities, etc.

3.

The supply of any form of power (including electricity), gas, water, light, heat, refrigeration, air-conditioning or ventilation is a supply of goods.

Interest in land

4.

The grant, assignment or surrender of any interest in or right over land or of any licence to occupy land is a supply of goods.

Transfer or disposal of business assets

5.

–(1) Subject to sub-paragraph (2), where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration, that is a supply by him of the goods.

(2) Sub-paragraph (1) does not apply where the transfer or disposal is –

(a) a gift of goods made in the course or furtherance of the business (otherwise than as one forming part of a series or succession of gifts made to the same person from time to time) where the cost to the donor is not more than \$200;

(b) a gift, to an actual or potential customer of the business, of an industrial or commercial sample in a form not ordinarily available for sale to the public.

(3) Where by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for a consideration, that is a supply of services.

(4) Neither sub-paragraph (1) nor sub-paragraph (3) shall require anything which a person carrying on a business does otherwise than for a consideration in relation to any goods to be treated as a supply except in a case where that person is entitled under sections 19 and 20 to credit for the whole or any part of the tax on the supply or importation of those goods or of anything comprised in them.

(5) Anything which is a supply of goods or services by virtue of sub-paragraph (1) or (3) is to be treated as made in the course or furtherance of the business (if it would not otherwise be so treated); and in the case of a business carried on by an individual –

(a) sub-paragraph (1) applies to any transfer or disposition of goods in favour of himself personally; and

(b) sub-paragraph (3) applies to goods used, or made available for use, by himself personally.

6.

Where, in the case of a business carried on by a taxable person, goods forming part of the assets of a business are, under any power exercisable by another person –

(a) sold; or

(b) used in the making of any supply (other than a supply by way of sale), by the other person in or towards satisfaction of a debt owed by the taxable person, the goods shall be deemed to be supplied by the taxable person in the course or furtherance of his business.

#### 7.

-(1) Where a person ceases to be a taxable person, any goods then forming part of the assets of a business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless -

(a) the business is transferred as a going concern to another taxable person;

(b) the business is carried on by another person who is deemed to be a taxable person under section 32 (4); or

(c) the value of deemed supply would not be more than \$10,000.

(2) This paragraph does not apply to any goods where the taxable person can show to the satisfaction of the Comptroller -

(a) that no credit for input tax in respect of the supply or importation of the goods has been allowed to him; and

(b) that the goods were not acquired by him as part of the assets of a business which was transferred to him as a going concern by another taxable person.

#### 8.

-(1) Subject to sub-paragraphs (2) and (3), paragraphs 5 to 7 shall have effect in relation to land forming part of the assets of, or held or used for the purposes of, a business as if it were goods forming part of the assets of, or held or used for the purposes of, a business.

(2) In the application of those paragraphs by virtue of sub-paragraph (1), references to transfer, disposition or sale shall have effect as references to the grant or assignment of any interest in, right over or licence to occupy the land concerned.

(3) Except in relation to a grant or assignment otherwise than for a consideration, in the application of paragraph 5 (1) by virtue of sub-paragraph (1), the reference to a supply of goods shall have effect as a reference to a supply of services.

### THIRD SCHEDULE VALUATION - SPECIAL CASES

Open market value

#### 1.

-(1) Where -

(a) the value of a supply made by a taxable person for a consideration in money is (apart from this paragraph) less than its open market value;

(b) the person making the supply is connected with the person to whom it is made; and

(c) if the supply is a taxable supply the person to whom the supply is made is not entitled under sections 19 and 20 to credit for all the tax on the supply, the Comptroller may direct that the value of the supply shall be taken to be its open market value.

(2) A direction under this paragraph shall be given by notice in writing to the person making the supply, but no direction may be given more than 3 years after the time of the supply.

(3) A direction given to a person under this paragraph in respect of a supply made by him may include a direction that the value of any supply -

(a) which is made by him after giving of the notice, or after such later date as may be specified in the notice; and

(b) as to which the conditions in sub-paragraph (1) (a) to (c) are satisfied, shall be taken to be its open market value.

