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**No. S 691**

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

**GOODS AND SERVICES TAX  
(GENERAL) (AMENDMENT NO. 2)  
REGULATIONS 2011**

In exercise of the powers conferred by sections 19(10), 21(7A), 21B(1), 27(1), 27A(1), 33A(1), 37A(1) and 86(1) of the Goods and Services Tax Act, the Minister for Finance hereby makes the following Regulations:

**Citation and commencement**

**1.** These Regulations may be cited as the Goods and Services Tax (General) (Amendment No. 2) Regulations 2011 and shall come into operation on 1st January 2012.

**New regulation 42A**

**2.** The Goods and Services Tax (General) Regulations (Rg 1) (referred to in these Regulations as the principal Regulations) are amended by inserting, immediately after regulation 42, the following regulation:

**“Repayment of tax to persons in business overseas**

**42A.**—(1) Where a taxable person (referred to in this regulation as the importer) imports goods belonging to another person (referred to in this regulation as the owner), the importer may make a claim to the Comptroller on behalf of the owner for the repayment of the tax paid on the importation of the goods if the following conditions are satisfied:

- (a) the owner is a person referred to in paragraph (2);
- (b) the goods are imported only for any purpose specified in paragraph (3); and
- (c) the importer satisfies paragraph (4).

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(2) For the purposes of paragraph (1)(a), the owner must be a person —

- (a) who is carrying on a business in a country other than Singapore and does not belong in Singapore;
- (b) who is not a taxable person; and
- (c) who, if the owner had been a taxable person in Singapore and had imported the goods himself, would have incurred the tax on the importation of the goods as his input tax.

(3) For the purposes of paragraph (1)(b), the goods must be imported only for any of the following purposes:

- (a) being used as a tool or as machinery for the purpose of applying to goods or carrying out on goods a process where, following the process, the goods are supplied by the importer to the owner;
- (b) in relation to goods that are parts or components, being installed or fitted onto a ship or an aircraft;
- (c) storage in or transit through Singapore;
- (d) forming the subject of any exhibition or convention;
- (e) applying to goods or carrying out on goods any process;
- (f) in relation to goods which are leased from the owner, being used in Singapore.

(4) For the purpose of paragraph (1)(c), the importer must satisfy the following:

- (a) the importer receives possession of the goods upon their importation;
- (b) the importer —
  - (i) carries out any purpose specified in paragraph (3) in relation to the imported goods, and, after the purpose has been carried out, to the satisfaction of the Comptroller —
    - (A) in the case of any purpose referred to in paragraph (3)(a), (c), (d) and (f), exports the goods;
    - (B) in the case of the purpose referred to in paragraph (3)(b), installs or fits the goods onto a ship or an aircraft; and

- (C) in the case of the purpose referred to in paragraph (3)(e), exports the goods to or on which the process has been applied or carried out; or
- (ii) where, in order to carry out any purpose specified in paragraph (3) in relation to the goods, the goods are required to be delivered to a third person, does the following to the satisfaction of the Comptroller:
  - (A) delivers the goods to the third person; and
  - (B) after the purpose has been carried out, receives the goods (including, in the case of the purpose referred to in paragraph (3)(e), the goods to or on which the process has been applied or carried out) back from the third person and —
    - (BA) in the case of any purpose referred to in paragraph (3)(a), (c), (d) and (f), exports the goods;
    - (BB) in the case of the purpose referred to in paragraph (3)(b), installs or fits the goods onto a ship or an aircraft; and
    - (BC) in the case of the purpose referred to in paragraph (3)(e), exports the goods to or on which the process has been applied or carried out;
- (c) for the purpose of paragraph (b), the importer ensures that the export, or the installation or fitting onto a ship or an aircraft, as the case may be, of the goods is carried out before —
  - (i) the expiry of 3 years (or such other period as may be determined by the Comptroller in any particular case) from and including the date the goods were first imported into Singapore under paragraph (1); or
  - (ii) the date the importer ceases to be a taxable person, whichever is the earlier;

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- (d) the importer retains control over the imported goods (including, in the case of the purpose referred to in paragraph (3)(e), the goods to or on which the process has been applied or carried out) at all times during the period when the goods are in Singapore; and
  - (e) the importer does not obtain re-imburement of any tax paid by him in relation to the importation of the goods.

(5) Any importer making a claim for a repayment of tax under paragraph (1) shall do so by including such amount of tax as input tax in his return for the prescribed accounting period during which the goods were imported.

(6) Subject to paragraph (7), where an importer who has been repaid the tax —

- (a) made his claim for the repayment using any false, misleading or inaccurate information; or
- (b) fails to satisfy the conditions specified in paragraph (4),  
he shall —
  - (i) pay to the Comptroller without demand the amount of tax repaid under paragraph (1); and
  - (ii) include the amount of tax in sub-paragraph (i) as output tax in his return.

(7) The Comptroller may, in any case at his discretion, waive the application of paragraph (6) if the importer is able to satisfy the Comptroller —

- (a) that the importer disposed of the imported goods —
  - (i) due to obsolescence or spoilage of the goods; or
  - (ii) on the instructions of the owner;
- (b) that the imported goods were lost or destroyed through fire, flood or theft;
- (c) that the importer supplied the imported goods (including, in the case of the purpose referred to in paragraph (3)(e), the goods to or on which the process has been applied or carried out) on the instructions of the owner and the importer accounts for tax on the value of the supply pursuant to section 33(2) of the Act; or

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- (d) that the importer supplied the imported goods at an exhibition or a convention and the importer accounts for tax on the value of the supply pursuant to section 33(2) of the Act.
- (8) For the purpose of this regulation, 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.
- (9) For the purposes of paragraph (8) —
- (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.
- (10) In this regulation —
- “aircraft” and “ship” have the same meanings as in section 21(4) of the Act;
- “process”, in relation to goods, includes (but is not limited to) subjecting the goods to any treatment.”.

### **Amendment of regulation 45**

#### **3. Regulation 45 of the principal Regulations is amended —**

- (a) by inserting, immediately after the words “removed from customs control into the customs territory by the taxable person” in paragraph (1)(b), the words “(and accordingly imported by the taxable person)”; and
- (b) by inserting, immediately after paragraph (1), the following paragraph:

“(1A) The reference in paragraph (1) to goods that are imported by the taxable person in the course or furtherance