

GST on low-value imported goods

Submissions

September 2018

Prepared by Policy and Strategy, Inland Revenue

GST ON LOW-VALUE IMPORTED GOODS

Submissions received on the government discussion document *GST on low-value imported goods – an offshore supplier registration system*, released in May 2018.

Submission number	Submitter
PUB-013	Tandem Group Limited, Chartered Accountants
PUB-014	Private individual
PUB-015	Private individual
PUB-016	Private individual
PUB-017	Private individual
PUB-018	Private individual
PUB-019	Private individual
PUB-020	Private individual
PUB-021	Private individual
PUB-022	Private individual
PUB-023	First Global Logistics
PUB-024	Retail NZ
PUB-025	Booksellers NZ
PUB-026	SKYCITY Entertainment Group Limited
PUB-027	Customs Brokers and Freight Forwarders Federation of NZ Inc
PUB-028	Private individual
PUB-029	PwC
PUB-030	Private individual
PUB-031	Business NZ
PUB-032	CA ANZ
PUB-033	Ernst & Young Limited
PUB-034	Trade Me
PUB-035	Conference of Asia Pacific Express Carriers (CAPEC New Zealand)
PUB-036	Corporate Taxpayers Group
PUB-037	Alibaba, eBay and Etsy (joint submission)
PUB-038	Meridian Global Services

Submission number	Submitter
PUB-039	KPMG
PUB-040	Private individual
PUB-041	Transaction Services Group
PUB-042	NZ Post
PUB-043	Amazon.com
PUB-044	Deloitte
PUB-045	Taxamo
PUB-046	Private individual
PUB-047	Private individual

Some information has been withheld under the Official Information Act 1982. Withholding reasons are:

- Section 9(2)(a) – to protect the privacy of the natural person.
- Section 9(2)(b)(ii) – for commercially sensitive information.

From: s9(2)(a)
Sent: Wednesday, 2 May 2018 12:49
To: Policy Webmaster
Subject: GST on items under \$400

Good afternoon

Feedback on proposal:

Overseas companies will not register...they will play with the \$60,000 rules and it will be an administrative nightmare to police.

Why not have it collected automatically by the banking system that whenever someone makes a remittance overseas via credit card or other online means the banking network identifies the payee and grabs the GST.

I can see the ongoing collection/policing requiring voluntary registration being another cost to taxpayers that compromises the benefits to be gained.

Regards

s9(2)(a)

s9(2)(a) Chartered Accountant

tandem
group

Chartered Accountants



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2 May 2018

GST and low-value goods
C/- Deputy Commissioner Policy and Strategy
Inland Revenue Department
PO Box 2198
Wellington 6140

Policy.webmaster@ird.govt.nz

Submission on GST and low-value goods

I wish to make a submission on the review of GST on low-value goods bought from international websites.

While I broadly support the measure, some of the thinking it is incorrect.

Myth: everything's already available here

The Minister's media release of 1 May 2018 states "Large multinationals sell exactly the same products into our market without collecting GST". The selection of goods available in New Zealand is vastly smaller than what's available internationally. There are a huge number of goods that simply aren't stocked in New Zealand, meaning local retailers aren't disadvantaged when goods are purchased overseas.

For example, in April 2018 alone, I searched for quality underwear in a size 22, special camera attachments for my iPhone and specific brands of shoes, and none of these items were available in New Zealand at any price or from any retailer. While I have no issues paying GST on goods I buy locally or internationally, it's important not to perpetuate the myth that everything anyone could ever want can be purchased from a local retailer.

Myth: Kiwis are motivated to shop on international websites based on price

Service in many stores is non-existent and I don't wish to reward bad service by spending money in such stores. If I'm not going to receive personalised service, then I will purchase online either through a local or international website. To say Kiwis are shopping on international websites purely because of price is also a myth. As part of this process, retailers should take a good, hard look at their service levels and what they can do to retain customers.

Many thanks for the opportunity to comment.

Yours sincerely

s9(2)(a)
s9(2)(a)

From: s9(2)(a)
Sent: Wednesday, 2 May 2018 15:05
To: Policy Webmaster
Subject: GST on low - value imported goods

I frequently import low value goods. Usually it is assorted vehicle parts which are either unavailable or extremely expensive in New Zealand.

Avoiding GST is not an objective of my purchasing and I have no objection to paying GST. However, I find the Customs handling fee unhelpful and it should be unnecessary.

When you design your system could you implement a self compliance or " trusted importer" facility. For example, I would be quite happy for IRD to hold my credit card number and charge the GST if this would avoid delays in processing at the border and avoid the handling fee.

Happy to discuss

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From: s9(2)(a)
Sent: Wednesday, 2 May 2018 20:20
To: Policy Webmaster
Subject: GST that's already paid could get gst again.

How would a situation like this be prevented?

Say I buy 40 items at \$10 each, so I would pay gst on each Item. When customs see the value on the package is \$460 so they get to add GST and now I have to pay another \$69.

regards

s9(2)(a)

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From: Policy Webmaster
Sent: Tuesday, 29 May 2018 12:50
To: s9(2)(a)
Subject: RE: GST that's already paid could get gst again.

Hi s9(2)

Thank you for your email of 2 May which raised the potential for double taxation under the Government's proposals to collect GST on low-value imported goods in situations where multiple low-value goods are shipped together with a total value exceeding \$400.

To prevent GST being paid twice on low-value goods shipped in a single package, the discussion document suggests that the consumer would need to provide Customs with appropriate evidence that GST has already been paid on some or all of the goods in that package. For example, the consumer could retain proof of purchase (such as an invoice or an email from the supplier providing confirmation of their order) that shows they were charged GST by the supplier along with the amount of GST paid on the items. The Government is seeking feedback on whether this approach is appropriate, or whether other approaches for preventing or relieving double tax in these situations may be more workable.

For example, Australia has a slightly different approach to supplies of multiple low-value goods. While offshore suppliers should charge GST at the point of sale on goods valued at or below the Australian low-value threshold of AU\$1,000, there is an exception to this rule when the supplier has a reasonable belief that the goods will be grouped together and shipped in one package. However, in cases where the supplier is unable to form a reasonable belief that the goods will be shipped together but it turns out that the goods are in fact sent together in one package, Australian Customs will collect GST at the border if the total value is more than AU\$1,000. In these situations, the consumer is required to seek a refund of the GST from the supplier.

One point that we should probably clarify in relation to the proposals is that the value on the package should be exclusive of any GST charged by the supplier. So in your example where 40 items valued at \$10 each are shipped together in a single package, the value on the package should be \$400 instead of \$460. But you are nevertheless correct that there is the potential for double taxation under the proposals, such as where two goods valued at \$210 each are shipped together in a single package.

