

# STATES OF JERSEY

**r**

## **DRAFT GOODS AND SERVICES TAX (AMENDMENT) (JERSEY) LAW 200- (P.17/2008): AMENDMENTS**

---

**Lodged au Greffe on 26th February 2008  
by the Minister for Treasury and Resources**

---

**STATES GREFFE**

**1 PAGE 10, ARTICLE 9 –**

For Article 9 substitute the following Article –

**“9 Article 57 substituted**

For Article 57 of the principal Law there shall be substituted the following Articles –

**‘56A International services entity**

For the purposes of this Part, an entity is an “international services entity” while its name is listed under Article 59(1) or (5).

**57 GST not chargeable on supplies to international services entity**

- (1) GST shall, despite anything else in this Law, not be chargeable on the supply of goods, or of a service, to an international services entity if –
  - (a) the conditions set out in paragraph (2) are satisfied; and
  - (b) any requirements that the States may by Regulations prescribe for the purposes of this Article are met in relation to the goods or service, the supply and the international services entity.
- (2) In the case of the supply of –
  - (a) goods, the goods are to be used or held for the purpose of any business carried on by or through the international services entity; or
  - (b) a service, the service is supplied for the purpose of any business carried on by or through the international services entity.

**57A International services entity not taxable person**

A supply of goods or of a service, being a supply made by an international services entity, shall not be a taxable supply unless any requirements that the States may by Regulations prescribe for the purposes of this Article are not satisfied in relation to the goods or service, the supply or the international services entity.’.”

**2 PAGE 11, ARTICLE 10 –**

For Article 10 substitute the following Article –

**“10 Article 59 substituted**

For Article 59 of the principal Law there shall be substituted the following Article –

**‘59 Listing of international services entities**

- (1) The Comptroller shall enter the name of an entity on a list kept by the Comptroller for the purposes of this Part if –

- (a) application is made to the Comptroller for the entry;
  - (b) the Comptroller is satisfied that the entity meets the requirements of Article 60; and
  - (c) the prescribed fee has been paid in respect of the application.
- (2) The Comptroller shall remove the name of an entity from that list if –
  - (a) the entity applies to the Comptroller for the name to be removed;
  - (b) any periodic or other sum prescribed by the Regulations is not paid in respect of the entity by the date prescribed by the Regulations; or
  - (c) the Comptroller is not satisfied that the entity meets the requirements of Article 60.
- (3) An international services entity the name of which is on the list kept by the Comptroller for the purposes of this Part may keep its own list of entities if authorized under paragraph (4) to do so.
- (4) The Comptroller shall, by annotation against the name of an international services entity on the list kept by the Comptroller for the purposes of this Part, authorize the entity to keep its own list of entities if –
  - (a) application is made to the Comptroller for authority for the international services entity to maintain its own list;
  - (b) the Comptroller is satisfied that the international services entity is registered to carry on trust company business under the Financial Services (Jersey) Law 1998; and
  - (c) any requirements that the States may by Regulations prescribe for the purposes of this Article are met in relation to the international services entity.
- (5) An international services entity while so authorized may include on its own list the name of any entity –
  - (a) in relation to which the international services entity carries on trust company business within the meaning of the Financial Services (Jersey) Law 1998;
  - (b) that meets the requirements of Article 60; and
  - (c) that is not a person or arrangement prescribed by Regulations, or specified by direction, under Article 60(1)(g) unless the Regulations otherwise provide or the direction otherwise provides.
- (6) The Comptroller shall revoke that authority of an international services entity if –
  - (a) the international services entity applies to the Comptroller for the revocation of the authority; or
  - (b) the Comptroller is not satisfied that the international services entity meets the conditions referred to in paragraph (4)(b) or the requirements (if any ) referred to in paragraph (4)(c).
- (7) If the fee referred to in paragraph (1)(c) or the sum referred to in paragraph (2)(b) is calculated on the basis of numbers (or other characteristics) of entities, the Comptroller may accept what he or she considers to be a fair estimate, or reasonable prediction, of the fee or sum in cases where the precise calculation of the fee may be impracticable’.

