

STATES OF JERSEY



DRAFT GOODS AND SERVICES TAX (AMENDMENT) (JERSEY) REGULATIONS 200-

Lodged au Greffe on 27th October 2009
by the Minister for Treasury and Resources

STATES GREFFE



Jersey

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REPORT

These Draft Regulations give effect to proposals described in the Draft Budget Statement 2010.

Financial and manpower implications

The financial and manpower implications are clearly identified at Section 11 of the Draft Budget Statement 2010 (P.179/2009).

Explanatory Note

These Regulations amend the Goods and Services Tax (Jersey) Regulations 2007.

Regulation 1 provides for the interpretation of the Regulations and *Regulation 8* for their name and their commencement.

Regulation 2 removes an exclusion of States trading operations from the umbrella of the States for GST purposes.

Regulation 3 inserts a new Part 2A, which sets out in new detail a number of exceptions in determining the place of supply of services for GST purposes. *Regulation 7* consequentially removes from Schedule 6 (zero-rated supplies) to the Goods and Services Tax (Jersey) Law 2007 (“the Law”) certain references to international services, because these are now partly covered by the new Part 2A.

Regulation 4 extends an exception to the rules about time of supply so that it extends to continuous supplies (for example of a telephone line or electricity).

Regulation 5 makes it clear that for a charity to obtain a refund of GST on supplies to it and imports by it, the supplies and imports must relate to the charitable activities of the charity. The Regulation adds claims for such a refund to the list of matters on which appeals may be made under the Law.

Regulation 6 provides for the refund of GST to certain persons that are not based in Jersey if they paid the GST on supplies for business purposes and their home country has a similar arrangement for refunds of its turnover tax for persons based in Jersey. The Regulation adds claims for such a refund to the list of matters on which appeals may be made under the Law.



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Jersey

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Made [date to be inserted]

Coming into force [date to be inserted]

THE STATES, in pursuance of Articles 20, 23, 24, 29, 53, 56, 84 and 100 of the Goods and Services Tax (Jersey) Law 2007¹, have made the following Regulations –

1 Interpretation

In these Regulations, “principal Regulations” means the Goods and Services Tax (Jersey) Regulations 2007².

2 Regulation 6 amended

Regulation 6(2) of the principal Regulations shall be repealed.

3 Part 2A inserted

The following Part shall be inserted after Part 2 of the principal Regulations –

“PART 2A

EXCEPTIONS TO RULE ON WHERE SERVICES SUPPLIED

6A Part applies to prescribe exceptions for purposes of Article 24(2) of Law

This Part applies to prescribe, under Article 24(2) of the Law, exceptions to that Article concerning where, for the purposes of the Law, services are to be treated as supplied.

6B Work on goods or valuation of goods

If a supply of services takes place that consist of work physically carried out on, or valuation of, goods, the services shall be treated as supplied in the place in which the goods are situated when the work, or valuation, is carried out.

6C Services relating to land

Services not falling within Regulation 6E(b) shall be treated as supplied where land in connection with which the supply is made is situated, if the services consist of –

- (a) the grant, assignment or surrender of –
 - (i) any interest in or right over the land,
 - (ii) a personal right to call for or be granted any interest in or right over the land, or
 - (iii) a licence to occupy land or any other contractual right exercisable over or in relation to the land;
- (b) any works of construction, demolition, conversion, reconstruction, alteration, enlargement, repair or maintenance of a building, or civil engineering work, on the land; or
- (c) services such as are normally supplied by estate agents, auctioneers, architects, surveyors, engineers or others involved in matters relating to the land.

6D Services relating to exhibitions, events, meetings

Services shall be treated as supplied where they are physically carried out if the services are –

- (a) cultural, artistic, sporting, scientific, educational or entertainment services;
- (b) services relating to exhibitions, conferences or meetings;
- (c) services –
 - (i) ancillary to services referred to in paragraph (a) or (b), and
 - (ii) not falling within Regulation 6E(b); or
- (d) services of organizing the supply of services referred to in paragraph (a) or (b).

6E Services that put transport or accommodation at the disposal of the customer

If services consist of –

- (a) the letting on hire of any means of transport; or
- (b) the provision of accommodation of any kind in a hotel, guest house, camp site, self-catering accommodation, or similar facility,

the services shall be treated as supplied –

- (i) outside Jersey if the means of transport or accommodation is put at the disposal of the customer at a place outside Jersey; or
- (ii) in Jersey if the means of transport or accommodation is put at the disposal of the customer at a place in Jersey.

6F Services of intermediaries

If services –

- (a) consist of the making of arrangements for the supply of services to which any of Regulations 6B to 6E applies; and
- (b) do not fall within Regulation 6D(c) or (d),

the first-mentioned services shall be treated as supplied outside Jersey if the second-mentioned services are treated as supplied outside Jersey.

