



Jersey

GOODS AND SERVICES TAX (INPUT TAXES AND PARTIAL EXEMPTIONS) (JERSEY) REGULATIONS 200-

REPORT

Explanatory Note

Under Article 36 of the Goods and Services (Jersey) Law 200-, input tax may be claimed from the taxation authority by the person or deducted from the amounts of GST that the person would otherwise be required to pay, in accordance with Regulations.

These Regulations set out when input tax may be able to be claimed or deducted in relation to taxable supplies.

Regulation 1 specifies definitions used in the Regulations.

Regulation 2 sets out the basic position – that a person shall be able to claim as input tax the amount of GST charged to the person in relation to goods or services that are supplied to the person, if the goods or services are used, or are to be used, by the person in making taxable supplies to other persons. This Regulations sets out the basic method for determining the taxable supplies on which input tax may be claimed or deducted.

Regulation 3 enables the Comptroller to require or permit the use of a method, other than the method referred to in Regulation 2, for determining which “taxable supplies” shall enable input tax to be claimed or deducted.

Regulation 4 specifies that where goods or services are supplied to a person in Jersey and used to make supplies outside Jersey, and the supplies outside Jersey would be taxable supplies if made in Jersey by the person, the supplies are to be regarded as taxable supplies. This is also the case in regard to supplies that would be exempt supplies, (that is, finance, insurance or postal services) except that they are prescribed by Regulations made under Article 36(1)(c) of the Law.

Regulation 5 specifies that where a person supplies himself or herself, there shall be no input tax attributable to the supply.

Regulation 6 states that even though certain supplies of financial goods or services would be “exempt supplies” under the Law, they shall be regarded as attributable to taxable supplies.

Regulation 7 specifies that if the exempt input tax (that is, the amount of input tax that is attributable to exempt supplies) is less than 5% per month, on average, all the person’s input tax shall be treated as attributable to taxable supplies.

Regulation 8 requires a person to repay the amount that a person has claimed in relation to goods and services for input tax, when the person, instead of using the goods or services to supply to another person goods or services on which GST would be payable, has instead used the goods or services in whole or in part to make “exempt supplies”.

Regulation 9 enables a person to claim an amount that the person did not claim in relation to goods and services for input tax, because he or she intended to use the goods or services in whole or in part to make “exempt supplies”, but subsequently used them for taxable supplies in relation to which input tax could be claimed.

Regulation 10 applies Regulation 8 and 9 to the case where taxable supplies are used by a person to make supplies outside Jersey.

Regulation 11 enables certain amounts of input tax to be claimed or deducted by a person in relation to taxable supplies made before the person was registered.

Regulation 12 specifies the name by which the Regulations may be cited and shall specify the date on which they come into operation.



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Arrangement

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*Made**[date to be inserted]**Coming into force**[date to be inserted]*

THE STATES, in pursuance of Articles 36, 38 and 91 of the Goods and Services Tax (Jersey) Law 200-, have made the following Regulations –

PART 1

PRELIMINARY

1 Interpretation

(1) In these Regulations –

“exempt input tax” means –

- (a) input tax, or a proportion of input tax, that is attributable to exempt supplies in accordance with the method used under Regulation 2, or approved or directed to be used under Regulation 3, as the case may be; and
- (b) input tax, or a proportion of input tax, that is attributable to supplies –
 - (i) made outside Jersey that would be exempt if made in Jersey, and
 - (ii) that are not specified in a prescribed provision that specifies that it is made for the purposes of Article 36(1)(c) of the Law,

according to the extent to which the goods or services on which the input tax was incurred are used, or to be used, in making supplies, or in accordance with a method approved or directed to be used under Regulation 3;

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

“registration period”, in relation to a taxable person, means the period beginning on the person’s effective date of registration as determined in

accordance with Schedule 1 to the Law and ending on the day before the beginning of the person's first tax year;

"tax year", in relation to a taxable person, means –

- (a) the first period of 12 months (beginning on the 1st day of April, May or June, according to the prescribed accounting periods allocated to the person) next following the person's effective date of registration as determined in accordance with Schedule 1 to the Law;
 - (b) any subsequent period of 12 months beginning on the day following the end of the person's first, or any subsequent, tax year; or
 - (c) a period of other than 12 months, or that begins on a date other than that determined in accordance with sub-paragraph (a) or (b), that is approved or directed to be used by the person under paragraph (3).
- (2) In this Part, any reference to goods or services shall be construed as including a reference to anything which is supplied by way of a supply of goods or a supply of services respectively.
 - (3) The Comptroller may approve or direct that a tax year shall be a period of other than 12 calendar months or that it shall commence on a date other than that determined in accordance with sub-paragraph (a) or (b) of the definition of "tax year" in paragraph (1).
 - (4) Nothing in these Regulations shall be construed as allowing a taxable person to credit the whole or any part of tax on –
 - (a) the importation by him or her of any goods; or
 - (b) the supply to him or her of goods or services,if those goods or services are not used or to be used by him or her in making supplies in the course or furtherance of a business carried on by the person.

