



ANALYSIS

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1992, No. 116

An Act to amend the Goods and Services Tax Act 1985

[14 December 1992]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title—This Act may be cited as the Goods and Services Tax Amendment Act (No. 2) 1992, and shall be read together with and deemed part of the Goods and Services Tax Act 1985 (hereinafter referred to as the principal Act).

2. Meaning of term supply—(1) Section 5 of the principal Act is hereby amended by repealing subsection (11B) (as inserted by section 118 (1) of the Casino Control Act 1990), and substituting the following subsection:

“(11B) Notwithstanding anything in this Act, for the purposes of this Act where any person pays to a casino an amount in money—

“(a) To purchase a chip or otherwise to participate in any game played or conducted in casino premises; or

“(b) As commission in respect of participation in any game played or conducted in casino premises,—

the money so paid shall be deemed to be for the supply of services by the casino operator.”

(2) Section 5 (11c) of the principal Act (as so inserted) is hereby amended by omitting the words “and ‘casino operator’s licence’ means a casino operator’s licence issued under section 37 of that Act”, and substituting the words “and ‘casino

operator' has the same meaning as in section 12M of the Gaming Duties Act 1971”.

3. Value of supply of goods and services—Section 10 of the principal Act is hereby amended by repealing subsection (15A) (as inserted by section 118 (3) of the Casino Control Act 1990), and substituting the following subsection:

“(15A) Notwithstanding anything in subsection (16) or subsection (17) of this section, where a supply is deemed to be made under section 5 (11B) of this Act, the consideration in money for the supply shall be deemed to be the amount of money (including cheques not collected) a person pays to the casino to purchase a chip or otherwise to participate in any game played or conducted on casino premises, or as commission in respect of participation in any such game, less any amount paid out by the casino as winnings in respect of gaming or for redemption of chips.”

4. Zero-rating—Section 11 (1) of the principal Act is hereby amended by repealing paragraph (b), and substituting the following paragraph:

“(b) The goods are not situated in New Zealand at the time of supply; or”.

5. Adjustments—Section 21 (4) of the principal Act is hereby amended by inserting, after the expression “section 336T”, the expression “or section 336TA or section 336TB”.

6. Assessment of tax—(1) Section 27 of the principal Act (as amended by section 7 (1) of the Goods and Services Tax Amendment Act 1987) is hereby amended by repealing subsections (1), (1A), and (1B), and substituting the following subsections:

“(1) Subject to section 31 of this Act, the Commissioner may from time to time, from returns furnished under this Act and from any other information in the Commissioner's possession, make assessments of the amount that, in the Commissioner's judgment, is the tax payable pursuant to this Act by—

“(a) Any person required to furnish any return under this Act; or

“(b) Any person, not being a registered person, who supplies goods and services and represents that tax is charged on that supply; or

“(c) Any person whose registration has pursuant to section 52 (5) of this Act been cancelled by the

Commissioner with effect from the date on which the person was registered under this Act; or

“(d) In the case of an assessment in relation to goods deemed to be supplied by a person pursuant to section 5 (2) of this Act,—

“(i) The person selling the goods; or

“(ii) The person whose goods are sold, if any written statement supplied by that person under section 5 (2) (a) of this Act to the person selling the goods is in the judgment of the Commissioner incorrect,—

and that person shall be liable to pay the tax so assessed except in so far as the person establishes on objection that the assessment is excessive or that tax is not payable.

“(1A) Where—

“(a) A person is not satisfied with—

“(i) Any return furnished by that person under this Act; or

“(ii) A return furnished under section 17 of this Act by another person in relation to goods sold in or towards satisfaction of a debt owed by the person,— and requests the Commissioner, in writing, to make any addition or alteration to that return; and

“(b) The Commissioner has not already made an assessment of the amount of tax payable in respect of the period to which the return relates,—

the Commissioner shall make an assessment of the amount that, in the Commissioner’s judgment, is the tax payable pursuant to this Act, and the person so assessed shall be liable to pay the tax so assessed except in so far as the person establishes on objection that the assessment is excessive or that tax is not payable.”

(2) Section 27 of the principal Act is hereby amended by repealing subsection (3) (as substituted by section 7 (2) of the Income Tax Amendment Act 1987), and substituting the following subsection:

“(3) If an assessment or amended assessment is made under this section, the Commissioner shall—

“(a) Cause notice of the assessment or amended assessment to be given to the person liable to pay the tax; and

“(b) In the case of an assessment or amended assessment in relation to goods deemed to be supplied by a person pursuant to section 5 (2) of this Act, send a copy of such notice to whichever of—

“(i) The person whose goods were sold; or

“(ii) The person selling the goods—
is not the person assessed.”

