



Jersey

GOODS AND SERVICES TAX (GENERAL) (JERSEY) REGULATIONS 200-

Report

Explanatory Note

These Regulations set out general administrative provisions for the collection of GST.

Regulation 1 sets out the special meaning given to certain terms used in the Regulations.

Regulation 2 makes it clear that it is the duty of the Comptroller of Income Tax to protect the revenue when exercising a power given by the Regulations.

Regulation 3 make it the duty of the Comptroller to determine the forms to be used for the purposes of the Law and the manner in which they are to be served or given.

Regulation 4 deals with partnerships and unincorporated associations.

Regulation 5 makes it an offence for a person required to register not to do so.

Regulation 6 requires the Comptroller to determine what the certificate of registration shall look like.

Regulation 7 provides for the changes in the circumstances of a registered person that have to be notified to the Comptroller.

Regulation 8 deals with the situation where a person is appointed to be the representative of a taxable person.

Regulation 9 deals with the situation where the business of a taxable person is temporally run by another person.

Regulation 10 deals with the situation where the business of a taxable person is transferred as a going concern.

Regulation 11 deals with the notification that must be given when a person is no longer liable to be registered.

Regulation 12 provides for the notice to be given when a person is exempt from registration.

Regulation 13 makes it an offence not to give a GST invoice when required to do so by the Law.

Regulation 14 provides for the form of a GST invoice.

Regulation 15 deals with the situation where a person issues a GST invoice to himself or herself.

Regulation 16 provides that the Comptroller may deem certain documents to be GST invoices.

Regulation 17 deals with the situation where the goods of a taxable person are sold by another person to recover a debt due to that to that person.

Regulation 18 provides for the time when GST invoices must be issued.

Regulation 19 provides for the accounting periods in respect of which GST must be accounted for an paid to the Comptroller.

Regulation 20 sets out when claims for input tax must be made.

Regulation 21 allows the Comptroller to accept an estimate of an output tax in certain circumstances.

Regulation 22 allows the Comptroller to accept an estimate of an input tax in certain circumstances.

Regulation 23 deals with the records to be kept.

Regulation 24 provides for certain adjustments in the course of business.

Regulation 25 allows GST credit to be held over to be credited in and for a subsequent accounting period.

Regulation 26 provides for the citation and commencement of the Retulations.



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Arrangement

Regulation

PART 1		5
<hr/>		
PRELIMINARY		5
1	Interpretation	5
2	Duty of Comptroller	5
3	Procedural requirements.....	6
4	Partnerships and unincorporated associations	6
PART 2		6
<hr/>		
REGISTRATION		6
5	Notification of liability to be registered	6
6	Registration	6
7	Notification of changes	7
8	GST representation.....	7
9	Business temporarily run by representative	8
10	Transfer of going concern	9
11	Notification - no longer liable to be registered.....	9
12	Exemption from registration	9
PART 3		10
<hr/>		
GST INVOICES		10
13	GST invoice to be issued.....	10
14	Form of GST invoices	10
15	GST invoice issued to self by taxable person.....	10
16	Comptroller may deem documents to be GST invoices	10
17	Where business assets are sold to recover debt.....	11
18	Time in respect of GST invoices	11

PART 4 **12**

PAYMENT OF GST 12

19	Accounting periods	12
20	Claims for input tax	12
21	Comptroller may accept estimate of output tax	12
22	Comptroller may accept estimate of input tax	12
23	Records to be kept.....	12
24	Adjustments in the course of business	13
25	Postponement of GST credit.....	13

PART 5 **13**

CITATION AND COMMENCEMENT 13

26	Citation and commencement.....	13
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Made [date to be inserted]

Coming into force [date to be inserted]

THE STATES, in pursuance of Articles (to be completed) and 91 of the Goods and Service (Jersey) Law 200-, have made the following Regulations –

PART 1

PRELIMINARY

1 Interpretation

In these Regulations –

“accounting period”, in relation to a taxable person, means the accountable period determined in relation to that person by the Comptroller in accordance with Regulation 19;

“Law” means the Goods and Services Tax (Jersey) Law 200 .