I trust that this response is helpful. We would be very receptive to hearing any suggestions that you may have about ways to prevent or relieve double taxation in these situations, so please send in a submission if you have any thoughts on how the proposal in the discussion document could be improved. You can write a submission to us by replying to this email.

Kind regards

Chris Gillion
Policy Manager
Policy and Strategy
Inland Revenue

[IN CONFIDENCE – RELEASE EXTERNAL]

From: s9(2)(a)
Sent: Wednesday, 2 May 2018 8:20 p.m.
To: Policy Webmaster
Subject: GST that's already paid could get gst again.

How would a situation like this be prevented?

Say I buy 40 items at \$10 each, so I would pay gst on each Item. When customs see the value on the package is \$460 so they get to add GST and now I have to pay another \$69.

regards

s9(2)(a)

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From: s9(2)(a)
Sent: Saturday, 5 May 2018 15:12
To: Policy Webmaster
Subject: GST on imported low-value goods policy

Dear Deputy Commissioner

I write to advise that I believe this policy to be a complete waste of public money, a non-existent issue and an attempt to effectively limit consumer choice. You have approached the issue from the wrong side. Did you ask New Zealand retailers why the cost of books, CDs and DVDs is so prohibitively expensive compared not just online but in actual retail outlets in other countries eg the UK? I emigrated from the UK to NZ and have bought from Amazon UK ever since because of the incredible monopoly creating rip-off pricing, particularly for books. There is no discernible competition here.

Aside from Amazon, in the UK I can go into Tesco or Sainsburys or Asda (large supermarkets) and alongside my food can buy any of the top 10 current hardbacks /paperbacks for a discount of 50% or more. Why is market in NZ limited to a few bookstores - why can't I buy a discounted best seller in Countdown or New World or Pak n Save? In the UK the selling of discounted books, DVDs and CDs in supermarkets has created competition that has brought prices down in traditional outlets such as WH Smith. On my last trip to the UK I bought 3 best-selling new release hardbacks from a retail outlet (WH Smith) for less than the NZ equivalent of \$40; those same books in Whitcoulls cost around \$110!!! How can they just that price?

If I ordered the same books from Amazon I can still get them for \$40 including postage to new Zealand! Online in NZ (Whitcoulls) they are \$110 plus postage.

Here's an example of a best-seller today and illustrates why this policy will make no difference to anyone:

Whitcoulls - online - Fire and Fury by Michael Wolff (bestseller - hardback) = \$40.95 (12-15 day wait!) Amazon UK - £9.99 - around \$19.50 (can be here in a week)

Scenario If I can order this book and then say sell it on trade me for a profit at almost half the price of Whitcoulls current price what sort of profit are Whitcoulls making (and they buy in bulk)!

Even with GST added on with this silly policy it is a no-brainer. And the GST goes to the Govt not Whitcoulls!

In October I was in the UK and ordered a CD on a Saturday evening from Amazon - it was delivered within 12 hours on a Sunday postage free.

Instead of taxing people, who have already paid their taxes here, and attempting to stifle competition you should be asking retailers here to step up their game, reduce their prices, deliver for free (or do I drive 40km into Auckland and pay \$6 per half hour to park and spend half a day to get ripped off for a single book?) and take on Amazon. And no-one has time to look for their 'community hub' bookshop - sorry but they don't exist - people need the time to work to earn the money pay your crazy taxes (local and national).

Even if prices were the same I would still buy from Amazon - the service, choice and availability is far superior. If a book goes missing or is damaged they just tell me to dispose of it and send another postage free. Do Whitcoulls do that? For goods that Amazon don't send direct to NZ I can get them delivered to a friend and they send them to me -why go to that trouble - because NZ is a massive rip-off.

There is no competition in most areas - I voted Labour but not for this - this penalises low wage earners (only the high earners would pay Whitcoull's prices).

Cheers

s9(2)(a)

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From: s9(2)(a)
Sent: Saturday, 12 May 2018 09:23
To: Policy Webmaster
Cc: s9(2)(a)
Subject: Submission on GST for items purchased online

Good Morning,

I submit that second hand goods should be exempt from this tax.

Just like 'trade me' in New Zealand, where people selling their own second hand items do not pay GST, people who are on e-bay who are not traders, but selling their own second hand items should not be expected to pay this tax. Nor should it be added at the border for second hand items over \$400. An example of this may be a wedding dress - where it is likely to cost more than \$400, but is used. Taxes have already been paid on this item in the original country when it was bought and sold the first time around.

Regards,

s9(2)(a)



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From: s9(2)(a)
Sent: Friday, 1 June 2018 10:11
To: Policy Webmaster
Cc: meka.whaitiri@parliament.govt.nz; stuart.nashmp@parliament.govt.nz
Subject: Proposed changes to GST on imported goods.

I understand there is a discussion document regarding the proposed changes to the GST charges for foreign imports. I would like to put forward my point of view.

Firstly, I am not against charging a fair amount of GST on imported goods, provided it is done in a way that does not limit consumers options. I have been importing items from overseas websites for personal use for over 10 years. Some cheaper items, up until now, have not incurred any taxes and others I have paid the tax and duty charges. One of the things that has become obvious to me is that even when you add shipping, tax and duty, New Zealand consumers have been overcharged by our local retailers for a long time.

For example, on separated occasions, I have bought an electric guitar from the USA, an electronic piano from Germany and a receiver/amplifier from the UK and after adding significant air freight costs, duty and taxes, have managed to acquire the items for between 40% and 60% of the cheapest prices available locally. Books, especially science and education books, are another example where costs in New Zealand are often significantly higher than the cost of importing. And when it comes to books, do we really want to put an additional tax on reading? Countries like the UK do not even charge VAT on books, so shouldn't we look at a similar zero-rating, rather than increasing the cost of learning?

My main reason for making this submission, is the latest news that companies like Amazon will now be blocking Australians from using their US and international websites because the Australian Government is bringing in changes similar to those you have proposed. While paying the GST and shipping will on the whole still leave overseas goods cheaper than local ones in many cases (unless you decide to introduce an unreasonable processing fee too, like you have with higher priced items), a ban on the use of the Amazon website will unfairly hit NZ consumers. So while the retail lobbyists talk about levelling the playing field, it is actually about stifling the competition, so they can continue to charge way over the global market rates.

What worries me most is that there are some items that you just can't buy in NZ. For example, I have size 15 feet and my 15 year old son has just grown into size 16. There are few, if any shoes in that size available in NZ. Rebel Sports, for example, have a total of 16 pairs of shoes available in size 15 and none in size 16 and they are better than most of their local competitors. They don't see it as worth their effort to bring in items for people who don't fit into the average. So at the moment we buy shoes from Amazon and other retailers in the US. If you bring in this proposal and it causes those retailers to ban NZ buyers then we are left with little to no choice.