(3) Section 27 of the principal Act is hereby further amended by omitting from subsection (5A) (as inserted by section 9 (3) of the Goods and Services Tax Amendment Act 1990) the expression “subsection (1) (ca)”, and substituting the expression “subsection (1) (c)”.

(4) Section 27 of the principal Act is hereby further amended by repealing subsection (6) (as amended by section 13 (1) of the Goods and Services Tax Amendment Act 1988), and substituting the following subsection:

“(6) For the purposes of this Part and Parts III, VI, and X of this Act, where—

“(a) A person, not being a registered person, supplies goods and services and represents that tax is charged on that supply; or

“(b) A person furnishes, or makes default in furnishing, a return required to be made by that person pursuant to section 17 of this Act in relation to a supply of goods referred to in section 5 (2) of this Act; or

“(c) A person whose goods are sold in the circumstances referred to in section 5 (2) of this Act supplies a statement under section (5) (2) (a) of this Act to the person selling the goods, and that statement is in the judgment of the Commissioner incorrect,—

that person shall be deemed to be a registered person and any tax represented to be charged on the relevant supply by that person shall be tax payable by that person.”

(5) The following enactments are hereby consequentially repealed:

(a) Section 7 (1) and (2) of the Goods and Services Tax Amendment Act 1987:

(b) Section 13 (1) of the Goods and Services Tax Amendment Act 1988:

(c) Section 9 (1) of the Goods and Services Tax Amendment Act 1990.

(6) This section shall apply in respect of returns due to be made (and, if there is no due date for a return, supplies made) on or after the date on which this Act receives the Royal assent.

7. Objections to certain decisions—(1) Section 32 (3) of the principal Act is hereby amended by omitting the expression “28 days”, and substituting the expression “2 months”.

(2) This section shall apply to decisions notified on or after the 1st day of December 1992.

8. Objections to assessments—(1) Section 33 (1) of the principal Act is hereby amended by omitting the expression “28 days”, and substituting the expression “2 months”.

(2) This section shall apply to assessments in respect of which the notice of assessment is given on or after the 1st day of December 1992.

9. Refund of excess tax—(1) Section 45 (1) of the principal Act (as substituted by section 24 of the Goods and Services Tax Amendment Act 1986) is hereby amended by omitting the words “payable properly calculated in accordance with”, and substituting the words “assessed under section 27 of”.

(2) Section 45 (2) of the principal Act (as so substituted) is hereby amended by omitting from paragraph (a) the words “properly payable”, and substituting the words “so assessed”.

(3) This section shall apply with respect to tax payable in respect of returns due to be made (and, if there is no due date for a return, supplies made) on or after the date on which this Act receives the Royal assent.

10. Groups of companies—(1) Section 55 (1) of the Goods and Services Tax Act 1985 (as substituted by section 65 of the Income Tax Amendment Act (No. 2) 1992) is hereby amended by omitting the words “are, and”.

(2) This section shall apply with respect to supplies made on or after the 1st day of April 1992.

11. Personal representative, liquidator, receiver, etc.—(1) Section 58 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsections:

“(1) In this section,—

“‘Agency period’ means the period beginning on the date on which a person becomes entitled to act as a specified agent carrying on a taxable activity in relation to an incapacitated person and ending on the earlier of—

“(a) The date on which some person other than the incapacitated person or the specified agent is registered in respect of the taxable activity; or

“(b) The date on which the person ceases to be a specified agent in relation to the incapacitated person:

“‘Incapacitated person’ means a registered person who dies, or goes into liquidation or receivership, or becomes bankrupt or incapacitated:

“‘Specified agent’ means a person carrying on any taxable activity in a capacity as personal representative, liquidator, or receiver of an incapacitated person, or otherwise as agent for or on behalf of or in the stead of an incapacitated person.

“(1A) For the purposes of this Act and notwithstanding section 60 of this Act, where any person becomes a specified agent that person shall, during the agency period, be deemed to be a registered person carrying on the taxable activity of the incapacitated person, and the incapacitated person shall during that period be deemed not to be carrying on that taxable activity:

“Provided that a specified agent shall not be personally liable for any liabilities under this Act incurred by the incapacitated person before the agency period.”

(2) Section 58 (3) of the principal Act is hereby amended by omitting the words “Any person carrying on such taxable activity as aforesaid shall, within 21 days of commencing to do so”, and substituting the words “Any person who becomes a specified agent, or who as a mortgagee in possession carries on any taxable activity of the mortgagor, shall, within 21 days of becoming a specified agent or commencing that taxable activity of the mortgagor”.

This Act is administered in the Inland Revenue Department.