2 Duty of Comptroller

Where these Regulations –

- (a) allow a matter to be determined by the Comptroller;
 - (b) make a matter subject to approval by the Comptroller;
 - (c) make a matter the subject of a decision of the Comptroller;
 - (d) make a matter the subject of an agreement with the Comptroller;
 - (e) make a matter subject to a condition imposed by the Comptroller; or
 - (f) make a matter subject to a direction given by the Comptroller,
- the Comptroller shall, in each case, act to protect the revenue.

3 Procedural requirements

- (1) An application, claim, demand, notice notification or other instrument to be served on or given to the Comptroller for the purposes of the Law must –
 - (a) be in a form approved for the purpose by the Comptroller; and
 - (b) be served or given in a manner approved by the Comptroller.
- (2) The Comptroller must give public notice of any approval under paragraph (1).

4 Partnerships and unincorporated associations

- (1) Where the person required to give notification for the purposes of the Law is a partnership (as defined by Article 11(5) of the Law) each partner is jointly and severally liable to give that notification but shall be taken to have done so if notification is given on behalf of the partnership by one or more of the partners authorized to do so by the partnership.
- (2) Where the person required to give notification for the purposes of the Law is a body that is to be treated as an unincorporated association for the purposes of Article 12 of the Law, each member of the body is jointly and severally liable to give that notification but shall be taken to have done so if notification is given on behalf of the body by one or more of the officers or members of the body authorized to do so by the body.
- (3) The Comptroller shall determine what bodies are to be treated as unincorporated associations for the purposes of Article 12 of the Law.
- (4) The Comptroller must give public notice on any determination under paragraph (3).

PART 2

REGISTRATION

5 Notification of liability to be registered

A person required to notify the Comptroller in accordance with paragraph 2 of Schedule 1 to the Law (liability to be registered) who, without reasonable excuse, fails to do so is guilty of an offence and liable to a fine of level 4 on the standard scale.

6 Registration

Except as specifically provided by paragraphs 3 and 8(4) of Schedule 1 to the Law, the form of the notice in writing mentioned in either of those paragraphs (notice that person is registered) shall be determined by the Comptroller.

7 Notification of changes

- (1) For the purpose of paragraph 4(1)(b) of Schedule 1 to the Law, the prescribed class of detail (being those changes of circumstances of a registered person that must be notified to the Comptroller) shall be determined by the Comptroller.
- (2) The Comptroller must give public notice of any determination under paragraph (1).
- (3) A registered person required to notify the Comptroller in accordance with paragraph 4 of Schedule 1 to the Law (change in the circumstance of the registered person) who, without reasonable excuse, fails to do so is guilty of an offence and liable to a fine of level 4 on the standard scale.

8 GST representation

- (1) This Regulation applies where –
 - (a) a person is appointed, in accordance with Article 14(1) or (2) of the Law, to be a GST representative of a taxable person or a person who makes taxable supplies (in either case in this Regulation referred to as a “taxable person”); or
 - (b) a person ceases to hold such an appointment.
- (2) The person must, within 30 days of being so appointed or of ceasing to hold such an appointment, notify the Comptroller accordingly.
- (3) On receipt of the notification the Comptroller must enter the name of the GST representative on the register or remove it from the register, as the case may be.
- (4) The appointment by a taxable person of a person to be a GST representative terminates any existing appointment.
- (5) If the Comptroller is satisfied on reasonable grounds that a person has ceased to be the GST representative of a taxable person, the Comptroller must terminate the appointment of the person as a GST representative by –
 - (a) removing the name of the GST representative from the register; and
 - (b) informing the taxable person that he or she has done so.
- (6) Paragraph (5) applies even though the Comptroller has not received notification that –
 - (a) a person has ceased to be the GST representative of a taxable person; or
 - (b) that a new representative has been appointed by that person.
- (7) The appointment of a person as a GST representative of a taxable person –
 - (a) takes effect when the Comptroller enters the person’s name in the register; and

- (b) ceases when Comptroller removes the person's name from the register.
- (8) A person required to notify the Comptroller in accordance with paragraph (2) who, without reasonable excuse, fails to do so is guilty of an offence and liable to a fine of level 4 on the standard scale.