So, I am in favour of charging GST, if you can find a way to do it which does not limit choices and cause international retailers to stop selling to the already hard done by Kiwi consumers. I would work through your plans with companies like Amazon prior to any law change and caution against going through with an ill-thought-through law, like they did in Australia, which is bad for consumers, limits options and is a mandate for local businesses to rip off everyday customers.

Regards,

s9(2)(a)

From: s9(2)(a)
Sent: Saturday, 2 June 2018 08:43
To: Policy Webmaster
Subject: GST on low value imported goods.

Two other options for collection:-

First, the overseas retailer could/should set up a GST registered New Zealand website if they refuse to collect GST at the parent website. As a sweetener the IRD could re-imburse these setup costs as GST comes in from such new NZ website sales. If the refusers don't set this up then their competitors will. There is scope for overseas retailers to be required to sell here via NZ websites(only?).

Second, at the time of card payment for the overseas purchase, the GST can be accounted for and paid directly to IRD. For the rare cases of a GST exempt item being levied the customer should be able to claim the incorrect charge back.

Yours faithfully, s9(2)(a)

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From: s9(2)(a)
Sent: Saturday, 2 June 2018 16:53
To: Policy Webmaster
Subject: GST and low-value goods

Dear Deputy Commissioner Policy and Strategy,

I run a small online store and have been exporting and import goods since 2004, so have an interest in how these new GST collection rules will work

From what I have read, I understand Australia looked at using the banking and credit card companies to collect the GST – this seems a more sensible way to tackle this issue as all purchases then would be caught in the net.

Since my guess is most of the worlds ecommerce sites will fall well below the threshold to be registered, and it's likely that consumers will soon learn who those smaller suppliers are, a large amount of GST will remain uncollected.

So creating a new flawed system to replace an existing flawed system doesn't make a lot of sense

There are only a small number of banks and credit card companies, so far fewer organisation who would have to make changes to collect the GST, and those organisations surely have the capacity and technical knowledge to put in place the necessary systems

GST on all imports could be levied in this way

Kind Regards

s9(2)(a)
s9(2)(a)
[Redacted]

s9(2)(a)
Cell: s9(2)(a)

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From: s9(2)(a)
Sent: Friday, 15 June 2018 10:33
To: Policy Webmaster
Subject: GST on low-value imported goods

Reasons why GST should not be imposed on buyers of low cost items from outside of New Zealand.

The Goods and Services are not being provided by companies registered or even existing in New Zealand.

This also would impose on these companies the chore of calculating and adding on the tax amount, and this may well cause companies such as Amazon to refuse to provide items to New Zealanders. This is already happening in the transactions between Amazon and Australian buyers, where Australian buyers are being directed to the Amazon Australia site which has less variety of goods. If New Zealanders are to be limited to the Amazon Australia site, they will also have increased postal costs and delays.

In many instances the goods purchased are not available within NZ. For example Books for e readers such as Kindles. At least fifty percent of the books I have read in the last year are not available in NZ shops, or available in a kindle format locally. I cannot understand why a book written in Sweden and published electronically in the USA, should garner tax revenue to the New Zealand Government.

Penalising internet customers in this way will only encourage NZ retailers to continue to provide only products that will sell quickly. This means that there is less variety being offered and panders more to popular taste.

Often the goods that are available from NZ companies are much higher priced, than those available from the Internet. This is often defended with shipping costs being quoted, but this is not sustainable when investigated. For example, Alibaba provide goods in larger amounts and with smaller postal costs. One instance Power bank charger case for iphone6 is available for \$15.99 apiece if 30 are purchased by a retailer, but sell for \$69.99 here, a 200 percent mark-up.

Personally, when I look for a wanted item I search New Zealand sites first, and then extend to overseas ones when I find things are not sold here, or are much higher priced here. After all, we all like to feel we are getting a bargain, or at least not being ripped off.

There are practical concerns with the proposed rules that would make them unworkable in practice, as consumers will be reluctant to pay higher costs, for what may well be less choice. There is no certainty that they would be increasingly inclined to buy from local retailers.

Surely it is better that New Zealand retailers become more competitive, and adjust their practices to the modern day, rather than expect that they be effectively subsidized, and continue to stick to out-dated practices.

Yours sincerely

s9(2)(a)

From: s9(2)(a) s9(2)(a)
Sent: Monday, 18 June 2018 20:03
To: Policy Webmaster
Subject: GST on low-value imported goods

Good evening

We would like to make a submission I regards to the proposed GST on low value imported goods legislation. This is further to the meeting I was part of on Friday 15th June 2018 between Customs NZ, IRD and CBAFF.

Overall, FGL is not opposed to the suggested legislation changes to collecting GST or to the changes in De Minimis and we feel this is a good idea. As ecommerce continues to increase we recognise it is important to ensure GST is being collected to pay for vital Public services. Having a change in De Minimis to a specific value is a move in the right direction and it will make explaining the de Minimis to consumers much easier than our current arrangement. We get a lot of upset consumers who are not expecting to have to pay for any Customs clearance charges or duties on arrival so anything that can help avoid this for them or simply make it easier for them to take this into consideration prior to them making a decision to purchase on line is important.

We would however recommend having a higher De Minimis such as NZD1000. This would keep it in line with AU and is a level more and more consumers think we are at now. It would also reduce the number of consumers having their parcels stopped on arrival as they have purchased a number of times over several days / weeks from a shipper and they have had their purchases all end up on the same flight so combined they are over NZD400. IRD still collects ST an Duty is minimal or not applicable due our various free trade agreements.

In terms of the value to determine whether a good is a low value good or not we believe your only option should be the Customs value and not the Total amount paid by consumer less GST (amount of the goods plus FRT and Insurance).

- This keeps it in line with the value for exports to determine low or high value.
- This keeps it in line with AU regulations
- Including the freight and insurance paid would add another level of complexity for us on arrival and would be extremely difficult to ascertain on a consignment by consignment basis.
- It would also provide a greater incentive for the declared freight values to be different to what has been paid in order to keep the combined value less than \$400
- From an ecommerce perspective the freight amount paid changes between platforms, can be free during a sale and one platform can have several different freight prices depending on the service selected which adds another complexity in determining what the freight amount paid would be.

It terms of the GST registration process we have some points we feel should be considered.

