

# **STATES OF JERSEY**

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## **DRAFT GOODS AND SERVICES TAX (JERSEY) REGULATIONS 200-**

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**Lodged au Greffe on 11th September 2007  
by the Minister for Treasury and Resources**

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**STATES GREFFE**





Jersey

# **DRAFT GOODS AND SERVICES TAX (JERSEY) REGULATIONS 200-**

## **REPORT**

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The States Assembly agreed on 13th May 2005 (P.44/2005) to introduce a broad-based, 3% Goods and Services Tax (GST) as from 2008. The GST Primary Law was approved by the Assembly on 18th April 2007, was included on the Privy Council agenda on 25th July and subsequently given Royal Assent. It was registered in the Royal Court on 17th August.

The above events confirmed the following timetable for the main “core” of supporting legislation in the form of GST Regulations – consultation document and draft Regulations available 3rd August; consultation for 4 weeks close on 11th September; States debate 23rd October 2007.

The consultation draft included an additional Regulation (Regulation 29– Disclosure of GST) under Article 94 of the GST Law. This is intended to place an obligation on the part of registered retailers to notify customers of their pricing policy – whether GST inclusive or exclusive.

The consultation draft Regulations also reflected a number of policy decisions made by the Minister in July 2007 which allows some further exclusions from the treatment of GST – child care; burial/cremation services (exemption under Schedule 5); building conversions (zero rating under Schedule 6).

The response to the consultation was low as expected given the nature of the Regulations. The consultation Regulations remain intact other than – (a) to provide exemption under Schedule 5 for private schools that are not approved as charities (this provides equity of treatment between private schools (approved or otherwise) and state schools; and (b) to extend zero rating for hotel accommodation as a transitional measure until the end of 2008 (this provides equity of treatment for hotels providing accommodation to tour operators under long term contracts and the same supply by hotels directly to customers).

Regulations under Part 12 of the GST Law relating to Finance Services Industry will be dealt with separately.

### **Financial and manpower implications**

It is estimated that 10 staff will need to be employed in order to administer the tax at an approximate operating cost of £1 million per annum. However, a 3% GST should generate approximately £45 million per annum in taxation revenue net of operational costs.

## Explanatory Note

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These Regulations set out a number of details necessary for the Goods and Services Tax (Jersey) Law 2007 to work, and amend that Law in certain areas (for example the registration of taxable persons, exemptions and the zero-rating of supplies).

In *Part 1, Regulation 1* is an interpretation provision.

*Part 2 (Regulations 2 to 6)* makes supplementary provision for the treatment of the States, the parishes and certain other public sector bodies. Briefly, supplies by the public sector are not chargeable to GST if they are not made in the course of a business.

*Part 3* deals with the timing (for GST purposes) of certain transactions: supplies free of charge (*Regulation 8*), supplies where the buyer has possession of goods even if the supplier still remains their owner (*Regulation 9*), supplies where the buyer withholds payment pending satisfactory performance by the supplier (*Regulation 10*), supplies (or payments) that are made periodically (*Regulation 11*), supplies giving rise to royalties (*Regulation 12*) and supplies for works where the supplies are paid for periodically (*Regulation 13*).

*Part 4* deals with what needs to be established in order to claim input tax. A claim needs to be made within 3 years (*Regulation 14*).

GST on supplies made before a person becomes a taxable person may in some cases be claimed (*Regulation 15*), if made on time and properly supported with records (*Regulation 16*).

Input tax may be repayable if a person ceases to be a taxable person and makes an appropriate claim (*Regulation 17*).

In general, a taxable person is to substantiate GST amounts by keeping records, and by providing them to the Comptroller when the Comptroller asks for them (*Regulation 18*).

*Regulation 19* requires adjustments in GST accounts to be made promptly.

*Part 5* allows certain records to be treated as GST invoices, for example when a person different from the supplier provides a document relating to a supply (*Regulation 20*) or when business assets are sold off in order to recover a debt (*Regulation 21*).

*Part 6* introduces a margins scheme for GST to be chargeable only on the profit on the resale of a second-hand motor vehicle (*Regulation 25*, the calculation being in accordance with *Regulation 26* or, in the case of auctions, *Regulation 27*).

The disposal of motor vehicles after their repossession may in some cases be treated as not being a supply for GST purposes (*Regulation 24*).

*Part 7* contains miscellaneous provisions.

*Regulation 28* provides for refunds of GST on supplies to certain charities and imports by certain charities.

*Regulation 29* requires registered persons to disclose to their customers whether their published prices include GST and at what point GST will be disclosed to the customers if not already included in the prices.