**3 PAGE 12, ARTICLE 11 –**

For Article 11 substitute the following Article –

**“11 Article 60 substituted**

For Article 60 of the principal Law there shall be substituted the following Article –

**‘60 Entities eligible for listing as international services entities**

- (1) An entity meets the requirements of this Article if it is –
  - (a) a body corporate that meets the conditions set out in paragraph (2);
  - (b) a trustee (in the trustee’s capacity as a trustee of one or more trusts within the meaning of the Trusts (Jersey) Law 1984) that meets the conditions set out in paragraph (2);
  - (c) a partnership (which, in this Article, includes a limited partnership and a limited liability partnership) that meets the conditions set out in paragraph (2);
  - (d) an Anstalt, Stiftung, or foundation, that meets the conditions set out in paragraph (2);
  - (e) a collective investment fund;
  - (f) an unregulated fund; or
  - (g) a person or arrangement prescribed by Regulations made by the States, or specified by direction, that meets the conditions set out in paragraph (3).
- (2) Those conditions are, in respect of any entity referred to in paragraph (1)(a), (b), (c) or (d) –
  - (a) except as provided in sub-paragraph (b), that all of the following requirements are met –
    - (i) not more than 10% in value of all the supplies made by the entity of goods and services are made to individuals who belong in Jersey,
    - (ii) to the extent that the value of all the supplies of goods or services made by the entity in Jersey exceeds 10% of the value of all supplies of goods and services made by the entity, the supplies in Jersey are made only to an international services entity,
    - (iii) no individual who belongs in Jersey has the effective use, or the effective enjoyment, of any asset owned or administered by the entity,
    - (iv) no individual who belongs in Jersey has the effective use, or the effective enjoyment, of any goods, or service, supplied to or by the entity,
    - (v) such other requirements in respect of the entity as the States may prescribe by Regulations; or
  - (b) if not all of the requirements set out in sub-paragraph (a) are met in respect of the entity, that both of the following requirements are met –
    - (i) the Comptroller is satisfied that the main purposes and main functions of the entity –
      - (A) are substantially consistent with the requirements set out in sub-paragraph (a), and
      - (B) are not the avoidance, or reduction, of the liability to GST of an individual who belongs in Jersey,
    - (ii) the Comptroller approves the entity for the purposes of this Article.
- (3) Those conditions are, in respect of any entity referred to in paragraph (1)(g), that both of the following requirements are met –
  - (a) the Comptroller is satisfied that the main purposes and main functions of the entity are not the avoidance, or reduction, of the liability to GST of an individual who belongs in Jersey;
  - (b) the Comptroller approves the entity for the purposes of this Article.

- (4) The condition set out in paragraph (2)(a)(iii) or (iv) shall be taken to be satisfied in a case or circumstances where, despite the fact that that clause would not, but for this paragraph, be satisfied, the Comptroller specifies by direction that the condition shall be taken to be satisfied.
- (5) In this Article, a reference –
  - (a) to a collective investment fund is a reference to a collective investment fund within the meaning of the Collective Investment Funds (Jersey) Law 1988;
  - (b) to an unregulated fund is a reference to an unregulated fund within the meaning of the Collective Investment Funds (Unregulated Funds) (Jersey) Order 2008.
- (6) For the purposes of this Article, an individual shall be treated as belonging in Jersey if –
  - (a) the individual has an establishment there and no fixed establishment elsewhere in the world;
  - (b) the individual has no establishment anywhere in the world but the individual’s usual place of residence is in Jersey; or
  - (c) the individual has establishments both in Jersey and elsewhere in the world and the individual’s establishment at which, or for the purposes of which, goods, services or assets are most directly used or enjoyed or to be used or to be enjoyed is in Jersey.’.”

**4 PAGE 12, ARTICLE 12 –**

For Article 12 substitute the following Article –

**“12 Articles 61 and 62 repealed**

Articles 61 and 62 of the principal Law shall be repealed.”