- To only collect GST on goods \$400 or less from consumers and not on the goods more than \$400 would be far too complex and is adding an unnecessary level of complexity to this system. We believe you should adopt a system where overseas Companies who are GST registered can collect GST on all sales to Consumers regardless of the value of the goods. On arrival consignments that are more than \$400 in value will be stopped at the border for a high value entry. Provided the customer can use the commercial invoice as proof that they have already paid GST to the shipper they will avoid double taxation on GST and simply pay the Customs import charges and any applicable duty. They would be paying these regardless.
- Most large ecommerce companies and certainly all of ours would not have accounting and dispatching systems in place to determine whether goods would be sent together or on the same incoming flight to work out if they should charge GST at the point of sale or not. Having one order in which some items had GST collected and some did not would be far too complex for most accounting software.
- We strongly suggested that it would be medium to high possibility of some businesses fracturing their business to avoid having to collect GST by keeping their total Business to Consumer Sales below \$75000. IRD and Customs would need to work closely together on this to ensure companies that were doing this were caught.

- We feel that it is excellent that IRD and Customs have advised that they are working on joint scheme to monitor businesses import values to check if those bringing in over \$60k were registered. However this monitoring work would rely heavily on the values and information we and other CBAFF members supplied in their low and high value entries. The issue with this is that while other integrated Courier Companies supply this information electronically it is currently not supplied by goods coming in via Post. This would give shippers more incentive to use this import method. Particularly from some countries into NZ.

We note that IRD have raised a concern on consumers being taxed twice. Once at the border and once at the point of sale. We feel this was a moot point as on arrival the customs broker would be checking if GST had already been collected or not by looking at the commercial invoice. They always require a copy of the commercial invoice in order to complete a customs entry so this would already need to be requested.

If GST was collected twice by mistake then this should be refunded by Customs and not the vendor. While large well known Vendors would look to do the right thing and refund their customers not all vendors would and it would not be fair to put the NZ customer at a disadvantage when it is the NZ public this initiative is designed to benefit.

The ATO come to NZ and held several presentations this year to NZ eCommerce Exporters on the upcoming changes 1st July 2017. This was extremely valuable for our customers and it would be highly recommended that IRD did the same in AU and other countries.

We also feel that the data matching across NZ and AU mentioned is a great idea. Being able to register in AU or NZ and have the same codes work in both countries would be ideal as a lot of our shippers send to both AU and NZ already. It would also make it easier for those only sending to AU now also want to look at NZ.

We are more than happy to discuss any of the above submission with either IRD or Customs further if required.

Thanks and regards

s9(2)(a)

Branch Manager



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20 June 2018

GST on low-value imported goods
 C/- Deputy Commissioner Policy and Strategy
 Inland Revenue Department
 P O Box 2198
 WELLINGTON 6140

BY EMAIL: policy.webmaster@ird.govt.nz

GST ON LOW-VALUE IMPORTED GOODS: AN OFFSHORE SUPPLIER REGISTRATION SYSTEM**Introduction**

1. Retail NZ is a not for profit membership organisation representing the interests of the retail sector. We have about 4,000 members, representing both physical stores and ecommerce retailers. Collectively our members account for about two-thirds of total retail turnover in New Zealand.
2. We have advocated for many years for Government to act and apply GST to low-value goods entering New Zealand and are strongly supportive of the Government's decision to do so, acting on advice from the Tax Working Group. The move will effectively level the playing field for domestic retailers which currently have a 15 per cent price disadvantage.
3. The proposed offshore supplier model is our preferred option for the collection of GST. It is a sensible and pragmatic solution, preferable to collection between the point of sale and delivery, or after delivery, as both would require entirely new systems to be devised. Collection at the point of sale for physical goods is the natural extension of the system that was implemented successfully for services and intangibles in 2016.
4. We are broadly supportive of the proposal as outlined in the discussion paper and our comments are summarised below:

Summary of major points and recommendations:

- Retail NZ is strongly supportive of the Government's decision to collect GST from offshore suppliers of low-value goods.
- We are strongly supportive of an offshore registration supplier model for collecting GST on low value goods, because it is simple, straightforward, and in line with the Australian approach.
- We are in favour of the earliest possible implementation date given the growth rate of online shopping.
- We support a threshold for supplier registration being \$60,000 revenue in a 12-month period.
- We favour an approach that requires offshore suppliers to return GST on goods valued at or below \$400, instead of the current *de minimis* of \$60 of "duty". This flat threshold will vastly simplify understanding and compliance.
- In principle, we support the removal of tariffs and cost recovery charges for goods valued at or below \$400, but we are concerned that New Zealand-domiciled retailers will still suffer a competitive disadvantage in relation to duties on items below the \$400 threshold. This may need future review in the event that tariffs become more significant given current changes in international trade.
- We are strongly supportive of online marketplaces and "redeliverers" being included in the offshore supplier model.

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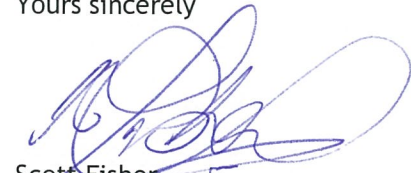
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5. For too long New Zealand based retailers have been at a competitive disadvantage compared with offshore suppliers because of inconsistent tax treatment. There are many reasons that consumers shop online, including convenience, product range and price. However, tax treatment should not be a factor, as the discussion paper correctly notes.
6. We are in favour of the earliest possible implementation date. In February, Marketview and BNZ's Online Sales Index showed that spending with offshore merchants was up 12 per cent on same month last year. Given the continuing growth of online shopping, and that the system is already working well for services and intangibles, the extension to physical goods should happen without delay.
7. As the discussion paper notes, it is difficult to estimate the total revenue foregone resulting from the non-collection of GST on low-value imported goods. This is because we don't have good data about the volume and value of goods under the *de minimis* crossing our border. Customs has estimated it at around \$80 million in 2016 but our earlier estimates have suggested it could be much higher.
8. The experience of applying GST to services and intangibles has shown that the actual revenue collected is much more than initially estimated. When the system was proposed it was estimated that the Government was foregoing approximately \$40 million a year in revenue. Total revenue from the GST returns filed by offshore suppliers for the first twelve months was \$113 million.
9. Before the implementation of offshore registration for services and intangibles there was also concern about uptake and non-compliance. That has also proved not to be a major issue and over 200 merchants have registered to date.
10. Marketview and BNZ data shows that spending with offshore merchants was \$1.3 billion in 2017 and 77 per cent (\$1 billion) was with merchants that exceed \$60,000 a year in New Zealand. Given the high proportion of spending this threshold will cover we support it being at this level.
11. We favour the proposed approach that requires offshore suppliers to return GST on goods valued at or below \$400, instead of the current *de minimis* of \$60 of "duty" - this removes the complication of determining the product type and the country of origin in order to correctly apply a tariff.
12. We support the removal of tariffs and cost recovery charges for goods valued at or below \$400. This is a much easier threshold to understand and apply than the roving *de minimis* of \$60 duty owing.
13. However, the collection of tariffs on those goods valued at more than \$400 (and not on items worth less than \$400) means that New Zealand domiciled businesses will continue to suffer a competitive disadvantage as a result of Government policy. We understand the practical constraints involved in collecting tariff on low value goods, and note that the previous Government had a long-term goal to remove tariffs from all imports. Tariffs are specifically designed as a protectionist measure to impede free trade. Overall, we support their removal, particularly on products where there is no longer any substantial New Zealand manufacturing base. We encourage the Government to continue seeking to reduce and eliminate tariffs on a multilateral basis. This is the ultimate solution to the problem created by tariff barriers. Until such time as this occurs, we recommend that the Government continue to look at sensible ways of collecting tariff on goods worth less than \$400. In the event that current international trade disputes lead to an escalation of tariffs on inbound goods, we would expect the Government to prioritise solutions to this.
14. We are strongly supportive of online marketplaces and "redeliverers" being included in the offshore supplier model, if they are excluded there is a real risk that this will provide another loophole that allows GST to be avoided by offshore suppliers. We note that placing an obligation on electronic marketplaces like TradeMe and Ebay will widen the revenue collection net to include many purchases made from smaller suppliers, thus helping level the playing field. Additionally, when consumers shop via a marketplace, they tend to look at a particular platform for the transaction, rather than individual supplier. That is to say, a consumer typically looks to buy a product on Ebay or Amazon, rather than searching a marketplace for a particular supplier.