*Regulation 30* adds further categories of exempt supplies to Schedule 5 to the Law: child care, education at certain schools and burial and cremation. (Education in schools run by charities is already an exempt supply because it is regarded as a supply of a service by a charity: paragraph 5 of Schedule 5 to the Goods and Services Tax (Jersey) Law 2007.)

*Regulation 31* amends Schedule 6 to the Law to allow supplies for certain conversions of buildings, certain transfers of a going concern, and all supplies of hotel accommodation, to be zero-rated. However, the supply of hotel accommodation will only be zero-rated up to 31 December 2008. This parallels the effective cut-off date for the zero-rating of hotel accommodation under package deals (which would fall under paragraph 2 of Schedule 9 to the Law: relief for long-term contracts).

*Regulation 32* defines the long-term contracts under which supplies are zero-rated for a limited period.

*Regulation 33* specifies the short title of the Regulations and says when they are to come into force.







Jersey

# DRAFT GOODS AND SERVICES TAX (JERSEY) REGULATIONS

## 200-

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#### Regulation

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

*Made*

*[date to be inserted]*

*Coming into force*

*[date to be inserted]*

**THE STATES**, in pursuance of Articles 16, 17, 20, 21, 29, 36, 37, 41, 42, 43, 52, 53, 56, 57, 61, 62, 97, 100 and 101, and Schedule 9, of the Goods and Services Tax (Jersey) Law 2007<sup>[1]</sup>, have made the following Regulations –

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## **PART 1**

### PRELIMINARY

#### **1 Interpretation**

In these Regulations, “the Law” means the Goods and Services Tax (Jersey) Law 2007<sup>[2]</sup>.

## **PART 2**

### PUBLIC SECTOR

#### **2 States a taxable person: Article 20 of Law**

The States shall for the purposes of this Law be a taxable person to a full extent corresponding to the supplies to and importations by the States.

#### **3 Treatment of supplies to States: Article 20 of Law**

Any supply to the States, but not a supply to the States by the States, shall be treated as a supply to the States for the purposes of the Law.

#### **4 Article 19(1) of Law modified: Article 20 of Law**

Article 19(1) of the Law is hereby modified so that it applies as if for the words “for which no charge or fee is payable by the person to whom the goods or services are supplied” there were substituted the words “that is not in the course of or furtherance of a business”.

#### **5 Application of Law to parishes: Article 20 of Law**

- (1) The Law shall not apply to the supply of goods or services by a parish, being a supply that is not in the course of or furtherance of a business.
- (2) For the purposes of this Law –
  - (a) a parish is liable to be registered and the Comptroller shall register it;
  - (b) a parish shall be registered as one person;
  - (c) a parish however shall be a taxable person only to the extent specified in paragraph (3); and
  - (d) a parish shall keep the same accounts and records, and provide to the Comptroller the same information, as a taxable person.
- (3) A parish shall for the purposes of this Law be a taxable person to a full extent corresponding to the supplies to and importations by the parish.
- (4) Any supply to a parish, but not a supply to the parish by the same parish, shall be treated as a supply to the parish for the purposes of the Law.

## **6 Treatment of other persons as States: Articles 20 and 53 of Law**

- (1) The following shall be treated as the States under these Regulations and for the purposes of the Law –
  - (a) a non-Ministerial States funded body within the meaning of the Public Finances (Jersey) Law 2005<sup>[3]</sup>;
  - (b) a body within paragraph (a) of the definition of “independently audited States body” in Article 1(1) of the Public Finances (Jersey) Law 2005;
  - (c) the States Assembly;
  - (d) the States Assembly’s services within the meaning of Article 10 of the Public Finances (Jersey) Law 2005;
  - (e) a body within paragraph (c) or (d) of the definition of “States funded body” in Article 1(1) of the Public Finances (Jersey) Law 2005.
- (2) However, a States trading operation, or trading operation, within the meaning of the Public Finances (Jersey) Law 2005 shall not be treated as the States under these Regulations and for the purposes of the Law.
- (3) The following shall be treated as the States under these Regulations and for the purposes of the Law –
  - (a) the Committee of Management of the Scheme established under the Public Employees (Retirement) (Jersey) Law 1967<sup>[4]</sup>;
  - (b) the manager of the Teachers’ Superannuation Fund established under the Teachers’ Superannuation (Jersey) Law 1979<sup>[5]</sup>;
  - (c) the manager of the retirement scheme referred to in Article 42(2)(b) of the Postal Services (Jersey) Law 2004<sup>[6]</sup>;
  - (d) the Overseas Aid Commission;
  - (e) the Jersey Consumer Council.