(4) This paragraph shall not apply to a supply to which paragraph 10 applies.

Imported goods

2.

Where -

(a) goods are imported at a price in money which (together with all such taxes, duties, charges and costs as are specified in section 18 (2) (a) and (b) and not included in the price) is less than their value as determined in accordance with section 18 (3);

(b) the person importing the goods and the person entitled to the price are connected; and

(c) the person importing the goods is not entitled under sections 19 and 20 to credit for all the tax paid or payable by him on the importation, the Comptroller may direct that the value of the goods shall be determined in accordance with section 18 (3).

Connected persons

3.

-(1) For the purposes of this Act, any question whether a person is connected with another shall be determined in accordance with the following provisions of this paragraph (any provision that one person is connected with another being taken to mean that they are connected with one another).

(2) A person is connected with an individual if that person is the individual's wife or husband, or is a relative, or the wife or husband of a relative, of the individual or of the individual's wife or husband.

(3) A person, in his capacity as trustee of a settlement, is connected with any individual who in relation to the settlement is a settlor, with any person who is connected with such an individual and with a body corporate which is connected with that settlement.

(4) Except in relation to acquisitions or disposals of partnership assets pursuant to bona fide commercial arrangements, a person is connected with any person with whom he is in partnership, and with the wife or husband or relative of any individual with whom he is in partnership.

(5) A company is connected with another company -

(a) if the same person has control of both, or a person has control of one and persons connected with him, or he and persons connected with him, have control of the other; or

(b) if a group of 2 or more persons has control of each company, and the groups either consist of the same persons or could be regarded as consisting of the same persons by treating (in one or more cases) a member of either group as replaced by a person with whom he is connected.

(6) A company is connected with another person if that person has control of it or if that person and persons connected with him together have control of it.

(7) Any 2 or more persons acting together to secure or exercise control of a company shall be treated in relation to that company as connected with one another and with any person acting on the directions of any of them to secure or exercise control of the company.

(8) In this paragraph -

"company" includes any body corporate or unincorporated association, but does not include a partnership, and this section shall apply in relation to any unit trust scheme as if the scheme were a company and as if the rights of the unit holders were shares in the company;

"control" shall be construed in accordance with paragraph 4;

"relative" means brother, sister, ancestor or lineal descendant.

Meaning of control

4.

-(1) For the purposes of paragraph 3, a person shall be taken to have control of a company if he exercises, or is able to exercise or is entitled to acquire, direct or indirect control over the company's affairs, and in particular, but without prejudice to the generality of the preceding words, if he possesses or is entitled to acquire -

(a) the greater part of the total number of issued shares of the company or of the voting power in the company;

(b) such part of the total number of issued shares of the company as would, if the whole of the income of the company were in fact distributed among the participators (without regard to any rights which he or any other person has as a loan creditor), entitle him to receive the greater part of the amount so distributed; or

(c) such rights as would, in the event of the winding up of the company or in any other circumstances, entitle him to receive the greater part of the assets of the company which would then be available for distribution among the participators.

(2) Where 2 or more persons together satisfy any of the conditions of sub-paragraph (1), they shall be taken to have control of the company.

(3) For the purposes of sub-paragraphs (1) and (6), a person shall be treated as entitled to acquire anything which he is entitled to acquire at a future date, or will at a future date be entitled to acquire.

(4) For the purposes of sub-paragraphs (1) and (2), there shall be attributed to any person any rights or powers of a nominee for him, that is to say, any rights or powers which another person possesses on his behalf or may be required to exercise on his direction or behalf.

(5) For the purposes of this paragraph, a "participator" is, in relation to any company, a person having a share or interest in the capital or income of the company. (6) Without prejudice



to the generality of sub-paragraph (5), a "participator" includes -

- (a) any person who possesses, or is entitled to acquire, share capital or voting rights in the company;
- (b) any loan creditor of the company;
- (c) any person who possesses, or is entitled to acquire, a right to receive or participate in distributions of the company or any amounts payable by the company (in cash or in kind) to loan creditors by way of premium on redemption; and
- (d) any person who is entitled to secure that income or assets (whether present or future) of the company will be applied, directly or indirectly, for his benefit.