15. We support the detailed proposals for registration and returns. Extending the existing GST registration system is a straightforward approach. New Zealand's existing GST registration system is already working well for foreign suppliers of digital services, and we see no reason why it won't also be effective for low value goods.
16. In the longer-term, we also support exploring joint-registration systems with other countries, and potentially a single harmonised GST system. The more that Australia and New Zealand can simplify and streamline border requirements, the better it will be for both businesses and consumers.
17. All of our submission may be released if required under the Official Information Act. We are happy to be contacted to discuss our submission.

Yours sincerely



Scott Fisher
CEO

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Booksellers^{NZ}

21 June, 2018

GST ON LOW VALUE IMPORTED GOODS: AN OFFSHORE SUPPLIER REGISTRATION SYSTEM

SUBMISSION ON NZ GOVERNMENT DISCUSSION DOCUMENT BY BOOKSELLERS NZ INC.

BY EMAIL: policy.webmaster@ird.govt.nz

Introduction

Booksellers New Zealand Incorporated (BSNZ) is a not for profit membership organisation representing the interests of some 300 booksellers in almost every community in New Zealand. A summary of our main points are listed in the box below.

Summary of major points and recommendations:

- BSNZ is strongly supportive of the Government's decision to collect GST from offshore suppliers of low-value goods.
- We are supportive of an offshore registration supplier model for collecting GST on low value goods, because it is simple, straightforward, and in line with the Australian approach.
- We are in favour of the earliest possible implementation date given the growth rate of online shopping.
- We support a threshold for supplier registration being \$60,000 revenue in a 12-month period.
- We favour an approach that requires offshore suppliers to return GST on goods valued at or below \$400, instead of the current de minimis of \$60 of "duty". This flat threshold will vastly simplify understanding and compliance.
- In principle, we support the removal of tariffs and cost recovery charges for goods valued at or below \$400, but we are concerned that New Zealand-domiciled retailers will still suffer a competitive disadvantage in relation to duties on items below the \$400 threshold.
- We are strongly supportive of online marketplaces and "re-deliverers" being included in the offshore supplier model.

-
1. Since 2009 we have been researching the effects on the competitive position of our members as a result of the loophole in the application of the existing Goods and Services Tax Act 1985. This has allowed New Zealand consumers to avoid paying GST on consumption of low value goods purchased from offshore online retailers. We have been advocating strongly that this has placed New Zealand bookshops and other small retailers in an unfair competitive position
 2. The New Zealand Government's GST legislation was designed to be universally applied and the small exceptions to this, including the original granting to NZ Customs of an exemption on collecting GST on goods below \$400, saw the universality largely enforced.
 4. However, the purchasing of low value goods from offshore online retailers has grown hugely in recent years and has grossly exposed the 1985 exemption when there was very little online retailing, if any.
 3. The introduction of new legislation establishing an offshore supplier model that will require offshore online retailers, and related marketplaces, to collect GST on sales into New Zealand will effectively level the playing field for domestic retailers which currently have a 15 per cent price disadvantage.
 4. The proposed offshore supplier model is a sensible and pragmatic solution, preferable to collection between the point of sale and delivery, or after delivery, as both would require entirely new systems to be devised.
 5. Collection at the point of sale for physical goods is the natural extension of the system that was implemented successfully for services and intangibles in 2016.
 6. We are supportive of the proposal as outlined in the discussion paper and our comments are summarised below:
 7. For too long New Zealand based retailers, both in bricks and mortar stores and online, have been at a competitive disadvantage compared with offshore online suppliers because of the outdated application of the 1985 legislation providing a loophole for online offshore retailers. This affects the New Zealand bookshops and other retailers in many ways, stunting their growth, and reduction in employment, and includes a detrimental flow-on effect to suppliers and the general commerce within a community..
 8. Bookshops in particular, are hubs of their communities and thus the cultural health of communities throughout New Zealand are put at risk if they cannot compete fairly.
 9. We are in favour of the earliest possible implementation date. The systems that will be needed to implement the new legislation are largely in place as a result of the requirement of offshore online retailers supplying digital services, such as e-books, to collect GST.
 10. As the discussion paper notes, it is difficult to estimate the total revenue foregone resulting from the non-collection of GST on low-value imported goods. This is because we don't have good data about the volume and value of goods under the de minimis crossing our border. Customs has

estimated it at around \$80 million in 2016 but our own research has suggested it could be much higher.

11. Research conducted by Victoria University for BSNZ in 2011 suggested that online sales by New Zealand retailers would increase substantially if offshore online retailers were required to collect GST on their sales into New Zealand.

12. The experience of applying GST to services and intangibles has shown that the actual revenue collected is much more than initially estimated. When the system was proposed it was estimated that the Government was foregoing approximately \$40 million a year in revenue. Total revenue from the GST returns filed by offshore suppliers for the first twelve months was \$113 million.

13. Before the implementation of offshore registration for services and intangibles there was also concern about uptake and non-compliance. That has also proved not to be a major issue and over 200 merchants have registered to date. It is noted that one major supplier of books into New Zealand, Abe Books (owned by Amazon) has already informed New Zealand bookshops that if they sell into Australia the price of their books will be increased by 10 per cent as Abe Books intends to comply with the Australian legislation as of 1 July, 2018

14. We favour the proposed approach that requires offshore suppliers to return GST on goods valued at or below \$400, instead of the current de minimis of \$60 of "duty" – this removes the complication of determining the product type and the country of origin in order to correctly apply a tariff.