## **PART 3**

### **TIME OF SUPPLY: PARTICULAR CASES**

## **7 General**

Where, under these Regulations, a supply is treated as taking place each time at which a payment (however

expressed) is received or an invoice is issued, the supply is to be treated as taking place only to the extent covered by the payment or invoice.

## **8 Goods for private use, and the free supply of services: Article 29 of Law**

- (1) Where there is a supply of services to which paragraph 8(5) of Schedule 2 of the Law refers, the shall be treated as being supplied on the last day of the prescribed accounting period of the supplier in which the goods concerned are used or made available.
- (2) Where services specified in Regulations made by the States under Article 21(4) of the Law are supplied, they shall be treated as being supplied on the last day of the prescribed accounting period of the supplier in which the services are performed.

## **9 Supplier's goods in possession of buyer: Article 29 of Law**

- (1) This Regulation applies to a supply of goods –
  - (a) under an agreement by which the supplier retains the property in them until the goods or part of them are appropriated under the agreement by the buyer; and
  - (b) in circumstances where the whole or part of the consideration is determined at that time.
- (2) However, this Regulation does not apply to a supply to which Article 26(2) of the Law refers.
- (3) Where this Regulation applies to a supply of goods, the supply shall be treated as taking place at the earliest of the following dates –
  - (a) the date of appropriation of the goods by the buyer;
  - (b) the date when a GST invoice in respect of the supply is issued by the supplier;
  - (c) the date when a payment in respect of the supply is received by the supplier.

## **10 Retention payments: Article 29 of Law**

- (1) This Regulation applies where any contract for the supply of goods or services provides for the retention of any part of the consideration by a person pending full and satisfactory performance of the contract, or any part of it, by the supplier.
- (2) Where this Regulation applies, the goods or services shall be treated as separately and successively supplied at the earliest of the following times –
  - (a) the times determined in accordance with the provisions of Articles 26(1) and (2), 27, 28(4) and (5), and 29(3), of the Law, to the extent that those provisions apply;
  - (b) the time at which a payment in respect of any part of the consideration that has been retained, pursuant to the terms of the contract, is received by the supplier;
  - (c) the time at which the supplier issues a GST invoice relating to any such part.

## **11 Continuing supplies: Article 29 of Law**

- (1) Where goods or services are supplied for a period for a consideration the whole or part of which is determined or payable periodically or from time to time, they shall be treated as separately and successively supplied at the earlier of the following times –
  - (a) each time at which a payment in respect of the supplies is received by the supplier;
  - (b) each time at which the supplier issues a GST invoice relating to the supplies.
- (2) However, in the circumstances referred to in paragraph (3) goods or services shall be treated as separately and successively supplied at the earlier of the following times –
  - (a) each time at which a payment in respect of them becomes due;

- (b) each time at which a payment in respect of them is received by the supplier.
- (3) The circumstances to which this paragraph refers are where –
  - (a) separate and successive supplies of goods or services referred to in paragraph (1) are made under an agreement that provides for successive payments; and
  - (b) at or about the beginning of any period not exceeding one year the supplier issues a GST invoice containing, in addition to the particulars required by Article 42(2)(a) and (d) of the Law, the particulars referred to in paragraph (4).
- (4) The particulars to which this paragraph refers are –
  - (a) the dates on which payments under the agreement are to become due in the period;
  - (b) the amount payable (excluding GST) on each such date; and
  - (c) the rate of GST in force at the time of issue of the GST invoice and the amount of GST chargeable in accordance with that rate on each of the payments.
- (5) Where –
  - (a) an invoice is issued in the circumstances referred to in paragraph (3); and
  - (b) on or before any due date on the invoice there is a change in the GST chargeable on supplies of the description to which the invoice relates,

the invoice shall cease to be treated as a GST invoice in respect of any such supplies for which payments are due after the change.
- (6) However, paragraph (5) does not apply to a GST invoice in respect of any supplies for which payments are received before the change.
- (7) In paragraph (5), “due date” means a date that is specified on the invoice as a date on which a payment is due.

## **12 Royalties and similar payments: Article 29 of Law**

- (1) This Regulation applies where the whole amount of the consideration for a supply of services is not ascertainable at the time when the services are performed and subsequently the use of the benefit of those services by a person other than the supplier gives rise to any payment of consideration for that supply that –
  - (a) is in whole or in part determined or payable periodically or from time to time or at the end of any period;
  - (b) is additional to the amount (if any) already payable for the supply; and
  - (c) is not a payment to which Regulation 11 applies.
- (2) Where this Regulation applies, a further supply shall be treated as taking place at each time when –
  - (a) a payment in respect of the use of the benefit of those services is received by the supplier; or
  - (b) a GST invoice is issued by the supplier,

whichever event occurs earlier.

