

UPDATE

Jersey – Goods and Services Tax: ring fencing of finance, fund and trust structures and vehicles

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Jersey's GST is a sales tax on the domestic consumption of imported and Jersey-produced goods and services, and is paid at five per cent of their value at the time they are sold or exchanged. The GST regime came into effect on 6 May 2008. The regime is implemented by means of the GST Law and its subordinate legislation and is administered by the Comptroller.

Introduction

GST is aimed at individual consumers in Jersey and is not intended to be a tax on businesses. It is also not intended that it have any adverse impact on the international competitiveness of Jersey's finance industry and, therefore, a special regime applicable to 'International Services Entities' (ISEs) was introduced by the GST Law. An ISE can be a company or other legal entity or a trust or a partnership that meets the statutory requirements. Most vehicles administered in Jersey for the benefit of non-Jersey residents (as well as certain local regulated businesses) qualify to be ISEs and are therefore out of the scope of GST.

This update describes the benefits of ISE status and the simple requirements to qualify for and obtain it.

Benefits of ISE status

In essence, the benefits for a vehicle in being an ISE are that the vehicle:

- need not (and may not) charge GST on supplies made by it;
- in most cases, need not pay GST on supplies made to it; and
- need not register with the Comptroller under the GST Law as a taxable business or make quarterly GST returns.

An ISE may obtain an end user relief certificate or other confirmation that it has ISE status, as described in this update.

Preconditions for ISE status

In order to be an ISE, a vehicle must be:

- a company, trustee in its capacity as trustee of a trust, partnership, limited partnership, anstalt, stiftung or foundation (in any case wherever established or incorporated) which loosely speaking (see below) does not form a link in a value chain leading to the consumption of goods or services by individuals belonging in Jersey;
- a Collective Investment Fund;
- an Unregulated Fund;
- a person regulated under the FS Law to carry on trust company business or fund services business;
- a person regulated under the Banking Business Law to carry on deposit-taking business; or
- a person (other than a Collective Investment Fund) who holds a CIF Permit;

AND it must be included on a list of ISEs maintained either privately by a Jersey trust company business regulated by the JFSC under the FS Law or by the Comptroller.

Absence of link to consumption by Jersey individuals

As noted above, a company, trustee, partnership, limited partnership, anstalt, stiftung or foundation may be an ISE if it does not form a link in a value chain leading to the consumption of goods or services by individuals who belong (which for most purposes means resident) in Jersey. More specifically, the requirement here is that:

- not more than 10 per cent in value of all the supplies made by the entity of goods and services are made to individuals who belong in Jersey;
- to the extent that the value of all the supplies of goods or services made by the entity in Jersey exceeds 10 per cent of the value of all supplies of goods and services made by the entity, the supplies in Jersey are made only to an ISE;
- no individual who belongs in Jersey has the effective use, or the effective enjoyment, of any asset owned or administered by the entity; and
- no individual who belongs in Jersey has the effective use, or the effective enjoyment, of any goods, or service, supplied to or by the entity.

Note that these requirements are not applicable to the other categories of ISE listed above, so that, for example, a person regulated under the FS Law to carry on trust company business will be able to provide any proportion of its services to Jersey resident individuals without prejudicing its ISE status.

Requirement to be on a List

A vehicle that wishes to be an ISE must be included on a list of ISEs maintained either privately by a Jersey trust company business regulated under the FS Law or by the Comptroller.

A trust company business needs authorisation from the Comptroller to maintain a private list of ISEs and any ISEs on its list must be administered by the trust company business. Such a list is not filed with the Comptroller, though he has the right to inspect it. It is not open to public inspection. The trust company business may issue confirmations that a vehicle is listed as an ISE, thereby enabling the vehicle to demonstrate to third parties that it is an ISE. Regulated trust company, fund services and deposit taking businesses and holders of CIF Permits (not being a Collective Investment Fund) may not appear on such a list, but all other ISE types may. The vast majority of ISEs appear on such lists.

For vehicles wishing to be added to the Comptroller's list, there is an online application facility. Vehicles on this list can elect to appear on the Comptroller's web page, thereby gaining a public acknowledgement of their ISE status. They will also obtain an end user relief certificate from the Comptroller demonstrating that they have ISE status.

Fees payable for ISE status

The annual fees payable in respect of ISE status are as follows:

- deposit-taking business – £50,000;
- trust company business – £7,500 (plus £200 for each related regulated entity) plus £200 for each ISE administered by it;
- fund services business (not being a Managed Entity) – £2,500;
- fund services business (being a Managed Entity) – £500;
- holder of a CIF Permit (other than a Collective Investment Fund) – £2,500;
- Collective Investment Fund – £200;
- all other ISEs (apart from trustees of trusts) – £200; and
- trustees of trusts – £0.

Glossary

Banking Business Law: the Banking Business (Jersey) Law 1991.

CIF Law: the Collective Investment Funds (Jersey) Law 1988.

CIF Permit: a permit issued by the JFSC pursuant to the CIF Law.

Collective Investment Fund: a collective investment fund as defined in the CIF Law.

Comptroller: the Comptroller of Taxes (Jersey's principal tax authority).

FS Law: the Financial Services (Jersey) Law 1998.

GST: Jersey's Goods and Services Tax.

GST Law: the Goods and Services Tax (Jersey) Law 2007.

ISE: an International Services Entity.

Managed Entity: in summary, an administrator, registrar, manager, investment manager or investment adviser which is regulated under the FS Law as a fund services business or which holds a CIF Permit and in either case which is managed under a service contract with another appropriately regulated entity.

UFO: the Collective Investment Funds (Unregulated Funds) (Jersey) Order 2008.

Unregulated Fund: an unregulated fund as defined in the UFO.

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