15. We support the removal of tariffs and cost recovery charges for goods valued at or below \$400. This is a much easier threshold to understand and apply than the roving de minimis of \$60 duty owing.

16. We are strongly supportive of online marketplaces and "re-deliverers" being included in the offshore supplier model. If they are excluded, there is a real risk that this will provide another loophole that allows GST to be avoided by offshore suppliers. We note in many cases in the United States where States have legislated to ensure that online retailers collect sales tax on previously exempted cross border sales, re-deliverers have not been included which has created another large loophole.

17. The Australian model, like that proposed for New Zealand, closes this loophole by ensuring that re-deliverers are required to pay GST.

18. We support the detailed proposals for registration and returns. Extending the existing GST registration system is a straightforward approach. New Zealand's existing GST registration system is already working well for foreign suppliers of digital services, and we see no reason why it won't also be effective for low value goods.

19. In the longer-term, we also support exploring joint-registration systems with other countries, and potentially a single harmonised GST system. The more that Australia and New Zealand can simplify and streamline border requirements, the better it will be for both businesses and consumers.

20. We would be happy to present our views in person and our submission is available to be made public if required.

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25 June 2018

GST on Low-value imported goods
C/- Deputy Commissioner Policy and Strategy
Inland Revenue Department
PO Box 2198
WELLINGTON 6140

By email: policy.webmaster@ird.govt.nz

Dear Madam

The following brief submission has been prepared by SKYCITY Entertainment Group Limited on the discussion document released by official's titled "*GST on Low-value imported goods: An offshore supplier registration system*".

SKYCITY Entertainment Group is a member of the Corporate Taxpayers Group and supports the position the Group has adopted in relation to re-deliverer delivery costs.

Our Submission

SKYCITY is supportive of the changes proposed in the discussion document subject to the proposals creating minimal compliance costs for NZ businesses. The discussion document seeks submissions on how the design of the proposed rules could be improved so they are more effective or have lower compliance costs.

The proposals confirm that goods supplied to GST-registered businesses would be excluded from the regime unless the offshore supplier decided to zero-rate the supply (in order to claim costs associated with business to business supplies.)

Since the recent changes enacted to deal with the non-collection of GST on cross-border services and intangibles, SKYCITY has experienced difficulty with some overseas suppliers affected by these provisions due to the supplier:

- Not correctly identifying that the business is GST registered; and

- inadvertently charging GST, and not supplying a valid tax invoice in accordance with the requirements under the GST Act 1985, thereby precluding the business from being able to claim an input tax deduction under the general rules.

The discussion documents propose (similarly to the GST on cross border services model) that NZ businesses identify themselves as GST registered or if errors occur that the business contact the offshore supplier directly to rectify the mistake. In such circumstances the discussion document proposes that a refund be provided from the supplier or the supplier could provide the GST registered business with a full tax invoice.

Under the GST on cross border services model SKYCITY has experienced that this increases the compliance cost on the NZ business. Suppliers are reluctant to issue refunds or have difficulty fulfilling the prescriptive requirements of issuing a valid GST tax invoice.

SKYCITY submits that to assist overseas suppliers to correctly determine whether a supply is being made to an NZ GST registered person that consideration be given to establishing a centralised GST Lookup system such as the Australian *ABN Lookup* register (<https://abr.businesss.gov.au>).

Alternatively, to reduce the compliance costs on NZ businesses, SKYCITY proposes that the proposed relaxed tax invoice requirement for offshore suppliers also be acceptable for the claiming of a GST input tax credit where NZ businesses are incorrectly charged GST under the GST on low-value imported goods regime.

I agree to Inland Revenue contacting me to discuss the above submission if required.

Yours faithfully



Richard Smyth
Deputy Chief Financial Officer

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Submission on “GST on low-value imported goods: An offshore supplier registration system”

A government discussion document – published May 2018

Introduction

The Customs Brokers and Freight Forwarders Federation of New Zealand Incorporated (CBAFF) wishes to make a submission the discussion document published in May 2018 in respect to GST on low value imported goods.

CBAFF

CBAFF is the leading industry association representing customs brokers, freight forwarders and related service providers in New Zealand’s part of the international supply chain. The representation for such service providers also extends to their clients being importers and exporters. Those service providers and their clients are the parties subject to control of the New Zealand Customs Service, the Ministry for Primary Industries and Inland Revenue Department, together with other agencies such as the Ministry of Transport, Maritime New Zealand, Civil Aviation Authority, Environmental Protection Authority and the Ministry of Foreign Affairs and Trade. CBAFF has a long history of engaging with the NZ border agencies on matters relating to the regulation of the passage of goods in and out of New Zealand and relating to wider trade policy issues such as the development and implementation of Free Trade Agreements and the development of cargo security initiatives.

CBAFF is a member of FIATA – the International Federation of Freight Forwarders Associations and the Federation of Asia Pacific Air cargo Associations and works closely with other associations representing similar groups to those CBAFF represents. This includes Australian Federation of International Forwarders and Customs Brokers and Forwarders Council of Australia with whom CBAFF has worked collaboratively.

In undertaking these roles, CBAFF draws upon the expertise of its members and their long history of representing service providers in the supply chain and those importers and exporters in the supply chain.

The membership of CBAFF comprises some 110 companies delivering supply chain services for international trade to New Zealand and overseas companies. Supply chain services include:

- government agency compliance,
- arranging and/or providing transportation – international and domestic,
- warehousing / storage,

- repairs / maintenance,
- reverse logistics and
- order fulfilment.

Submission presented by

Rosemarie Dawson
Executive Director
Customs Brokers and Freight Forwarders Federation of New Zealand Inc
P O Box 34-149
Birkenhead
Auckland 0626

June 2018

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SUBMISSION

In regards to the discussion document published May 2018 entitled “GST on low-value imported goods: An offshore supplier registration system”.

