

STATES OF JERSEY



DRAFT GOODS AND SERVICES TAX (INTERNATIONAL SERVICE ENTITIES) (JERSEY) REGULATIONS 200- (P.10/2008): AMENDMENTS

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

STATES GREFFE

1 PAGE 9, REGULATION 1 –

For the definition “collective investment fund” substitute the following definition –

“ ‘collective investment fund’ means –

- (a) a collective investment fund within the meaning of the Collective Investment Funds (Jersey) Law 1988; or
- (b) an unregulated fund within the meaning of the Collective Investment Funds (Unregulated Funds) (Jersey) Order 2008;”.

2 PAGE 10, REGULATION 2 –

For Regulation 2 substitute the following Regulation –

“2 Prescribed requirement: Article 57(1) of Law

- (1) For the purposes of Article 57(1)(b) of the Law, the prescribed requirement in relation to a supply of goods or services to an international services entity shall be that the supply –
 - (a) shall not, if it is a supply of goods, be for onward re-supply –
 - (i) of the goods in the same state as they existed in when supplied to the entity, and
 - (ii) to, for the purposes of, or for the benefit of, a person who belongs in Jersey; and
 - (b) if it were (but for the operation of Article 57 of the Law) a taxable supply, would not be a taxable supply –
 - (i) to which special provision under Article 43(1) of the Law applied, and
 - (ii) having a value (within the meaning of Part 9 of the Law) of less than £1,000.
- (2) If a supply of goods is made to, for the purposes of, or for the benefit of, a person who is an individual, and the supply is received otherwise than for the purposes of any business carried on by the person, the person shall be treated for the purposes of paragraph (1)(a)(ii) as belonging in Jersey if the person has his or her usual place of residence there.
- (3) If a supply of goods is made to, for the purposes of, or for the benefit of, a person who is not an individual, or the supply is received for the purposes of a business carried on by the person, the person shall be treated for the purposes of paragraph (1)(a)(ii) as belonging in Jersey if –
 - (a) the person has an establishment there and no fixed establishment elsewhere in the world;
 - (b) the person has no establishment anywhere in the world but the person’s usual place of residence is in Jersey; or
 - (c) the person has establishments both in Jersey and elsewhere in the world and the person’s establishment at which, or for the purposes of which, the goods supplied to the person are most directly used or to be used is in Jersey.”.

3 PAGE 10, REGULATION 3 –

For Regulation 3 substitute the following Regulations –

“3 Fee for listing of ISE: Article 59 of Law

- (1) For the purposes of Article 59(1)(c) of the Law, the fee prescribed for an application for entering the name of an entity on a list kept by the Comptroller is the aggregate of such of the amounts set out in Regulation 4 as applies to the entity.
- (2) For the purposes of Article 59(2)(b) of the Law, the sum prescribed in respect of an entity shall be a sum –
 - (a) payable on or before such date as the Comptroller specifies by direction;
 - (b) payable in respect of any year or part of a year (other than the first year or part of the first year) in which an entry of the name of the entity has effect; and
 - (c) calculated as equivalent to the fee that would apply under paragraph (1) if application were being made on that date for entering the name of that entity on the list.

4 Basis of fee

- (1) For the purposes of Regulation 3, the amounts are as follows –
 - (a) in the case of an entity that is registered under the Financial Services (Jersey) Law 1998 in respect of trust company business –
 - (i) the sum of –
 - (A) £7,500 in respect of each such registration of the entity as an affiliation leader or as a non-affiliated person, and
 - (B) £100 multiplied by the number of vehicles administered by the entity in its capacity as an affiliation leader or non-affiliated person,
 - (ii) the sum of –
 - (A) £100 in respect of each such registration of the entity as a participating member of an affiliation where the fee prescribed under clause (i)(A) in respect of the entry of the name of the affiliation leader on a list for the purposes of Article 59 of the Law has been paid in respect of the same period and the same affiliation, and
 - (B) £100 multiplied by the number of vehicles administered by the entity in its capacity as a participating member, or
 - (iii) the sum of –
 - (A) £7,500 in respect of each such registration of the entity as a participating member of an affiliation where the fee prescribed under clause (i)(A) in respect of the entry of the name of the affiliation leader on a list for the purposes of Article 59 of the Law has not been paid in respect of the same period and the same affiliation, and
 - (B) £100 multiplied by the number of vehicles administered by the entity in its capacity as a participating member;
 - (b) in the case of an entity that is registered under the Banking Business (Jersey) Law 1991 in respect of deposit-taking business, £30,000 in respect of each such registration of the entity;
 - (c) in the case of an entity that holds a permit under the Collective Investment Funds (Jersey) Law 1988, is not a collective investment fund and does not hold the permit as a managed manager, one amount of £2,500, however many permits the entity holds under that Law otherwise than as a managed manager;