## **13 Supplies for works: Article 29 of Law**

- (1) Where services, or services together with goods, are supplied in the course of work to which paragraph (3) refers under a contract that provides for payment for such supplies to be made periodically or from time to time, a supply shall be treated as taking place at each time when the supplier issues a GST invoice.
- (2) However, where the consideration for the contract is wholly in money, and a payment is received by the supplier before the supplier issues a GST invoice in respect of the supply concerned, the supply

shall be treated as taking place at the time when the payment is received.

- (3) The work to which this paragraph refers is the construction, alteration, conversion, enlargement, improvement, reconstruction, repair, maintenance, or demolition, of –
  - (a) a building; or
  - (b) any civil engineering work.

## **PART 4**

### **INPUT TAX**

#### **14 Claims for input tax: Article 36(4) of Law**

GST charged on any supply or importation is to be excluded from credit referred to in Article 34(1) of the Law if a claim for the GST is not made within 3 years after the end of the accounting period in which the relevant GST became chargeable.

#### **15 Input tax: supplies to future taxable person: Article 37 of Law**

- (1) On a claim made in accordance with Regulation 16, the Comptroller may allow a taxable person whether the person is an individual or a body corporate, to treat as input tax –
  - (a) GST on the supply of goods –
    - (i) to the person,
    - (ii) before the person's registration date, and
    - (iii) for the purpose of a business that, at the time of the supply, was being carried on, or was to be carried on, by the person;
  - (b) GST on the supply of services –
    - (i) to the person,
    - (ii) before the person's registration date, and
    - (iii) for the purpose of a business that, at the time of the supply, was being carried on, or was to be carried on, by the person; or
  - (c) GST on the importation of goods –
    - (i) by the person,
    - (ii) before the person's registration date, and
    - (iii) for the purpose of a business that, at the time of the importation, was being carried on, or was to be carried on, by the person.
- (2) On a claim made in accordance with Regulation 16, the Comptroller may allow a taxable person that is a body corporate to treat as input tax –
  - (a) GST on the supply of goods –
    - (i) to another person, and
    - (ii) before the incorporation of the body corporate;
  - (b) GST on the supply of services –
    - (i) to another person,
    - (ii) before the incorporation of the body corporate, and
    - (iii) for the body corporate's benefit or in connection with its incorporation; or
  - (c) GST on the importation of goods –
    - (i) by another person, and

- (ii) before the incorporation of the body corporate.
- (3) Paragraph (2) shall apply only if the other person to whom the supply was made or by whom the importation was made –
  - (a) became a member, officer or employee of the body corporate and was reimbursed, or received an undertaking to be reimbursed, by the body corporate for the whole amount of the price paid for the goods or services;
  - (b) was not himself or herself a taxable person at the time of the supply or importation; and
  - (c) was so supplied, or made the importation, for the purpose of a business to be carried on by the body corporate and has not used the goods or services for any purpose other than the purpose of such business.
- (4) A taxable person cannot, however, treat GST as input tax by virtue of this Regulation if the GST is –
  - (a) GST on the supply of goods or services that took place more than 3 years before the taxable person’s registration date;
  - (b) GST on the importation of goods that took place more than 3 years before the taxable person’s registration date;
  - (c) GST on the supply of services more than 6 months before the date of the taxable person’s actual registration;
  - (d) GST on the supply or importation of goods that are consumed –
    - (i) in a case to which paragraph (1) or (2) applies, by the taxable person, or
    - (ii) in a case to which paragraph (2) applies, by the other person who acquired the goods or services, before the registration date of the taxable person; or
  - (e) GST on a supply of services performed on goods to which sub-paragraph (a) or (d) applies.
- (5) Despite paragraph (4)(d), GST referred to in that sub-paragraph may be treated as input tax under this Regulation if the Comptroller considers it just to do so and so directs.
- (6) In this Regulation, the “registration date” of a taxable person means –
  - (a) in the case where the person notified the Comptroller in accordance with paragraph 3 of Schedule 1 of the Law and the Comptroller registered the person in accordance with that Schedule – the date on which the person’s actual registration took effect; or
  - (b) in any other case – the date on which the person’s registration would have taken effect, if the person had notified the Comptroller in accordance with paragraph 3 of Schedule 1 of the Law and the Comptroller had registered the person in accordance with that Schedule.

**16 Claim for input tax on supplies to future taxable person**

- (1) A claim referred to in Regulation 15 shall, unless the Comptroller otherwise allows, be made on the first GST return that the relevant taxable person makes under Part 10 of the Law and, if the Comptroller so requires by direction, shall be supported by invoices and other evidence specified in the direction.
- (2) A taxable person who makes such a claim shall compile and preserve for the period that the Comptroller by direction requires –
  - (a) in respect of goods, a stock account showing separately quantities purchased, quantities used in the making of other goods, date of purchase and date and manner of subsequent disposals of both the quantities; and
  - (b) in respect of services, a list showing their description, date of purchase and date of disposal, if any.