1. The proposal is certainly to be commended for creating “fairness” when viewed in relation to the New Zealand retail market.
2. The process for administering the scheme will be somewhat challenging for the Freight and Express industries and in this respect the proposal is short on specific operational detail. The proposal is specific in relation to registration.
3. Para 3.3. To differentiate at the point of sale between goods value at under or over NZ\$400 is adding an unnecessary level of complexity to this system. Based on the “broad based” GST system, Companies who are GST registered should collect GST on all sales regardless of the value of the goods. On arrival consignments over \$400 in value would be stopped at the Border for a high value entry clearance subject to any applicable duty, GST on CIF value and Transaction fees less GST paid at point of sale.
4. Para 3.6. We support the change of “de minimus” from \$60 duty value to goods value. Based on “goods value” will make it easier and simpler to explain than the present “de minimus” based on duty value. The level of “de minimus” on goods value should reflect that of our main trading partners. Our recommendation would be for a de minimus of NZ\$1000.
5. Para 3.8. We support the valuation being that of the value of the goods.
6. Para 3.10. We support the broad based GST system with few exceptions.
7. Para 3.12-3.15. The supply of multiple low value goods is likely to create some headaches and an unnecessary level of complexity. If Point 3 above is adopted then no further action required. If point 3 is not adopted then the differentiation in value between sales under or over NZ\$400 will create additional costs for overseas suppliers.
8. Para 3.17-3.19. Instances where multiple low value goods may have had GST applied at point of sale that should be subject to Border clearance should have provision at time of Border clearance for any point of sale GST to be offset against collection at the Border. This could be actioned by way of a credit claim in the Border clearance and supported by evidence of GST paid at point of sale.
9. Para 3.17. What appropriate evidence is likely to be acceptable? This potentially will bottleneck the flow of consignments through the Postal system and Express Couriers which would be counter-productive to the system designed to expedite the collection of GST.
10. Para 3.24. We question the rationale behind exempting supplies to GST registered business. Para 1.6 states that New Zealand’s GST system is a broad based consumption tax, based on the destination principle. This means that all goods and services should be subject to GST when they are consumed in New Zealand. Current trading within NZ business to business attracts GST with provision to claim inputs. For simplicity at the point of sale there should not be another layer of distinction relating to GST registered businesses.
11. If however there is to be a distinction between GST registered business’ then in relation to Para 3.24-3.25 concern is expressed around the business to business exclusion of GST based on the supply of a NZ business number. A NZ business number does not necessarily mean that the

business is registered for GST. We would suggest that supply of a GST registration number (para 3.25) is implicit upon the business as a declaration of their GST status.

12. Whilst creating “fairness” for the NZ retail market it implies “unfairness” in that it only applies to offshore suppliers who voluntarily choose to register. Suppliers who don’t register but supply items under the new de minimus of NZ\$400 will provide a benefit to consumers given the new “de minimus”
13. At the Border there will be difficulty in distinguishing between items/suppliers where GST has been applied, items/suppliers who are not registered and therefore no GST collected, supplies to GST registered entities where no GST need be applied and GST on multiple value consignments where GST has and has not been applied in relation to the value of the goods.
14. Concern is expressed that the proposal is around the collection of GST (revenue) on low value goods but of equal or greater importance is the recognised pathway for biosecurity risk.
15. Concern is expressed in respect to liabilities for the Brokers involved where both Administrative Penalties and Infringement Notices (as per the new Customs and Excise Act commencing October 2018).
16. Concern is expressed around the resources needed to administer the proposal. Already both Customs and MPI resources are stretched to deal with normal commercial importations without the added volumes of administering low value consignment. As an industry we would be gravely concerned if the costs involved were then reflected over imports with neither Customs nor MPI benefiting from the Import Transaction Fee and Biosecurity System Entry Levy.

ENDS

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From: s9(2)(a)
Sent: Thursday, 28 June 2018 14:38
To: Policy Webmaster
Subject: GST on imported low-value goods

To Whom It May Concern:

I wish to formerly give feedback regarding the proposed changes to the collection of GST on imported low-value goods ordered online.

Before I begin, I wish to state that I have no issue with GST being collected on these goods.

With that said, I feel the proposed implementation is flawed and risks potentially unforeseen consequences that will negatively impact Kiwi consumers while offering zero benefit to New Zealand retailers.

Many people, including myself, will tell you that we shop online from overseas outlets simply because we cannot get what we need here. Shopping online for me is not a matter of choice, but one of necessity. Where I can purchase locally, I always will.

As an example, I recently desired a fountain pen from Faber-Castell. Rather than immediately heading to Amazon, I contacted a local retailer of fountain pens and asked her if she would be able to import it for me. While there was some delay in completing the order from request to receipt, ultimately I was satisfied with the product and happy to support a local business.

Unfortunately, this retailer is a rare exception. Most businesses decline such requests, if they even consider them at all. And as someone who requires 6XL or larger clothes, I am required to order from overseas.

Trust me, I wish I could go down to The Warehouse and get underwear to fit me, but it's a lottery. I've even tried to order from them online. Despite stating that they had the product in stock and charging my card, about a week later I received an email stating that they didn't have the item in stock anywhere in the country and refunded me. I ended up ordering the same item from Australia, and was able to get three pairs rather than the single pair The Warehouse would let me purchase on their website.

This leads to my issue with the proposed changes. Asking the retailer to administer GST presents a very real risk of retailers deciding that compliance is not worth the hassle when catering to such a small market. New Zealand often overestimates its importance in the global scale, and one only needs to look at the recent decisions Amazon has taken in regards to Australia, a much larger market than ours, to see that there is a risk to the availability of goods to the New Zealand public.

Already, many international retailers will not ship to New Zealand, which itself has seen to rise of forwarding services. Burdened with collecting GST for a foreign government potentially results in a similar Amazon-vs-Australia scenario where New Zealand IPs are geoblocked and unable to access the site at all.

Again, this results in fewer goods available to New Zealand, a reduced tax take for the government, and no advantage to New Zealand retailers who are not stocking these products in the first place. This will result in limited stock and limited choice for New Zealanders, who will be, like decades previous, be hostage to the whims of local retailers and what they deem to be worthwhile bringing to market. And as someone who is utterly reliant on the ability to purchase clothing from overseas, I am extremely worried at the government's insistence to proceed with this plan.

If GST is to be collected, under the pretence that this levels the playing field for New Zealand retailers, then there are better, less risky ways to do this than to place the burden on overseas entities that have absolutely no reason to comply. Collection at the border for all parcels would still allow this tax revenue to be collected, and an online system for payment and release of parcels would easily mitigate the administrative costs involved. This is just one of many potential solutions.

With experience in retail myself, I have seen local distributors decide that the New Zealand market is too small, with sales too low, to warrant dealing with it. Again, I stress that there is a huge risk that international retailers, with no obligation to go to the hassle and expense of collecting GST for the New Zealand government, might also decide that the country isn't worth the hassle. Without a hint of humour or irony, I sincerely hope that you reconsider this approach, as I really do need clothes to wear.

Kind regards and many thanks,

s9(2)(a)

s9(2)(a)

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GST on low-value imported goods
C/- Deputy Commissioner Policy and Strategy
Inland Revenue Department
P O Box 2198
Wellington 6140

policy.webmaster@ird.govt.nz

29 June 2018

GST on low-value imported goods: an offshore supplier registration system – A Government discussion document

Dear Madam

Thank you for the opportunity to comment on the *GST on low-value imported goods: an offshore supplier registration system* discussion document (the discussion document).

