

STATES OF JERSEY



DRAFT GOODS AND SERVICES TAX (AMENDMENT No. 4) (JERSEY) LAW 201-

**Lodged au Greffe on 17th October 2012
by the Minister for Treasury and Resources**

STATES GREFFE



Jersey

DRAFT GOODS AND SERVICES TAX (AMENDMENT No. 4) (JERSEY) LAW 201-

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000 the Minister for Treasury and Resources has made the following statement –

In the view of the Minister for Treasury and Resources the provisions of the Draft Goods and Services Tax (Amendment No. 4) (Jersey) Law 201- are compatible with the Convention Rights.

(Signed) **Senator P.F.C. Ozouf**

REPORT

This Draft Law gives effect to proposals described in the Draft Budget Statement 2013.

Financial and manpower implications

The financial and manpower implications are clearly identified in Part 8 of the Draft Budget Statement 2013.

European Convention on Human Rights

Article 16 of the Human Rights (Jersey) Law 2000 requires the Minister in charge of a Projet de Loi to make a statement about the compatibility of the provisions of the Projet with the Convention rights (as defined by Article 1 of the Law). On 16th October 2012 the Minister for Treasury and Resources made the following statement before Second Reading of this Projet in the States Assembly –

In the view of the Minister for Treasury and Resources the provisions of the Draft Goods and Services Tax (Amendment No. 4) (Jersey) Law 201- are compatible with the Convention Rights.

Explanatory Note

This Law amends the Goods and Services Tax (Jersey) Law 2007 (the “principal Law”).

Article 1 defines the principal Law.

Article 2 inserts Article 36A in Part 10 of the principal Law.

Under Part 10 of the principal Law a person registered for the purposes of GST is entitled to a credit for certain input tax. Input tax is GST due on supplies made to the person for the purposes of his or her business. The credit allowed for input tax is deducted from the output tax due from the person (being GST on supplies made by the person) or, if there is no output tax, the Comptroller pays the credit to the person as a GST credit.

The Law currently does not provide for the withdrawal of the credit for input tax in a case where the registered person, although having received the benefit of the credit, does not pay for the supply to which the input tax relates. The inserted Article 36A provides that, in a case where, after 6 months, the registered person has not paid for the supply in relation to which the input tax credit was allowed, the person shall be taken not to have been entitled to the credit.

Article 36A also empowers the Comptroller to make directions for the purposes of Article 36A including, in particular, directions to provide for the restoration of an input tax credit if the registered person pays for the supply after his or her entitlement to input tax has been disallowed under Article 36A.

Article 3 amends Schedules 5 and 6 to the principal Law. Under Schedule 5 to the principal Law, share dealings are exempt supplies. Under Schedule 6 to the Law, sales of residential property are zero-rated supplies. The amendments provide for sales of dwellings by share transfer to be zero-rated supplies under Schedule 6, rather than exempt supplies under Schedule 5.

On occasion, the ownership of a share transfer dwelling is structured so that the right to occupy the dwelling and the right to use parking associated with that dwelling are conferred by 2 different shares, rather than a single share. The amendment provides that, in such a case, the sale by share transfer of the right to use the parking is zero-rated.

Article 4 provides for the citation of the draft Law and its commencement on 1st January 2013.



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Arrangement

Article

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DRAFT GOODS AND SERVICES TAX (AMENDMENT No. 4) (JERSEY) LAW 201-

A LAW to amend further the Goods and Services Tax (Jersey) Law 2007

Adopted by the States [date to be inserted]

Sanctioned by Order of Her Majesty in Council [date to be inserted]

Registered by the Royal Court [date to be inserted]

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

1 Interpretation

In this Law “principal Law” means the Good and Services Tax (Jersey) Law 2007¹.

2 Article 36A inserted

After Article 36 of the principal Law there shall be inserted the following Article –

“36A Input tax disallowed where consideration for supply is not paid

(1) Where –

- (a) a person has become entitled to credit for any input tax; and
- (b) the consideration in money for the supply to which that input tax relates, or any part of it, is unpaid at the end of the period of 6 months following the relevant date,

the person shall be taken, as from the end of that period, not to have been entitled to credit for input tax in respect of the GST that is referable to the unpaid consideration or part.

(2) For the purposes of paragraph (1), the ‘relevant date’ in relation to any sum representing consideration in money for a supply is whichever is the later of –

- (a) the date of the supply; and

- (b) the date on which the sum became payable.
- (3) General directions of the Comptroller may make such supplementary, incidental, consequential or transitional provisions as appear to the Comptroller to be necessary or expedient for the purposes of this Article.
- (4) Directions under paragraph (3) may, in particular –
 - (a) provide for the restoration of the whole or any part of an entitlement to credit for input tax where there is a payment after the end of the period described in paragraph (1);
 - (b) contain rules for ascertaining whether anything paid is to be taken as paid by way of consideration in money for a particular supply; and
 - (c) contain rules dealing with particular cases, such as cases involving payment of part of the consideration in money or mutual debts.”.

3 Schedules 5 and 6 amended

- (1) In Schedule 5 to the principal Law –
 - (a) at the beginning of paragraph 1 there shall be inserted the sub-paragraph number “(1)”;
 - (b) in paragraph 1(1)(d), (e), (f)(v), (g) and (h) for the word “sub-paragraph” there shall be substituted the word “clause”;
 - (c) at the beginning of paragraph 1(1)(f) there shall be inserted the words “subject to sub-paragraph (2)”;
 - (d) after paragraph 1(1) there shall be added the following sub-paragraph –
 - “(2) Sub-paragraph (1)(f) does not include a supply that is zero-rated by virtue of paragraph 1(1)(c) or (d) of Schedule 6.”.
- (2) In paragraph 1 of Schedule 6 to the principal Law –
 - (a) after sub-paragraph (1)(b) there shall be added the following clauses –
 - “(c) the supply by issue, transfer or receipt of, or any dealing with, any share, ownership of which, by virtue of the articles of association of the company in which the share is held, confers a right to occupy a dwelling;
 - (d) the supply, by issue, transfer or receipt of, or any dealing with, any share, ownership of which, by virtue of the articles of association of the company in which the share is held confers a right to use a parking facility associated with a dwelling (but not the right to occupy the dwelling) provided that –
 - (i) the issue, transfer or receipt of, or dealing with, the share conferring the right to use a parking facility occurs at the same time as the issue, transfer or receipt of, or dealing with, a share that confers a right to occupy the associated dwelling, and

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- (ii) upon the issue, transfer or receipt of, or dealing with the shares described in clause (i), the recipient of the right to use the parking facility is also the recipient of the right to occupy the associated dwelling.”;
 - (b) in sub-paragraph (3), for the words “Sub-paragraph (1)” there shall be substituted the words “Sub-paragraph (1)(a) or (b)”;
 - (c) after sub-paragraph (4) there shall be added the following sub-paragraph –
 - “(5) For the purposes of this paragraph a parking facility –
 - (a) means a garage, a parking bay designated for use by one person or a designated parking place in which a person has a right to use a parking bay; and
 - (b) a dwelling and a parking facility are associated if –
 - (i) the dwelling and parking facility are reasonably near to each other, and
 - (ii) the share conferring the right to occupy the dwelling and the share conferring the right to use the parking facility must be owned by the same person.”.

4 Citation and commencement

This Law may be cited as the Goods and Services Tax (Amendment No. 4) (Jersey) Law 201- and shall come into force on 1st January 2013.

¹ *chapter 24.700*