PART 2

INPUT TAXES AND PARTIAL EXEMPTION

2 Attribution of input tax to taxable supplies (basic method)

- (1) The amount of input tax that is allowable for the purposes of Article 34 of the Law shall be the amount attributable to taxable supplies in accordance with these Regulations.
- (2) In respect of each prescribed accounting period –
 - (a) goods imported by and goods or services supplied to the taxable person in the period shall be identified;
 - (b) there shall be attributed to taxable supplies the whole of the input tax on such of those goods or services as are used or to be used by the person exclusively in making taxable supplies;

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- (c) no part of the input tax on such of those goods or services as are used or to be used by the person exclusively in making exempt supplies, or in carrying on any activity other than the making of taxable supplies, shall be attributed to taxable supplies;
 - (d) there shall be attributed to taxable supplies the proportion of the input tax on such of those goods or services as are used or to be used by the person in making both taxable and exempt supplies as bears the same ratio to the total of the input tax as the value of taxable supplies made by the person bears to the value of all supplies made by the person in the period.
- (3) In calculating the proportion under paragraph (2)(d), there shall be excluded –
- (a) any sum receivable by the taxable person in respect of any supplies made by the person that are incidental to one or more of the person's business activities that are within Group 1 (Finance) of Schedule 5 to the Law;
 - (b) that part of the value of any supply of goods on which output tax is not chargeable by virtue of a prescribed provision that specifies that it is made for the purposes of Article 36(1)(c) of the Law, unless the taxable person has imported or been supplied with the goods for the purpose of selling them; and
 - (c) the value of any supply which, under or by virtue of any provision of the Law, the taxable person makes to himself or herself.
- (4) The ratio calculated for the purpose of paragraph (2)(d) shall be expressed as a percentage and, if that percentage is not a whole number, shall be rounded up to the next whole number.

3 Attribution of input tax to taxable supplies (other methods)

- (1) The Comptroller may approve or direct the use by a taxable person of a method other than that specified in Regulation 2.
- (2) A taxable person using a method approved or directed by the Comptroller under paragraph (1) shall continue to use that method unless the Comptroller approves or directs the termination of its use.
- (3) A direction under paragraph (1) or (2) shall take effect from the date on which the Comptroller gives the direction or from a later date that he or she specifies.

4 Attribution of input tax to foreign and specified supplies

- (1) Input tax incurred by a taxable person in any prescribed accounting period on goods imported by, or goods or services supplied to, the person that are used or to be used by the person in whole or in part in making –
 - (a) supplies made outside Jersey that would be taxable supplies if made in Jersey; or
 - (b) supplies specified in a prescribed provision that specifies that it is made for the purposes of Article 36(1)(c) of the Law,

shall be attributed to taxable supplies to the extent that the goods or services are so used or to be used, expressed as a proportion of the whole use or intended use.

- (2) If –
- (a) input tax referred to in paragraph (1) has been incurred on goods or services that are used or to be used in making both –
 - (i) a supply within paragraph 1(a) or (f) of Group 1 (Finance) of Schedule 5 to the Law, and
 - (ii) any other supply; and
 - (b) the supply is incidental to one or more of the taxable person's business activities,

the input tax shall be attributed to taxable supplies in accordance with paragraph (1) despite any provision of a method that the person is required or allowed to use under this Part that purports to have the contrary effect.

- (3) For the purpose of attributing to taxable supplies any input tax referred to in paragraph (1) incurred by a taxable person in a prescribed accounting period, the input tax shall be deemed to be the only input tax incurred by the person in the prescribed accounting period.

5 Attribution of input tax to self-supplies

If under or by virtue of any provision of the Law a person makes a supply to himself or herself, the input tax on that supply shall not be allowable as attributable to that supply.