**17 Repayment of input tax if person ceases to be taxable person: Article 37 of Law**

If a person who has been, but is no longer, a taxable person, makes a claim in the manner, and supported by the evidence, that the Comptroller requires by direction, the Comptroller may pay to the person the amount of any GST –

- (a) on the supply of services to the person after the date with effect from which the person ceased to be a taxable person; and
- (b) that is an amount attributable to any taxable supply made by the person in the course or furtherance of any business carried on by the person when he or she was a taxable person.

**18 Substantiation of amounts: Article 41(2) and (3) of Law**

- (1) For the purposes of Article 41(2) of the Law, the charge to GST on the supply of goods or services to a taxable person shall be substantiated by the taxable person's –
  - (a) retaining such of the documents specified in paragraph (2) as relate to the period during which the supply was made and to the business of the person in the course of which the supply was made, and
  - (b) producing any of those documents to the Comptroller on demand, within a period of 6 years after the supply.
- (2) The documents are –
  - (a) a GST account;
  - (b) a copy of a sales invoice, whether issued or received by the person;
  - (c) a record of supplies of goods or services made from the business for the personal use of the person;
  - (d) a record of supplies of goods or services made free of charge, or for less than their open-market value, to the employees of the person or to other persons;
  - (e) a record that lists and summarizes any cash receipts, or cash payments, by the person;
  - (f) a record of opening and closing stock;
  - (g) a purchases ledger or sales ledger;
  - (h) an income and expense account;
  - (i) a cash register roll or tape;
  - (j) a bank statement;
  - (k) a copy of a customs import or export document;
  - (l) an annual account;
  - (m) such other document as the Comptroller may specify by general direction.
- (3) For the purposes of Article 41(2) of the Law, the charge to GST on the importation of goods by a taxable person shall be substantiated by the taxable person's –
  - (a) retaining such of the documents specified in paragraph (4) as relate to the period during which the importation was made and to the business of the person in the course of which the importation was made; and
  - (b) producing any of those documents to the Comptroller on demand, within a period of 6 years after the importation.
- (4) The documents are –
  - (a) the original or a copy of any relevant customs entry form;

- (b) the original or a copy of a receipt issued by the Agent of the Impôts for payment of GST on the importation of the goods;
  - (c) a GST account;
  - (d) a copy of a sales invoice, whether issued or received by the person;
  - (e) a record of supplies of goods or services made from the business for the personal use of the person;
  - (f) a record of supplies of goods or services made free of charge, or for less than their open-market value, to the employees of the person or to other persons;
  - (g) a record that lists and summarizes any cash receipts, or cash payments, by the person;
  - (h) a record of opening and closing stock;
  - (i) a purchases ledger or sales ledger;
  - (j) an income and expense account;
  - (k) a cash register roll or tape;
  - (l) a bank statement;
  - (m) a copy of a customs import or export document;
  - (n) an annual account;
  - (o) such other document as the Comptroller may specify by general direction.
- (5) For the purposes of Article 41(3) of the Law, the following documents relating to GST may be required to be produced to the extent that they are relevant to the input tax in question and relate to the business of the person referred to in Article 41(3) of the Law –
- (a) a GST account;
  - (b) a copy of a sales invoice, whether issued or received by the person;
  - (c) a record of supplies of goods or services made from the business for the personal use of the person;
  - (d) a record of supplies of goods or services made free of charge, or for less than their open-market value, to the employees of the person or to other persons;
  - (e) a record that lists and summarizes any cash receipts, or cash payments, by the person;
  - (f) a record of opening and closing stock;
  - (g) a purchases ledger or sales ledger;
  - (h) an income and expense account;
  - (i) a cash register roll or tape;
  - (j) a bank statement;
  - (k) a copy of a customs import or export document;
  - (l) a computer record;
  - (m) correspondence;
  - (n) an annual account;
  - (o) any other record.
- (6) A document that is required under this Regulation to be retained may be retained in electronic form or on paper and a document that is required under this Regulation to be produced may be produced in electronic form or on paper.

**19 Adjustments in the course of business: Article 43(2)(c) and (d) of Law**

- (1) If –
  - (a) there is a variation in the consideration due on a supply made by a taxable person that is

evidenced by a credit or debit note or any other document to the same effect; and

(b) the consideration includes an amount of GST,

the taxable person shall adjust his or her GST account accordingly.