**5 PAGE 12, ARTICLE 13 –**

For Article 13 substitute the following Article –

**“13 Article 63 replaced**

For Article 63 of the principal Law there shall be substituted the following Article –

**‘63 Notice**

- (1) The Comptroller shall serve notice on a person who applies for the entering of a name on a list kept by the Comptroller for the purposes of this Part, being notice in writing that specifies whether the Comptroller has entered the name and the date when the entry (if any) has effect.
- (2) The Comptroller shall serve notice on an international services entity if the Comptroller proposes (otherwise than in a response to an application from the international services entity) to remove the entity’s name from a list kept by the Comptroller for the purposes of this Part, being notice in writing of that proposal and the date when the removal is to have effect.
- (3) The Comptroller shall serve notice on a person who applies for authority under Article 59(4), being notice in writing that specifies whether the Comptroller has granted the authority and the date when the authority (if any) takes effect.

- (4) The Comptroller shall serve notice on an international services entity if the Comptroller proposes (otherwise than in a response to an application from the international services entity) to revoke the entity's authority granted under Article 59(4), being notice in writing of that proposal and the date when the revocation is to have effect.'."

**6 PAGE 12, NEW ARTICLE –**

After Article 13 insert the following Article –

**“14 Article 66 replaced**

For Article 66 of the principal Law there shall be substituted the following Article–

**‘66 Opportunity to be heard**

- (1) The Comptroller shall not refuse to enter a name on, and shall not (otherwise than in response to an application from the relevant international services entity) remove a name from, a list kept by the Comptroller for the purposes of this Part without first giving either the person who applied for its entry on the list or the relevant international services entity an opportunity to be heard on the question whether the name should be on the list.
- (2) The Comptroller shall not refuse to grant authority under Article 59(4), and shall not (otherwise than in response to an application from the relevant international services entity) revoke any such authority, without first giving either the person who applied for the authority or the relevant international services entity an opportunity to be heard on the question whether the authority should be granted or revoked (as the case requires).’."

**7 PAGE 12, ARTICLE 15 –**

For Article 15 substitute the following Article –

**“15 Article 84 amended**

In Article 84(2) of the principal Law –

- (a) for sub-paragraph (m) there shall be substituted the following sub-paragraph –  
‘(m) an application, removal of a name, revocation of an authority, or acceptance of an estimate or prediction under Part 12;’;
- (b) for sub-paragraph (z) there shall be substituted the following sub-paragraph –  
‘(z) the removal, under paragraph 16 of Schedule 1, of an entity from the registration of a group;’."

Renumber the Articles accordingly.

## **REPORT**

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 main “core” of supporting legislation in the form of GST Regulations was then approved under the following timetable – consultation document and draft Regulations available 3rd August; consultation for 4 weeks; lodged 11th September; States debate and approval 23rd/24th October.

It was stated at the time that Regulations under Part 12 of the GST Law relating to Financial Services Industry (FSI)/International Services Entities (ISE) would be dealt with as a separate exercise.

Following a consultation exercise in November 2007 the GST (International Services Entities) (Jersey) Regulations were lodged on 15th January and originally scheduled for States debate on 26th February.

The Regulations included an extended graduated flat rate scheme for service providers to replace the partial refund scheme originally proposed under Part 12 of the Law (under Articles 61 and 62). As a result these Articles are to be deleted and some linked changes (place of residence; ISE status; annual fee payment; partnerships included in a group registration) included under an amendment Law.

At the same time as the above FSI-linked changes were made, the opportunity was taken to make some additional amendments in the interests of clarification/ interpretation (retail schemes; rounding; imports) and some corrections to the Law. The amendment Law was lodged on 29th January and is scheduled for States debate on 11th March.

Following a recent meeting with the Corporate Affairs Scrutiny Panel, together with further feedback mainly from professionals and the business community, some further changes have been made to the ISE regulations and amendment Law. The changes which relate mainly to the treatment of ISEs do not alter the policy objectives and are mainly aimed at simplification and improving presentational style.

The intention now is for the ISE Regulations and the amendment Law to be debated together on 11th March.

### **Financial and manpower implications**

It is still estimated that 10 staff will be required 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.

Of that £45 million, it is expected that some £5-10 million will be derived from the FSI under procedures covered by the amended law and the ISE regulations.