

Annex A: MOF's response to common feedback on the Goods and Services Tax (Amendment) Bill 2018

1. Introduce GST on imported services by way of Reverse Charge for B2B imported services, and an Overseas Vendor Registration (OVR) regime for B2C imported services

- a) **Feedback:** Simplify the record keeping requirements for overseas suppliers registered under the OVR regime. Suppliers should only be required to maintain records relating to the supply of digital services to customers in Singapore, instead of supplies made to all customers both in and outside Singapore.

MOF's response: Accepted. The relevant legislation [S46(1B)] will be amended.

- b) **Feedback:** Provide more flexibility for overseas GST-registered suppliers under the OVR regime, on how to determine the belonging status of customers (i.e. whether the customer is in Singapore or outside).

MOF's response: Not accepted.

The current proposed approach prescribes that in determining the belonging status of the customer, the overseas GST-registered supplier is to obtain two pieces of non-conflicting evidence based on three proxy categories². This proposed approach provides greater clarity and guidance, and is consistent with the practice in other jurisdictions with OVR regimes. The proposed approach is unlikely to impose significant compliance costs on businesses as the information prescribed is typically already gathered by the supplier in the normal course of business. In the absence of clear guidance, the supplier will need to assess the quality and reliability of all available information in order to determine the correct tax treatment, and this will inadvertently increase compliance costs.

Should there be instances where businesses are unable to adopt the proposed approach due to exceptional business circumstances, they may seek IRAS' approval to adopt alternative methods.

- c) **Feedback:** Allow businesses that are subject to reverse charge to determine if a supplier is an overseas supplier based on whether the supplier is GST-registered in Singapore, rather than existing rules for the belonging status of suppliers (Note: Reverse charge is only applicable on services supplied by overseas suppliers.)

MOF's response: Not accepted.

Based on existing GST rules, to determine if a supplier belongs overseas, we will consider where the person has his business establishment or fixed establishment, or where his usual place of residence is³. It does not depend on the GST-registration status of the supplier.

The GST-registration status of the supplier may not accurately reflect whether services are imported from overseas and hence subject to reverse charge. For example, a supplier may be GST-registered in Singapore, by virtue of the OVR regime, even

² The three proxy categories are (i) payment (e.g. whether the credit card used for payment is issued in Singapore), (ii) residence (e.g. whether the billing address is in Singapore) and (iii) access (e.g. whether the IP address is in Singapore).

³ For more information on the determination of belonging status, businesses may refer to IRAS' e-Tax Guide on "GST: Guidelines on Determining the Belonging Status of Supplier and Customer".

though he belongs overseas. Such cases should be subject to reverse charge, but would have been excluded if we adopt the feedback.

- d) Feedback: Provide more information on specific tax rules, such as transitional arrangements for supplies that straddle the implementation date for GST on imported services (1 Jan 2020), and the scope of services subject to reverse charge and OVR.

MOF's response: Accepted. IRAS will provide more details in the revised e-Tax Guides for reverse charge and OVR, which will be published by January 2019.

2. Enhance the Inland Revenue Authority of Singapore's (IRAS) powers to investigate tax crimes

- a) Feedback: Provide guidance on the proposed amendments to reduce the likelihood of unwarranted attacks and invasion of privacy against a potentially innocent individual.

MOF's response: Accepted. IRAS will provide more details on the IRAS website, after the amendments are passed in Parliament.

The proposed powers are to be exercised only when necessary, such as to secure evidence for the investigation of tax crimes. In addition, these powers can only be exercised by designated tax investigators who have received training. Within IRAS, there will be clear guidelines and operational protocols on situations which allow the exercise of these powers by designated trained tax investigators. The training of tax investigators, guidelines and protocols will be consistent with those in other law enforcement agencies (LEAs).

- b) Feedback: Clarify that the proposed arrest powers do not apply in situations where information requested is subject to legal privilege.

MOF's response: Accepted. We note that individuals may, in limited circumstances, have valid reasons to refuse handing over documents or items to IRAS officers for investigation. The proposed S83E(2)(b)(iii) will be amended such that the arrest powers apply to persons resisting the taking of any document or thing without reasonable excuse.

3. Counter unauthorised GST collection

- a) Feedback: Provide guidance on the circumstances in which the proposed penalties of unauthorised GST collection by GST-registered businesses will apply⁴ For instance, to clarify whether penalties will be imposed on persons that have paid and accounted for the excess GST collected to IRAS.

MOF's response: Accepted. IRAS will provide more details on the IRAS website, after the amendments are passed in Parliament. Generally, penalty will be reduced or waived for taxpayers who come forward voluntarily in a timely manner to correct their errors, under IRAS' Voluntary Disclosure Programme. The proposed offence is intended to punish and deter GST-registered persons who erroneously charge or over-collect GST without reasonable excuse or through negligence.

⁴ Proposed section 64A(4) of the GST Act