- (2) The adjustment shall be made in that part of the GST account that relates to the accounting period in which the variation is given effect in the business accounts of the taxable person.

## **PART 5**

### **GST INVOICES**

#### **20 Comptroller may treat document as GST invoice: Article 42 of Law**

- (1) This Regulation applies where –
- (a) a person other than a registered person provides a document that purports to show that goods or services are supplied by a registered person; and
  - (b) the Comptroller is satisfied that the document contains all the information that would have been required to be provided by that registered person in a GST invoice issued by that person in respect of the supply of those goods or services.
- (2) In a case to which this Regulation applies, the Comptroller may accept the document as a GST invoice issued by a registered person in compliance with Article 42 of the Law in respect of the supply of those goods or services.
- (3) Where, in accordance with paragraph (2), the Comptroller accepts a document as a GST invoice issued in respect of the supply of goods or services by a registered person, any document issued by the registered person that purports to be a GST invoice shall not have effect as a GST invoice to the extent that it applies to the same supply of goods or services.

#### **21 Where business assets are sold to recover debt: Article 42 of Law**

- (1) This Regulation applies where, as referred to in paragraph 9 of Schedule 2 of the Law, the business assets of a business carried on by a taxable person are sold under a power exercisable by another person (“the creditor”) in or towards the satisfaction of a debt owed by the taxable person to the creditor.
- (2) The Comptroller may accept, as a GST invoice issued by the taxable person in compliance with Article 42 of the Law, a document that the Comptroller is satisfied–
- (a) correctly shows the business assets sold by or on behalf of the creditor; and
  - (b) contains all the information that would have been required to be provided by that taxable person in a GST invoice issued by that person in respect of the supply of those business assets.
- (3) Where, in accordance with paragraph (2), the Comptroller accepts a document as a GST invoice issued in respect of the supply of business assets by a taxable person, any document issued by the taxable person that purports to be a GST invoice shall not have effect as a GST invoice to the extent that it applies to the supply of the same business assets.
- (4) Where, by virtue of a declaration made in accordance with the Bankruptcy (Désastre) (Jersey) Law 1990<sup>[7]</sup>, the business assets of a taxable person are vested in the Viscount, for the purpose of applying this Regulation, those assets –
- (a) shall be taken to remain the property of the taxable person until sold by or on behalf of the Viscount; and
  - (b) if sold by or on behalf of the Viscount, shall be taken to have been sold by or on behalf of a creditor.

## PART 6

### SPECIAL TREATMENT OF SECOND-HAND MOTOR VEHICLES

#### 22 Interpretation

In this Part –

“auction” means a public sale where persons become purchasers by competition, being the highest bidders;

“auctioneer” means a person who sells or offers for sale goods at an auction;

“second-hand goods” means goods that are suitable for further use as they are or after repair.

#### 23 Application of Part

- (1) This Part applies only to goods that are motor vehicles.
- (2) In this Regulation, “motor vehicle” has the same meaning as in the Customs and Excise (Jersey) Law 1999<sup>[8]</sup>.

#### 24 Various transactions treated in different ways: Article 21 of Law

- (1) For the purposes of the Law, the disposal of second-hand goods –
  - (a) by a person who repossessed them under the terms of a finance agreement; or
  - (b) by an insurer who took possession of them in settlement of a claim under a policy of insurance, shall be treated as neither a supply of goods nor a supply of services if –
    - (i) in each case, the goods so disposed of are in the same condition at the time of disposal as they were when they were repossessed or taken into possession, as the case may be; and
    - (ii) a supply of them in Jersey by the person from whom in each case they were obtained would not have been chargeable to GST, or would have been chargeable to GST on less than the full value of the supply.
- (2) Paragraph (1) shall not apply to reimported goods that were previously exported from Jersey free of GST by reason of their being zero-rated, or to imported goods whose importation was not chargeable to GST.
- (3) The exchange of reconditioned goods for unserviceable goods of a similar kind by a person who regularly offers in the course of his or her business to provide a reconditioning facility for goods of that kind shall be treated for the purposes of the Law as a supply of services and not as a supply of goods.
- (4) The following supplies shall be treated for the purposes of the Law as neither a supply of goods nor a supply of services –
  - (a) a supply of services, in connection with a supply of goods and provided by an agent acting in his or her own name, to the purchaser of the goods where the consideration for the supply of the services is taken into account under Regulation 26(4) in calculating the price at which the agent sold the goods;
  - (b) a supply of services, in connection with a sale of goods and provided by an auctioneer acting in his or her own name, to the vendor or the purchaser of the goods, where the consideration for the supply of the services is taken into account under Regulation 27 in calculating the price at which the auctioneer obtained (or as the case may be) sold the goods.