#### 5.

-(1) Where goods or services are supplied for a consideration in money and on terms allowing a discount for prompt payment, the consideration shall be taken for the purposes of section 17 as reduced by the discount, whether or not payment is made in accordance with those terms.

(2) This paragraph shall not apply where the terms include any provision for payment by instalments.

#### 6.

-(1) Where goods are imported at a price in money and on terms allowing a discount for prompt payment, the price shall be taken for the purposes of section 18 (2) as reduced by the discount, whether or not payment is made in accordance with those terms.

(2) This paragraph shall not apply where the terms include any provision for payment by instalments.

Token, stamp or voucher

#### 7.

Where a right to receive goods or services for a monetary value stated on any token, stamp (not being a postage stamp (denoting a value below 35 cents) within the meaning of the Postal Services Act (Cap. 237A)) or voucher is granted for a consideration, the consideration shall be disregarded for the purposes of this Act except to the extent (if any) that it exceeds that monetary value.

Business assets

#### 8.

-(1) Where there is a supply of goods by virtue of -

- (a) paragraph 5 (1) of the Second Schedule (but otherwise than for a consideration); or
- (b) paragraph 7 of the Second Schedule, the value of the supply shall be determined in accordance with sub-paragraphs (2) and (3) except where paragraph 10 applies.

(2) The value of a supply referred to in sub-paragraph (1) shall be taken to be -

- (a) such consideration in money as would be payable by the person making the supply if he were, at the time of the supply, to purchase goods identical in every respect (including age and condition) to the goods concerned;

(b) where the value cannot be ascertained in accordance with sub-paragraph (a), such consideration in money as would be payable by the person making the supply if he were, at the time of the supply, to purchase goods similar to, and of the same age and condition as, the goods concerned; or

(c) where the value cannot be ascertained in accordance with sub-paragraph (a) or (b), the cost of producing the goods concerned if they were produced at the time of the supply.

(3) For the purposes of sub-paragraph (2), the amount of consideration in money that would be payable by any person if he were to purchase any goods shall be taken to be the amount that would be payable after the deduction of any amount included in the purchase price in respect of tax on the supply of the goods to that person.

## 9.

Where there is a supply of services by virtue of -

(a) an order made under section 10 (3); or

(b) paragraph 5 (3) of the Second Schedule (but otherwise than for a consideration), the value of the supply shall be taken to be the full cost to the taxable person of providing the services except where paragraph 10 applies.

Employees' benefits

## 10.

-(1) This paragraph shall apply to a supply of goods or services, whether or not for a consideration, which is made by an employer and consists of -

(a) the provision in the course of catering of food or beverages to his employees; or

(b) the provision of accommodation for his employees in a hotel, inn, boarding house or similar establishment.

(2) The value of a supply to which this paragraph applies shall be taken to be nil unless the supply is for a consideration consisting wholly or partly of money, and in that case its value shall be determined without regard to any consideration other than money.

Foreign exchange

## 11.

-(1) Subject to this paragraph, 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 the time when the supply takes place or in the case of the import of goods at the rate of exchange determined by the Director-General of Customs at the time applicable under the Customs Act (Cap. 70) for the calculation of customs or excise duties and valuation.

(2) Where the Comptroller has issued a notice in writing which, for the purposes of this paragraph, specifies -

(a) rates of exchange; or

(b) methods of determining rates of exchange, a rate specified in or determined in accordance with the notice, as for the time being in force, shall apply (instead of the rate for which sub-

paragraph (1) provides) in the case of any supply by a person who opts, in such manner as may be allowed by the Comptroller, for the use of that rate in relation to that supply.

(3) An option for the purposes of sub-paragraph (2) for the use of a particular rate or method of determining a rate -

(a) shall not be exercised by any person except in relation to all such supplies by him as are of such description or after such date as may be specified in the notice under sub-paragraph (2); and

(b) shall not be withdrawn or varied except with the consent of the Comptroller and in such manner as he may require.