9 Business temporarily run by representative

- (1) This Regulation applies where a registered person becomes bankrupt.
- (2) It also applies where the registered person is an individual and the individual –
 - (a) dies; or
 - (b) becomes incapable of managing his or her affairs.
- (3) A person with responsibility for the affairs of the registered person may apply to the Comptroller for the Comptroller's approval to be treated as the registered person for the purposes of the Law.
- (4) If the Comptroller approves the application, the Law shall apply to the applicant in all respect as if –
 - (a) the business of the registered person were continuing to be administered by the registered person; and
 - (b) the applicant were the registered person.
- (5) However, the Comptroller may, either when approving the application or later, modify provisions of the Law in their application to the registered person or the applicant in such manner as the Comptroller considers appropriate to the circumstances.
- (6) The Comptroller's shall set out any such modifications in his or her approval of the application or in any amendment of that approval.
- (7) The Comptroller shall withdraw his or her approval when the Comptroller is satisfied that –
 - (a) the affairs of the registered person are no longer being administered by the applicant; or
 - (b) the affairs of the registered person no longer require to be administered by the applicant.
- (8) Where, by virtue of a declaration made in accordance with the Bankruptcy (Désastre) (Jersey) Law 1990, the property of a taxable person is vested in the Viscount –
 - (a) that property shall, for the purpose of the Law, be taken to remain the property of the taxable person until sold by or on behalf of the Viscount; and
 - (b) the Viscount shall be taken to have the approval of the Comptroller given under this Regulation to be treated as the registered person for the purposes of the Law.



10 Transfer of going concern

- (1) This Regulation applies where a business carried on by a taxable person is transferred to another person as a going concern.
- (2) Both the taxable person and the person to whom the business has been transferred must, within the 30 days after the transfer, notify the Comptroller of the transfer.
- (3) Unless the Comptroller agrees or directs otherwise –
 - (a) any obligation, duty or liability under the Law of the taxable person immediately before the transfer (other than any liability for a surcharge or any criminal liability) becomes an obligation, duty or liability of the person to whom the business has been transferred; and
 - (b) any right of either of them to repayment or credit in respect of GST may be satisfied by repayment or credit to the other.
- (4) The Comptroller shall –
 - (a) amend the register accordingly; and
 - (b) cancel, amend or serve any notice in writing required to be cancelled, amended or served in accordance with paragraph 3 or 8(4) of Schedule 1 to the Law.
- (5) A person required to notify the Comptroller in accordance with paragraph (2) who, without reasonable excuse, fails to do so is guilty of an offence and liable to a fine of level 4 on the standard scale.

11 Notification - no longer liable to be registered

A person required to notify the Comptroller in accordance with paragraph 10 of Schedule 1 to the Law (no longer liable to be registered) who, without reasonable excuse, fails to do so is guilty of an offence and liable to a fine of level 4 on the standard scale.

12 Exemption from registration

- (1) The form of the notice in writing mentioned in paragraph 12(2) of Schedule 1 to the Law (notice that person is exempt from registration) shall be determined by the Comptroller.
- (2) A person required to notify the Comptroller in accordance with subparagraph (3) or subparagraph (4) of paragraph 12 of Schedule 1 to the Law (changes in respect of supplies by exempt person) who, without reasonable excuse, fails to do so is guilty of an offence and liable to a fine of level 4 on the standard scale.

PART 3

GST INVOICES

13 GST invoice to be issued

A person required to issue an invoice in accordance with Article 41(1) of the Law who, without reasonable excuse, fails to do so is guilty of an offence and liable to a fine of level 4 on the standard scale.

14 Form of GST invoices

- (1) The Comptroller shall determine for the purpose of Article 41(1)(a) and (d) of the Law –
 - (a) the particulars of the supply to be stated in a GST invoice; and
 - (b) the particulars of the GST to be set out in a GST invoice.
- (2) The Comptroller must give public notice of any determination under paragraph (1).