## **25 Margin scheme for second-hand motor vehicles: Article 52 of Law**

- (1) Subject to such conditions as the Comptroller may direct, if a taxable person supplies second-hand goods of which he or she took possession in any of the circumstances set out in paragraph (2), he or she may choose to account for the GST on the supply by reference to the profit margin on the supply instead of by reference to the value of the supply.
- (2) The circumstances are that the taxable person has taken possession of the goods pursuant to –
  - (a) a supply on which no GST was chargeable under the Law;
  - (b) a supply on which GST was chargeable by reference to the profit margin in accordance with paragraph (1);
  - (c) a transaction treated for the purposes of the Law as being neither a supply of goods nor a supply of services; or
  - (d) an importation in respect of which the taxable person does not claim a GST credit.
- (3) Paragraph (1) shall not apply to a supply if –
  - (a) the supply is a letting on hire; or
  - (b) an invoice or similar document showing an amount as being GST or as being attributable to GST is issued in respect of the supply.
- (4) The profit margin shall be determined for the purposes of paragraph (1) by finding the difference between the price at which the goods are obtained and the price at which the goods are sold.

## **26 Calculation of terms for determining profit margin: generally**

- (1) For the purposes of Regulation 25, the price at which the goods are obtained pursuant to a supply is a price calculated –
  - (a) if the taxable person is a sole proprietor and the goods are supplied to him or her in his or her private capacity, in the same way as the consideration for the supply to him or her as a private individual would be calculated for the purposes of the Law; or
  - (b) in any other case, in the same way as the consideration for the supply would be calculated for the purposes of the Law.
- (2) For the purposes of Regulation 25, the price at which the goods are obtained–
  - (a) pursuant to a transaction treated for the purposes of the Law as being neither a supply of goods nor a supply of services, is the consideration for the transaction; or
  - (b) pursuant to an importation in respect of which the taxable person does not claim a GST credit, is the value of the imported goods.
- (3) Except if paragraph (4) applies, for the purposes of Regulation 25, the price at which the goods are sold is a price calculated in the same way as the consideration for the supply of the goods would be calculated for the purposes of the Law.
- (4) If the taxable person is an agent acting in his or her own name, for the purposes of Regulation 25, the price at which the goods are sold shall be the total of –
  - (a) a price calculated in the same way as the consideration for the supply of the goods would be calculated for the purposes of the Law; and
  - (b) the amount of any consideration payable to the taxable person in respect of services supplied by him or her to the purchaser in connection with the supply of the goods.

## **27 Calculation of terms for determining profit margin: auctions**

- (1) An auctioneer acting in his or her own name in relation to the supply of goods at an auction may

choose to calculate prices for the purposes of Regulation 25 by complying with paragraph (2), c paragraph (4), or both those paragraphs.

- (2) The auctioneer may calculate for the purposes of Regulation 25 the price at which the goods are obtained by deducting from the successful bid at the auction the consideration for the supply (if chargeable to GST) of any services by him or her to the vendor in connection with the supply of the goods.
- (3) If the auctioneer complies with paragraph (2), Regulation 26(1) and (2) shall not apply in respect of the calculation of that price.
- (4) The auctioneer may calculate for the purposes of Regulation 25 the price at which the goods are supplied by adding to the successful bid the consideration for any supply (if chargeable to GST) of services by him or her to the purchaser in connection with the supply of the goods.
- (5) If the auctioneer complies with paragraph (4), Regulation 26(3) and (4) shall not apply in respect of the calculation of that price.

## **PART 7**

### **MISCELLANEOUS**

#### **28 Relief for charities on their expenses: Article 56 of Law**

- (1) The Comptroller shall refund to a charity the GST that is chargeable on any supplies to it of goods or services, and on any importation of goods by it, if the following conditions are satisfied –
  - (a) such records of those supplies and importations, and of the GST, are kept as the Comptroller by direction requires;
  - (b) the GST has actually been paid;
  - (c) such records of supplies of goods or services, being supplies made by the charity, are kept as the Comptroller by direction requires;
  - (d) application is made for the refund at such time or times as the Comptroller specifies by direction;
  - (e) application is made in the approved form.
- (2) In this Regulation, “charity” has the same meaning as in paragraph 5 of Schedule 5 to the Law.