6 Treatment of input tax attributable to exempt supplies as being attributable to taxable supplies

- (1) Subject to paragraph (2), there shall be treated as attributable to taxable supplies any exempt input tax attributable to the following supplies –
- (a) any deposit of money;
 - (b) services of arranging –
 - (i) any mortgage, or
 - (ii) any hire purchase, credit sale or conditional sale transaction;
 - (c) the assignment of any debt due to the assignor in respect of a supply of goods or services made by the assignor.
- (2) Paragraph (1) shall not apply if the supply is made by the taxable person in the course of carrying on a business of, or a business similar to, any of the following –
- (a) a bank;
 - (b) an accepting house;
 - (c) an insurance company, agent or broker;
 - (d) an investment trust or unit trust;
 - (e) an investment company;

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- (f) a Stock Exchange broker/dealer or share dealing company;
 - (g) a trustee of a pension fund;
 - (h) a unit trust management company;
 - (i) a building society;
 - (j) a discount house;
 - (k) a finance house;
 - (l) a friendly society;
 - (m) a money lender;
 - (n) a money broker;
 - (o) a mortgage broker;
 - (p) a pawnbroker;
 - (q) a debt factor;
 - (r) a credit or charge card company.
- (3) For the purpose of paragraph (2), a taxable person who carries on one or more of the businesses specified in that paragraph shall not be treated as having made the supply in the course of carrying on such a business if he or she made the supply exclusively in the course of carrying on a business which is not so specified.
- (4) In this Regulation, “supplies”, except in the expression “taxable supplies”, shall be construed as including supplies made outside Jersey which would be exempt if made in Jersey, other than supplies specified in a prescribed provision that specifies that it is made for the purposes of Article 36(1)(c) of the Law, and “supply” shall be construed accordingly.

7 All input tax to be attributable to taxable supplies if exempt input tax is low

If, in any prescribed accounting period, the exempt input tax of a taxable person is not more than 5% per month on average, all his or her input tax during the period shall be treated as attributable to taxable supplies.

8 Deduction of input tax in special circumstances

- (1) This Regulation applies if –
- (a) a taxable person has deducted an amount of input tax that has been attributed to taxable supplies because he or she intended to use the goods or services in making either –
 - (i) taxable supplies, or
 - (ii) both taxable and exempt supplies; and
 - (b) during a period of 6 years beginning on the first day of the prescribed accounting period in which the attribution was determined and before that intention is fulfilled, he or she uses, or forms an intention to use, the goods or services concerned –
 - (i) in making exempt supplies, or

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- (ii) in the case of an attribution within sub-paragraph (a)(ii), in making both taxable and exempt supplies.
 - (2) Subject to Regulation 10, if this Regulation applies the taxable person shall –
 - (a) on the return for the prescribed accounting period in which the use occurs, or the intention is formed, as the case may be, account for an amount equal to the input tax that has ceased to be attributable to taxable supplies in accordance with the method which the person was required to use when the input tax was first attributed; and
 - (b) repay the amount to the Comptroller.
 - (3) Paragraph (2) does not apply to a taxable person if the Comptroller directs that the paragraph does not apply to the person.
 - (4) For the purposes of this Regulation, any question as to the nature of any supply shall be determined in accordance with the provisions of the Law, and any enactment made under it, as in force at the time when the input tax was first attributed.
 - (5) In this Regulation –
 - “exempt supplies” includes supplies made outside Jersey (other than taxable supplies) which would be exempt if made in Jersey;
 - “taxable supplies” includes the supplies referred to in Regulation 4.

9 Non-attribution of input tax

- (1) This Regulation applies if –
 - (a) a taxable person has incurred an amount of input tax that has not been attributed to taxable supplies because he or she intended to use the goods or services in making either –
 - (i) exempt supplies, or
 - (ii) both taxable and exempt supplies; and
 - (b) during a period of 6 years beginning on the first day of the prescribed accounting period in which the attribution was determined, and before that intention is fulfilled, he or she uses or forms an intention to use the goods or services concerned –
 - (i) in making taxable supplies, or
 - (ii) in the case of an attribution within sub-paragraph (a)(ii), in making both taxable and exempt supplies.
- (2) Subject to Regulation 10, if this Regulation applies, the Comptroller shall, if he or she receives an application made by the taxable person in the form and manner, and containing the particulars, that the Comptroller may direct, pay to the person an amount equal to the input tax which has become attributable to taxable supplies in accordance with the method the person was required to use when the input tax was first attributed.
- (3) For the purposes of this Regulation, any question as to the nature of any supply shall be determined in accordance with the provisions of the Law, and any Regulations or Orders made under the Law, as in force at the time when the input tax was first attributed.