(4) The Comptroller may, by a notice in writing issued under sub-paragraph (2), allow a person to apply to the Comptroller for the use, for the purpose of valuing some or all of his supplies, of a rate or method of determining rates of exchange which is different from any which would otherwise apply.

(5) On an application made in accordance with any notice under sub-paragraph (4), the Comptroller may authorise the use with respect to the applicant of such a rate or method of determining rates of exchange, in such circumstances, in relation to such supplies and subject to such conditions as he thinks fit.

Taxes or duties imposed by reason of supply

## 12.

Where any taxes or duties other than goods and services tax, including entertainments duty, excise duty, betting and sweepstake duties, cess, film hire duty, lotteries duty and tax imposed under the Statutory Boards (Taxable Services) Act (Cap. 318) but excluding stamp duty are imposed or levied by reason of the supply of goods or services, the value of the supply shall include the amount of such taxes or duties.

Residential premises

## 13.

Where a supply consists of a lease of any building, flat or tenement approved exclusively for residential purposes under the Planning Act (Cap. 232) and a lease or hire of any furniture, furnishings, fittings, appliances or effects, the value of the monthly rent for the lease of the building, flat or tenement shall be -

(a) taken as one-twelfth of the annual value ascribed to such building, flat or tenement in the Valuation List, currently in force, as prepared by the Chief Assessor under section 10 of the Property Tax Act (Cap. 254); or

(b) where no annual value has been ascribed to such building, flat or tenement in the Valuation List, such amount as the Comptroller may determine.

Motor vehicles

## 14.

Where a taxable person makes a supply (other than a supply to which section 23 applies) of any used motor vehicle which was registered under the Road Traffic Act (Cap. 276) pursuant to a previous supply of that motor vehicle, the value of the supply shall be reduced by 50%.

## FOURTH SCHEDULE EXEMPT SUPPLIES

### Finance

#### 1.

The following financial services:

- (a) the operation of any current, deposit or savings account;
- (b) the exchange or grant of an option for the exchange of currency (whether effected by the exchange of bank notes, currency notes or coin, by crediting or debiting accounts, or otherwise) other than the supply of a note or a coin as a collector's item, investment article or item of numismatic interest;
- (c) any supply by a person carrying on a credit card, charge card or similar payment card operation made directly in connection with that operation to a person who accepts the card used in the operation when presented to him in payment for goods or services;
- (d) the issue, payment, collection or transfer of ownership of any note or order for payment, cheque or letter of credit or the notification of the issue of a letter of credit;
- (e) the issue, allotment, transfer of ownership, drawing, acceptance or endorsement of a debt security;
- (f) the issue, allotment or transfer of ownership of an equity security;
- (g) the provision of any loan, advance or credit;
- (h) the provision of the facility of instalment credit finance in a hire-purchase, conditional sale or credit sale agreement for which facility a separate charge is made and disclosed to the recipient of the supply of goods;
- (i) the transfer or assignment of the provision of the facility of instalment credit finance in a hire-purchase agreement;
- (j) the grant of a right or option relating to an obligation to pay interest or the exchange or grant of an option for the exchange of obligations to pay interest;
- (k) the renewal or variation of a debt security, equity security or contract for the provision of any loan, advance or credit;
- (l) the provision, or transfer of ownership, of a life insurance contract;
- (m) the provision or assignment of any futures contract including a futures option transaction which does not lead to a delivery of any goods from the seller to the buyer;
- (n) the provision or assignment of any option or contract for the sale of any unallocated commodity which does not lead to a delivery of the commodity from the seller to the buyer;
- (o) the grant of a right or option to acquire any unallocated commodity where the right is exercisable at a future date and any sale resulting from the exercise of the right would be a sale which does not lead to a delivery of the commodity from the seller to the buyer;
- (p) the issue or transfer of ownership of a unit under any unit trust;



(q) the arrangement, provision, or transfer of ownership, of any contract of re-insurance.