#### **29 Disclosure of GST: Article 94 of Law**

- (1) A registered person shall notify a person to whom the registered person supplies goods or services –
  - (a) whether the prices indicated by the registered person for those goods or services include GST on their supply or not; and
  - (b) at what point GST will be indicated to the person to whom the registered person supplies goods or services if it is not already included in those prices.
- (2) In every case, the registered person shall make the notification before the person supplied enters a contract with the registered person for the supply.
- (3) Subject to paragraph (4), notification for the purposes of this Regulation may be by any means reasonably certain to bring the substance of the notification to the attention of the person supplied.
- (4) If contracts referred to in paragraph (2) are entered into in a shop, the registered person shall make notification for the purposes of this Regulation by signage at the entrance to the shop.
- (5) A person who contravenes this Regulation shall be guilty of an offence and liable to a penalty of level 2 on the standard scale.

**30 Amendment of Schedule 5 to Law: Article 100(2)(f) of Law**

After paragraph 5 of Schedule 5 to the Law the following paragraphs shall be inserted –

**“6 Group 6 – Child care**

For the purposes of this Law, the supply of a service, being child care for a child, shall be exempt if –

- (a) the child care is supplied to a person who (within the meaning of the Children (Jersey) Law 2002<sup>[9]</sup>) has parental responsibility for the child;
- (b) the child care is supplied in day care accommodation registered under the Day Care of Children (Jersey) Law 2002<sup>[10]</sup>; and
- (c) the child care is approved.

**7 Group 7 – Education**

For the purposes of this Law, the supply of a service, being the education of children at any of the following schools shall be exempt –

- (a) Victoria College;
- (b) Jersey College for Girls;
- (c) Helvetia House School;
- (d) St. Christopher’s School;
- (e) an approved school.

**8 Group 8 – Burial and cremation**

(1) For the purposes of this Law, the supply of a service, being –

- (a) the disposal of the remains of the dead;
  - (b) the making of arrangements for or in connection the disposal of the remains of the dead; or
  - (c) any approved service for or in connection with the remains of the dead,
- shall be exempt.

(2) For the purposes of this Law, the supply of goods, being the supply of a coffin, or other approved goods, in connection with the disposal of the remains of the dead, shall be exempt.”.

**31 Amendment of Schedule 6 to Law: Article 100(2)(f) of Law**

In Schedule 6 to the Law –

- (a) after paragraph 2(4) there shall be inserted the following sub-paragraph –

“(4A) Despite sub-paragraph (4), the references in sub-paragraphs (1) and (2) to the construction of a building designed solely as a dwelling or number of dwellings include a reference to the conversion of an existing building that is not so solely designed into one that is so solely designed.”;

- (b) after paragraph 5 there shall be inserted the following paragraphs –

**“6 Disposition of going concern**

- (1) The disposition (whether or not in connection with its reorganization or winding up) of a business as a going concern shall be zero-rated to the extent that it is taken for the purposes of this Law to be a supply in the course of or furtherance of the business.
- (2) The disposition of the liabilities and fixed assets of a business, shall be zero-rated to the extent that the disposition –
  - (a) is part of the disposition referred to in sub-paragraph (1); and
  - (b) is taken for the purposes of this Law to be a supply in the course of or furtherance of the business.

**7 Supply of accommodation before 1 January 2009**

The supply of a service, being accommodation in a hotel, shall be zero-rated to the extent that the supply takes place before 1st January 2009.”.

**32 Long term contracts: Schedule 9, paragraph 2, of Law**

- (1) For the purposes of paragraph 2 of Schedule 9 to the Law, a prescribed contract is a contract in writing in which there is no express provision with respect to the variation of the contract, being a variation –
  - (a) that will apply automatically once Part 2 of the Law takes effect; or
  - (b) by agreement of the parties to the contract.
- (2) For the purposes of paragraph (1), and for the avoidance of doubt, a variation of a contract includes the variation of the contract to extend its term.

**33 Citation and commencement**

- (1) These Regulations may be cited as the Goods and Services Tax (Jersey) Regulations 200-.
- (2) This Regulation shall come into force forthwith.
- (3) Parts 2 and 3, and Regulations 30, 31 and 32, shall come into force on the same day as Part 3 of the Law.
- (4) The remaining provisions of these Regulations shall come into force on the same day as Part 2 of the Law.

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<a href="#">[1]</a>	<i>L.27/2007</i>
<a href="#">[2]</a>	<i>L.27/2007</i>
<a href="#">[3]</a>	<i>chapter 24.900</i>
<a href="#">[4]</a>	<i>chapter 16.650</i>
<a href="#">[5]</a>	<i>chapter 16.850</i>
<a href="#">[6]</a>	<i>chapter 06.145</i>
<a href="#">[7]</a>	<i>chapter 04.160</i>
<a href="#">[8]</a>	<i>chapter 24.660</i>
<a href="#">[9]</a>	<i>chapter 12.200</i>
<a href="#">[10]</a>	<i>chapter 10.700</i>