6G Certain electronic, consultancy and other services

(1) If services specified in any of paragraphs 1 to 13 of Schedule 3 to the Law, and not falling within Regulation 6C or 6D, are supplied by a person belonging in Jersey to a person who –

- (a) in relation to receiving the supply of the services, belongs in a country other than Jersey; and
- (b) receives the supply of the services in the course or furtherance of any business carried on by him or her,

the services shall be treated as supplied outside Jersey.

(2) For the avoidance of doubt, nothing in Article 6(1)(c) or 30 of the Law is to apply to the interpretation or application of this Regulation.”.

4 Regulation 11 amended

In Regulation 11(3)(a) of the principal Regulations after the words “in paragraph (1)” there shall be inserted “, or continuous supplies of goods or services referred to in that paragraph,”.

5 Regulation 28 amended

In Regulation 28 of the principal Regulations –

(a) the following sub-paragraph shall be inserted immediately before paragraph (1)(a) –

“(aa) the goods or services are used or to be used in the course or furtherance of the charitable activities of the charity and in accordance with the rules, articles or other constitution of the charity;”;

(b) for paragraph (2), the following paragraphs shall be substituted –

- “(2) For the purposes of Article 84(2)(af) of the Law, a prescribed matter is a claim for a refund under this Regulation.
- (3) In this Regulation –
- ‘charitable’ means –
- (a) in the case of a charity other than a charity referred to in subparagraph (b), for any one or more of the following –
- (i) the advancement of education,
 - (ii) the furtherance of religion,
 - (iii) the relief of poverty,
 - (iv) purposes beneficial to the community as a whole; or
- (b) in the case of a charity that is a non-profit organization established for cultural or artistic objectives and financially supported wholly or mainly by the States of Jersey, for the furtherance of artistic or cultural objectives or for any one or more of the matters specified in clauses (i) to (iv) of subparagraph (a);
- ‘charity’ has the same meaning as in paragraph 5 of Schedule 5 to the Law.”.

6 Regulation 28A inserted

The following Regulation shall be inserted after Regulation 28 of the principal Regulations –

“28A Refund of GST to person not established in Jersey: Article 56 of Law

- (1) The Comptroller shall refund GST in the amount specified in paragraph (5), being GST chargeable on the supply of goods or services to a person, if the conditions set out in paragraphs (2), (3) and (4) are all satisfied.
- (2) All of the following requirements are satisfied –
- (a) the supply is for the purpose of a business carried on by the person;
 - (b) the person has made a claim to the Comptroller for the refund;
 - (c) the claim is made within the approved time or, if no time has been approved, within 12 months after the day when the supply occurred;
 - (d) the GST has actually been paid;
 - (e) the person has kept sufficient accounts, and other records, to substantiate the claim under this Regulation.
- (3) The person, during any period to which the claim relates –
- (a) is a person whose home country is not Jersey;
 - (b) is a person whose home country has a turnover tax comparable to GST (whether or not at the same percentage

- or value as GST) and providing for arrangements (reciprocal to those under this Regulation) for refunds to be made of the turnover tax on supplies there to taxable persons whose home country is Jersey;
- (c) does not make any supplies of goods or services, being supplies that, for the purposes of the Law, are supplies made in Jersey;
 - (d) is the sole recipient of the supply to which the claim relates; and
 - (e) is solely responsible for payment to the supplier in relation to the supply to which the claim relates.
- (4) The claim is in the approved form, or if no form has been approved, in any form sufficient to show that the conditions set out in paragraphs (2) and (3) are satisfied.
 - (5) The amount of GST to be refunded is such amount as is attributable to supplies made by the person in their home country, being supplies that are chargeable to turnover tax comparable to GST (whether or not at the same percentage or value as GST).
 - (6) That amount shall be subject to a reduction (if any) by direction to take account of supplies made by the person in their home country that do not carry the right to full credit for input tax.
 - (7) For the purposes of Article 84(2)(af) of the Law, a prescribed matter is a claim for a refund under this Regulation.
 - (8) In this Regulation –
 - ‘GST chargeable’ does not include any GST that, by virtue of Regulations under Article 36(4) of the Law, is excluded from credit referred to in Article 34(1) of the Law;
 - ‘home country’ in relation to a person means the country where the person has the person’s usual place of residence or the person’s establishment;
 - ‘input tax’ means something in relation to the turnover tax in the home country that would correspond, in relation to GST, to input tax in Jersey.”

7 Schedule 6 to the Law amended

Paragraph 5(2)(d), (e), (n) and (o) of Schedule 6 to the Goods and Services Tax (Jersey) Law 2007³ shall be repealed.

8 Citation and commencement

- (1) These Regulations may be cited as the Goods and Services Tax (Amendment) (Jersey) Regulations 200-.
- (2) These Regulations shall come into force on 1st January 2010.

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- ¹ *chapter 24.700*
² *chapter 24.700.30*
³ *chapter 24.700*