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- (4) In this Regulation –
- “exempt supplies” includes supplies made outside Jersey (other than taxable supplies) which would be exempt if made in Jersey;
- “taxable supplies” includes the supplies referred to in Regulation 4.

10 Treatment of supplies made outside Jersey

- (1) If –
- (a) Regulation 8 or 9 applies to goods or services;
- (b) the use to which the goods or services are put, or to which they are intended to be put, includes the making of any supplies outside Jersey; and
- (c) at the time when the taxable person was first required to attribute the input tax the person was not required to use a method approved or directed under Regulation 3 or that method did not provide expressly for the attribution of input tax attributable to supplies outside Jersey,

the amount which the person is liable to account under Regulation 8, or is entitled to be paid under Regulation 9, as the case may be, shall be calculated by reference to the extent to which the goods or services are used, or intended to be used, in making taxable supplies, expressed as a proportion of the whole use or intended use.

- (2) In this Regulation –
- “exempt supplies” includes supplies made outside Jersey (other than taxable supplies) which would be exempt if made in Jersey;
- “taxable supplies” includes the supplies referred to in Regulation 4.

11 Exceptional claims for tax relief

- (1) Subject to paragraphs (2) and (4), on a claim made in accordance with paragraph (3), the Comptroller may authorize a taxable person to treat as if it were input tax –
- (a) tax on the supply of goods or services to the taxable person before the date with effect from which the person was, or was required to be, registered, or paid by the person on imported goods before that date, for the purpose of a business which either was carried on or was to be carried on by the person at the time of the supply or payment;
- (b) if the taxable person is a body corporate, tax on the supply or importation of goods acquired for the body corporate before its incorporation, or on the supply of services before that time for its benefit or in connection with its incorporation, provided that the person to whom the supply was made or who paid tax on the importation –
- (i) became a member, officer or employee of the body and was reimbursed, or has received an undertaking to be

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- reimbursed, by the body for the whole amount of the price paid for the goods or services,
- (ii) was not at the time of the supply or importation a taxable person, and
 - (iii) imported or was supplied with the goods, or received the services, for the purpose of a business to be carried on by the body and has not used them for any purpose other than such business.
- (2) No tax may be treated as input tax under paragraph (1) –
- (a) in respect of goods or services that had been supplied, or, in respect of goods, consumed –
 - (i) by the taxable person, or
 - (ii) in a case to which paragraph (1)(b) applies, by the person who acquired the goods or services,before the date with effect from which the taxable person was, or was required to be, registered, unless the Comptroller permits otherwise;
 - (b) in respect of goods that had been supplied to, or imported by, the taxable person, or the person to whom the supply was made or who had imported the goods, more than 3 years before the date with effect from which the taxable person was, or was required to be, registered;
 - (c) in respect of services performed upon goods to which subparagraph (a) or (b) applies; or
 - (d) in respect of services that had been supplied –
 - (i) to the taxable person, or
 - (ii) in a case to which paragraph (1)(b) applies, to the person who acquired the services,more than 6 months before the date of the taxable person's registration.
- (3) A claim under paragraph (1) shall, unless the Comptroller otherwise allows, be made on the first return the taxable person makes and, as the Comptroller may require, shall be supported by invoices and other evidence.
- (4) A taxable person making a claim under paragraph (1) shall compile and preserve for the period that the Comptroller requires –
- (a) in respect of goods, a stock account showing separately quantities purchased, quantities used in the making of other goods, date of purchase and date and manner of subsequent disposals of both the quantities; and
 - (b) in respect of services, a list showing their description, date of purchase and date of disposal, if any.
- (5) If a person who has been, but is no longer, a taxable person, makes a claim in the manner, and supported by the evidence, that the Comptroller requires, the Comptroller may pay to the person the amount of any tax –

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- (a) on the supply of services to the person after the date with effect from which the person ceased to be, or to be required to be, registered; and
 - (b) that is an amount attributable to any taxable supply made by the person in the course or furtherance of any business carried on by the person when he or she was, or was required to be, registered.

PART 3

CITATION AND COMMENCEMENT

12 Citation and commencement

- (1) These Regulations may be cited as the Goods and Services Tax (Input Taxes and Partial Exemptions) (Jersey) Regulations 200-.
- (2) These Regulations shall come into force on...