15 GST invoice issued to self by taxable person

- (1) This Regulation applies where a taxable person provides a document to himself or herself, being a document that purports to be a GST invoice in respect of a supply of goods or services by another taxable person.
- (2) If the Comptroller so agrees, the document shall, in accordance with Article 27(8)(b) of the Law, be treated for the purposes of the Law as the GST invoice to be provided by the latter taxable person.

16 Comptroller may deem documents to be GST invoices

- (1) This Regulation applies where a person other than a taxable person provides a document that –
 - (a) purports to show goods or service supplied by a taxable person; and
 - (b) the Comptroller is satisfied that it 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 goods or services.
- (2) The Comptroller may accept the document as a GST invoice issued by the taxable person in compliance with Article 41 of the Law in respect of the supply of those goods or service.
- (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 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 goods or services.

17 Where business assets are sold to recover debt

- (1) This Regulation applies where, as mentioned in paragraph 9 of Schedule 2 to 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 41 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, the business assets of a taxable person are vested in the Viscount, those assets –
 - (a) shall for the purpose of applying this Regulation, 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 the creditor.

18 Time in respect of GST invoices

- (1) The Comptroller shall determine for the purpose of Article 41(2) of the Law –
 - (a) the time within which GST invoices must be issued under paragraph (1) of that Article; and
 - (b) the time when a GST invoice is to be taken to be issued.
- (2) The Comptroller must give public notice of any determination under paragraph (1).

PART 4**PAYMENT OF GST****19 Accounting periods**

- (1) For the purpose of Article 33 of the Law, a taxable person must account for and pay GST by reference to such accounting periods, at such time and in such manner as the Comptroller shall determine.
- (2) The Comptroller must give public notice of any determination under paragraph (1).

20 Claims for input tax

A claim by a taxable person for a deduction for input tax must be made within the period of 3 years starting at the end of the accounting period in which the relevant GST became chargeable.

21 Comptroller may accept estimate of output tax

- (1) This Regulation applies where the Comptroller is satisfied that there is a good and sufficient reason why a taxable person is unable to calculate any output tax to be taken into account at the time when GST becomes payable by the person to the Comptroller.
- (2) The Comptroller may accept an estimate of the output tax subject to such conditions as the Comptroller may impose.

22 Comptroller may accept estimate of input tax

- (1) This Regulation applies where the Comptroller is satisfied that there is a good and sufficient reason why a taxable person is unable to calculate the exact amount of any input tax to be deducted at the time when GST becomes payable by the person to the Comptroller.
- (2) The Comptroller may accept an estimate of the input tax subject to such conditions as the Comptroller may impose.

23 Records to be kept

- (1) In order to be able to account for GST, a taxable person must keep such records as the Comptroller shall determine.
- (2) The records must be kept –
 - (a) for 6 years; but
 - (b) if a longer or shorter period is determined by the Comptroller either generally or in any specific case, the period so determined.
- (3) The Comptroller must give public notice of any determination under paragraph (1) and any general determination under paragraph (2)(b).



- (4) A person required to keep records in accordance with paragraph (1) who, without reasonable excuse, fails to keep them for the period prescribed by or determined in accordance with paragraph (2), is guilty of an offence and liable to a fine of level 4 on the standard scale.

24 Adjustments in the course of business

- (1) This Regulation applies where –
- (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.
- (2) The taxable person, whether the supplier or the recipient, must adjust his or her GST account accordingly.
- (3) The adjustment must 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.

25 Postponement of GST credit

On application to the Comptroller by a taxable person, the Comptroller may, in accordance with Article 35(1) of the Law, allow the whole or any part of a GST credit due to the person to be held over to be credited in and for a subsequent accounting period, as determined by or agreed with the Comptroller.

PART 5

CITATION AND COMMENCEMENT

26 Citation and commencement

- (1) These Regulations may be cited as the Goods and Service Tax (General) (Jersey) Regulations 200-.
- (2) They shall come into force on the