Land

## 2.

The grant, assignment or surrender of any interest in or right over land of any of the following descriptions or of any licence to occupy such land:

(a) any vacant land zoned "Residential" or "Rural Centre and Settlement" in the Master Plan under the Planning Act (Cap. 232) and used or to be used for residential purposes or for the purposes of condominium development;

(b) any vacant land approved exclusively for residential or condominium development where the supply is made by such public or statutory authority as may be approved by the Minister or such other person as he may appoint; or

(c) any land or part thereof with any building, flat or tenement thereon, being a building, flat or tenement which is approved exclusively for residential purposes under the Planning Act (Cap. 232).

Interpretation

## 3.

In this Schedule -

"credit" includes -

(a) the supply of credit by a person, in connection with a supply of goods or services by him, for which a separate charge is made and disclosed to the recipient of the supply of goods or services;

(b) the discounting of any bill of exchange, promissory note, invoice or any similar instrument or debt security; and

(c) the supply of credit by way of factoring of debts and forfaiting, but excludes the supply of a credit card, charge card or similar payment card made to a cardholder for which a fee for joining or subscription is charged other than the provision of credit for which a separate charge in respect of interest is made and disclosed;

"debt security" means any interest in or right to be paid money that is, or is to be, owing by any person or any option to acquire any such interest or right but excludes a contract of insurance and an estate or interest in land, other than an estate or interest as mortgagee or chargeholder;

"equity security" means any interest in or right to a share in the capital of a body corporate or any option to acquire any such interest or right but excludes a contract of insurance and an estate or interest in land, other than an estate or interest as mortgagee or chargeholder;

"life insurance contract" means a contract for the provision of a life policy within the meaning of the Insurance Act (Cap. 142);

"unit" means a right or interest (whether described as a unit, a sub-unit or otherwise) which may be acquired under a unit trust.

## Application

### 4.

–(1) Paragraph 1 (other than sub-paragraph (q)) and paragraph 2 shall not apply to any services consisting of arranging, broking, underwriting or advising on any of the activities specified therein in return for a brokerage fee, commission or other similar consideration.

(2) Paragraph 1 (m), (n) and (o) shall not apply to any supply which section 37 provides are to be disregarded for the purposes of this Act. (3) Paragraph 2 shall not apply to that part of the supply comprising –

(a) the sale and lease of any furniture, furnishings, fittings, appliances or effects;

(b) services consisting of the maintenance, repair and upkeep of the building, flat or tenement or any common property or limited common property connected therewith; and

(c) any building, flat or tenement which is not approved exclusively for residential purposes under the Planning Act (Cap. 232).

## LEGISLATION HISTORY

### 1.

Act 31 of 1993 – Goods and Services Tax Act 1993

Date of First Reading:	26.2.93 (Bill No. 14/93 published on 27.2.93)
Date of Second Reading:	19.3.93
Referred to Select Committee:	Parl 4 of 1993 presented to Parliament on 7.9.93
Date of Third Reading:	12.10.93
Date of commencement:	26.11.93 (except para (3) of Fifth Schedule) 1.4.94 (para (3) of Fifth Schedule)

### 2.

Act 7 of 1996 – Maritime and Port Authority of Singapore Act 1996

(Consequential amendments made by)

Date of First Reading:	5.12.95 (Bill No. 46/95 published on 6.12.95)
Date of Second and Third Readings:	18.1.96
Date of commencement:	2.2.96

### 3.

Act 25 of 1996 – Goods and Services Tax (Amendment) Act 1996

Date of First Reading:	21.5.96 (Bill No. 15/96 published on 22.5.96)
Date of Second and Third Readings:	12.7.96
Date of commencement:	16.8.96

4.

Act 26 of 1999 – Goods and Services Tax (Amendment) Act 1999

Date of First Reading:	6.7.99 (Bill No. 23/99 published on 7.7.99)
Date of Second and Third Readings:	4.8.99
Date of commencement:	20.8.99

5.

