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Your Ref:

18 June 2010

Ministry of Finance  
The Treasury  
100 High Street  
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Singapore 179434

**BY E-MAIL ONLY**  
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No. of pages: 3 pages  
(including this page)

For the attention of: Ms Huang Qinxin

Dear Ms Huang

**PUBLIC CONSULTATION ON GOODS & SERVICES TAX (AMENDMENT)  
BILL 2010**

We refer to your e-mail dated 1 June 2010 inviting the Law Society to provide our feedback on the draft amendments to the Goods & Services Tax Act.

This matter was released to our Corporate Practice Committee (the "Committee") for comments.

The Committee's views are enclosed.

Thank you for giving the Law Society the opportunity to consider the matter.

Yours faithfully



Alvin Chen  
Director, Representation and Law Reform Department

Encl.



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Date submitted :	June 18, 2010
Name :	Law Society of Singapore
Contact details :	

Date Submitted :

No.	Tax Change	Comments	Proposed change to draft GST (Amendment) Bill
1.	Amendment of Third/Fourth Schedule	<p>The proposal is to delete the words "under the Planning Act" in the Third/Fourth Schedule to the GST Act and to replace those words with "which is used or to be used principally for residential purposes".</p> <p>In the Explanatory Statement to draft Bill, it is stated that the amendment is to "clarify" the law.</p> <p>We note that the proposed amendment in fact materially changes the law, by deleting the nexus with the Planning Act.</p> <p>A change of the law should always be prospective only and should not be described as clarification only, as otherwise taxpayers who would ordered their tax affairs based on the existing law before the change may be adversely affected by a retrospective change in the law.</p> <p>Also, the proposal is to delete the reference to the Planning Act altogether and to replace it with a reference to buildings used or to be used principally</p>	<p>Rather than introduce drafting that itself creates new uncertainties, we suggest that the existing references to "approved exclusively for residential purposes under the Planning Act (Cap. 232)" be replaced by a definition of "Specified Residential Building" as follows:</p> <p><b>"Specified Residential Buildings"</b> means any building, flat or tenement approved exclusively for residential purposes under the Planning Act (Cap. 232) and:</p> <p>(a) includes such other buildings, flats or tenements or category of buildings, flats or tenements (being buildings, flats or tenements which in the Ministers opinion are normally used or used principally for residential purposes) which the Minister may, by order published in the <i>Gazette</i>, specify for this purpose; but</p> <p>(b) excludes such other buildings, flats or</p>

	<p>for residential purposes.</p> <p>However, as the Consultation Paper itself acknowledges, the proposed new definition creates new uncertainties as demonstrated by the proposal to empower the Minister to provide, by order in the <i>Gazette</i>, for what may be included as buildings, flats and tenements used or to be used principally for residential purposes, and what will not be treated as buildings, flats and tenements used or to be used principally for residential purposes. The Consultation Paper says that this is to provide clarity, particularly <i>where there may be doubt</i> as to whether there is sufficient permanency in the use of premises for purposes of accommodation, or whether the purpose of accommodation is the main purpose.</p>
<p>tenements or category of buildings, flats or tenements which the Minister may, by order published in the <i>Gazette</i>, specify for this purpose.</p>	<p>This approach would preserve the existing definition, which has the advantage of no uncertainty as to its scope, whilst at the same time providing flexibility to adjust the definitions on a <i>prospective</i> basis if required to match the intended policy.</p> <p>Further, although the primary purpose of the consultation is to canvass for drafting documents, the question should be asked whether, as a matter of policy, all 'accommodation facilities' should be exempt. There may well be a social policy reason for exempting the homes of individuals from GST, but the question may be asked whether the same reasoning inevitably applies to all accommodations.</p>