- (d) in the case of an entity that holds a permit under the Collective Investment Funds (Jersey) Law 1988, is not a collective investment fund but holds the permit as a managed manager, one amount of £500, however many permits the entity holds under that Law as a managed manager;
- (e) in the case of an entity that is registered under the Financial Services (Jersey) Law 1998 to carry on fund services business in relation to one or more unclassified funds within the meaning of that Law, and is not so registered as a managed manager, one amount of £2,500, however many unclassified funds there are in relation to which the entity is so registered to carry on fund services business otherwise than as a managed manager;
- (f) in the case of an entity that is registered under the Financial Services (Jersey) Law 1998 to carry on fund services business in relation to one or more unclassified funds within the meaning of that Law, and is so registered as a managed manager, one amount of £500, however many unclassified funds there are in relation to which the entity is so registered to carry on fund services business as a managed manager;
- (g) in the case of an entity that is a body corporate or partnership, limited partnership or limited liability partnership, but is not –
 - (i) an affiliation leader, non-affiliated person or participating member referred to in sub-paragraph (a),
 - (ii) an entity to which any of sub-paragraphs (b) to (f) applies, or
 - (iii) a vehicle in respect of which a fee has been calculated under sub-paragraph (a)(i)(B), (ii)(B) or (iii)(B),
 an amount of £100;
- (h) in the case of an entity that is a trustee, but is not –
 - (i) an affiliation leader, non-affiliated person or participating member referred to in sub-paragraph (a), or
 - (ii) an entity to which any of sub-paragraphs (b) to (f) applies,
 a nil amount;
- (i) in the case of an entity that is a collective investment fund, but is not –
 - (i) an affiliation leader, non-affiliated person or participating member referred to in sub-paragraph (a), or
 - (ii) a vehicle in respect of which a fee has been calculated under sub-paragraph (a)(i)(B), (ii)(B) or (iii)(B),
 an amount of £100;
- (j) in the case of an entity that is an Anstalt, Stiftung or foundation, or a thing prescribed or specified under Article 60(1)(g) of the Law, but is not–
 - (i) an affiliation leader, non-affiliated person or participating member referred to in sub-paragraph (a), or
 - (ii) a vehicle in respect of which a fee has been calculated under sub-paragraph (a)(i)(B), (ii)(B) or (iii)(B),
 an amount of £100.

(2) In this Regulation –

- (a) the expressions “affiliation”, “affiliation leader”, “non-affiliated person” and “participating member” have the same meanings as those expressions in the Financial Services (Trust Company Business (Registration and Fees)) (Jersey) Order 2003;
- (b) a reference in paragraph (1)(a) to an entity’s administering a vehicle is a reference

- to the entity's providing in relation to the vehicle any of the services specified in Article 2(4) of the Financial Services (Jersey) Law 1998;
- (c) a reference to a vehicle is a reference to an entity that meets the requirements of Article 60 of the Law, whether or not it is an international services entity;
 - (d) a reference to a vehicle does not include a trustee;
 - (e) a reference in paragraph (1)(a)(i)(B), (ii)(B) or (iii)(B) to a vehicle administered by an entity does not include a vehicle –
 - (i) that is administered by another entity referred to in the same provision or in another of those provisions, being an entity within the same affiliation, and
 - (ii) in respect of which a fee has already been calculated under any of those provisions and paid;
 - (f) a reference in paragraph (1)(a)(i)(B), (ii)(B) or (iii)(B) to a vehicle does not include an entity in respect of which a fee has already been calculated under paragraph (1)(g), (i) or (j) and paid.”.

4 PAGE 17, REGULATION 6 –

For Regulation 6 substitute the following Regulation –

“6 Other types of ISE: Article 60(1)(g) of Law

The following are prescribed for the purposes of Article 60(1)(g) of the Law–

- (a) a person registered under the Financial Services (Jersey) Law 1998 to carry on trust company business or fund services business;
- (b) a person registered under the Banking Business (Jersey) Law 1991 to carry on deposit-taking business;
- (c) a person (other than a collective investment fund) who holds a permit as a functionary within the meaning of the Collective Investment Funds (Jersey) Law 1988.”.

5 PAGE 17, REGULATION 7 –

For Regulation 7 substitute the following Regulation –

“7 Relief on supplies valued at less than £1,000: Article 56 of Law

The Comptroller shall refund to an entity that meets the requirements of Article 60 of the Law the GST that is chargeable on any supplies to it of goods or services if all of the following conditions are satisfied in relation to the entity, the supplies and the goods or services –

- (a) in the case of the supply of –
 - (i) goods, the goods are to be used or held for the purpose of any business carried on by or through the entity, or
 - (ii) services, the services are supplied for the purpose of any business carried on by or through the entity;
- (b) the supplies were made when the entity was an international services entity within the meaning of Part 12 of the Law;
- (c) each of the supplies has a value (within the meaning of Part 9 of the Law) of less than £1,000;
- (d) such records of the supplies to the entity, and of the GST chargeable on them, are kept

by the entity as the Comptroller by direction requires;

- (e) the GST has actually been paid;
- (f) such records of supplies of goods or services, being supplies made by the entity, are kept as the Comptroller by direction requires;
- (g) application is made for the refund at such time or times as the Comptroller specifies by direction;
- (h) that application is made in the approved form.”.

6 PAGE 18, REGULATION 8 –

For Regulation 8 substitute the following Regulation –

“8 Citation and commencement

- (1) These Regulations may be cited as the Goods and Services Tax (International Services Entities) (Jersey) Regulations 200-.
- (2) These Regulations shall come into force on the same day as the Goods and Services Tax (Amendment) (Jersey) Law 200-.”.

Renumber, and alter any internal cross-references, accordingly.

MINISTER FOR TREASURY AND RESOURCES

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 were 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.