Act 42 of 1999 – Postal Services Act 1999

(Consequential amendments made by)

Date of First Reading:	11.10.99 (Bill No. 34/99 published on 12.10.99)
Date of Second and Third Readings:	23.11.99
Date of commencement:	1.12.99

6.

Act 31 of 2000 – Goods and Services Tax (Amendment) Act 2000

Date of First Reading:	13.11.2000 (Bill No. 32/2000 published on 13.11.2000)
Date of Second and Third Readings:	22.11.2000
Date of commencement:	18.12.2000

7.

Act 33 of 2000 – Customs (Amendment) Act 2000

(Consequential amendments made by)

Date of First Reading:	13.11.2000 (Bill No. 33/2000 published on 13.11.2000)
Date of Second and Third Readings:	22.11.2000
Date of commencement:	1.1.2001

8.

Act 43 of 2002 – Goods and Services Tax (Amendment) Act 2002

Date of First Reading:	31.10.2002 (Bill No. 38/2002 published on 1.11.2002)
Date of Second and Third Readings:	5.12.2002
Date of commencement:	1.1.2003

9.

Act 4 of 2003 – Customs (Amendment) Act 2003

(Consequential amendments made by)

Date of First Reading:	10.3.2003 (Bill No. 6/2003 published on 11.3.2003)
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Date of Second and Third Readings:	21.3.2003
Date of commencement:	1.4.2003

#### 10.

Act 19 of 2003 – Goods and Services Tax (Amendment) Act 2003

Date of First Reading:	28.8.2003 (Bill No. 19/2003 published on 29.8.2003)
Date of Second and Third Readings:	16.10.2003
Date of commencement:	1.7.2003 (section 4)
:	18.11.2003 (sections 1 (1) and 7)
:	1.1.2004 (sections 2, 3, 5 and 6)

#### 11.

Act 16 of 2004 – Statistics (Amendment) Act 2004

(Consequential amendments made by)

Date of First Reading:	19.4.2004 (Bill No. 15/2004 published on 20.4.2004)
Date of Second and Third Readings:	19.5.2004
Date of commencement:	1.7.2004

#### 12.

Act 47 of 2004 – Building Maintenance and Strata Management Act 2004

(Consequential amendments made by)

Date of First Reading:	6.2.2004 (Bill No. 6/2004 published on 7.2.2004)
Date of Second Reading:	19.4.2004
Referred to Select Committee:	Parl. 5 of 2004
Date of Third Reading:	19.10.2004
Date of commencement:	8.12.2004

#### 13.

Act 50 of 2004 – Goods and Services Tax (Amendment) Act 2004

(Consequential amendments made by)

Date of First Reading:	19.10.2004 (Bill No. 59/2004 published on 20.10.2004)
Date of Second and Third Readings:	17.11.2004
Date of commencement:	8.12.2004

### COMPARATIVE TABLE

The following provisions in the 2001 Revised Edition of the Goods and Services Tax Act have been renumbered by the Law Revision Commissioners in this 2005 Revised Edition. This Comparative



Table is provided for the convenience of users. It is not part of the Goods and Services Tax Act.

2001 Ed.	1997 Ed.
15-(1) and (2)	15-(1)
(3) to (6)	(2) to (5)
19-(8) and (9)	19-(8)
(10) and (11)	(9)
(12)	(10)
(13)	(11)
(14)	(12)
31-(1) and (2)	31-(1)
(3)	(2)
(4)	(3)
(5)	(4)
(6) and (7)	(5)
(8)	(6)
42-(10) and (11)	42-(9A)
(12)	(10)
45-(5) and (5A)	45-(5)
(6) and (6A)	(6)
46-(3) and (3A)	46-(3)
49-(2) and (3)	49-(2)
78-(3) and (3A)	78-(3)
79-(1) and (2)	79-(1)
(3) to (6)	(2) to (5)
81-(1) and (2)	81-(1)
(3) and (4)	(2) and (3)
84-(3) and (4)	84-(3)
(5) and (6)	(4) and (5)
86-(3) and (4)	86-(3)
87-(5) and (6)	87-(5)