We agree in principle with the proposals outlined in the discussion document. New Zealand's GST system operates based on the destination principle, which charges GST on all goods and services supplied in/to and consumed in New Zealand. Measures that address the inconsistent imposition of GST between goods purchased locally, and goods purchased and imported from overseas, will strengthen New Zealand's GST base.

However, while the proposals may have merit from a pure policy perspective, the final design of the proposal will be critical in order to ensure the rules are workable for those affected and achieve the desired outcome in the most efficient way. We therefore strongly urge that officials seriously consider the compliance impact the proposals will have on those who are captured by the rules.

Our submission provides feedback on topics as requested in the discussion document. We also note further areas that we consider requires official's considerations.

All legislative references are to the Goods and Services Tax Act 1985, unless otherwise specified (the Act).

Electronic Marketplaces

Electronic marketplaces (EMs) are currently required to register and remit GST on the supply of remote services to a person resident in New Zealand. The discussion document proposes that the scope of this rule should be extended to incorporate the supply of low-value imported goods (low-value goods).

In our view, a straight extension of the rule does not allow for the array of different business models that operate within the EM environment for low-value goods. The key point to note is that the business models between low-value goods and remote services can differ significantly, therefore it is possible that the existing EM model would impose entirely different challenges for those that operate an EM that contains low-value goods. In short, there is a spectrum of EMs and there may not be a "one size fits all" solution.



For example, some EMs merely facilitate the interaction between suppliers and consumers - they do not process any payments or handle goods. EMs who operate in such fashion would be required to significantly adjust their business structure to comply with the proposed rules. The proposal should not impose unfair burdens on or generate excessive compliance costs for offshore businesses as officials pursue an efficient and administrable system.

The United Kingdom uses a joint-and-several liability (JSL) approach to the collection of VAT on the supply of goods made within EMs. The JSL rules hold EMs liable for GST where the EM knew or should have known that the offshore supplier should have been GST-registered, but was not. In this approach, the EM plays an active role in policing the GST registration status of offshore suppliers within their marketplace without the need to substantially adjust their business model. Other features of the JSL approach in the UK includes the lack of a turnover threshold for registration, and the ability for an offshore supplier to appoint an agent or 'tax representative' to handle their UK VAT obligations.

The JSL approach is an alternative to the current proposed EM model which could reduce the compliance burden on EM operators.

We therefore submit that further consideration is given to the proposals concerning EMs. We note that the proposals around EMs should, at a minimum, include the ability for an EM to use a New Zealand agent to comply with their obligations. This would replicate the current rules that apply for remote services and can be a good alternative for EMs to manage their compliance costs.

We understand that officials are currently reviewing various options in relation to EMs and PwC NZ will continue to liaise with officials on these options. We will also liaise with officials on the definition of "electronic marketplace".

Re-deliverers

We understand and appreciate the need to include re-deliverers within the proposal. The exclusion of such businesses from the system could present the situation where consumers may opt to purchase goods via a re-deliverer in order to avoid paying New Zealand GST.

However, as with EMs, it is important that the final design of the proposal take into account the business model of re-deliverers. A clear understanding of what information and knowledge re-deliverers have in terms of their customers and the goods they process is required to ensure the final design of the proposals can be incorporated easily into existing business processes.

Australia's "Reasonable Belief" Exception

Under the Australian model, an offshore supplier who reasonably believes that the supply of low value goods, when combined together surpasses AU \$1000, will be grouped and sent together, can shift the imposition of GST from the point of sale to the time at which the consignment arrives at the Australian border. This is referred to as the "reasonable belief" exception. Feedback has been sought as to whether the exception should be incorporated into New Zealand's rules.

We believe that this is an unnecessary measure that if introduced would increase compliance costs for offshore suppliers as well as create uncertainty for consumers. This is because consumers may get confused as to whether GST had been charged on goods at the time of supply. As such, on balance we do not support the introduction of a "reasonable belief" exception.



However, it will be important that a simple process is available to the New Zealand consumer to demonstrate GST has been paid where a consignment is stopped at the border. This will go to the overall customer experience for the New Zealand consumer, therefore it is important that the process needs to be simple so that the process is not seen as an additional barrier to the purchase of goods.

De Minimis Threshold – Definition and Value

We welcome a change to the way in which the *de minimis* is defined. The current definition has historically caused a significant amount of confusion for consumers importing goods. Defining the *de minimis* in terms of the value of the goods themselves, rather than the dutiable component of the goods, will bring clarity and certainty to consumers and offshore suppliers as to the tax treatment of imported goods.

In our view, the proposed \$400 threshold value is appropriate at this stage and the threshold could be reviewed two-three years after the rules are introduced. This value complements the existing operation of processes conduct by Customs at the border, while collecting tax revenue currently foregone.

Valuation Methodology

The valuation methodology for determining whether GST is required to be charged on a supply of goods has been raised by officials as an area requiring further consideration. We agree that this is a critical concept. Any resulting valuation methodology should be easy for offshore suppliers to understand and comply with.

The issue is exemplified by the sale of a low-value good with an associated cost (e.g. shipping charge) which causes the total amount paid by the consumer to be more than \$400. For customs valuation purposes, associated costs (such as costs of shipping) are included in determining value. Therefore, there is some merit in using the same methodology to reduce complexity.

Furthermore, by the time New Zealand initiates an offshore supplier registration system, offshore suppliers who supply low-value goods into Australia would have had 15 months of experience with the Australian model. This model requires the deduction of freight and insurance costs in determining if goods fall above or below the *de minimis* threshold. When goods fall below the threshold, GST is imposed on the full transaction amount – an amount inclusive of freight and insurance costs (i.e. a ‘customs value’ approach’). It would be most efficient for offshore suppliers if New Zealand were to follow the same approach as Australia.

We note that in the discussion document, the value of the goods in the various examples generally include shipping costs. It would be useful to have the valuation methodology specifically clarified to ensure there is no confusion as to the value of the goods to which New Zealand GST applies to.

Transitional measures

We note that the transitional measures that were included within the remote services rules helped ensure a smooth transition into the new rules. For example, the six-month transitional period for the first return provided those affected with sufficient time to adjust their systems and processes in order to determine and comply with their GST obligations.

We strongly submit that the transitional measures that applied for the remote services rules apply to low-value goods also.



Commission and fees

If offshore sellers, re-deliverers, or EMs have a GST liability, clarity is required in relation to the GST treatment of agency fees paid by principal to agent due to the fact that in some case agents (or intermediaries) may have a GST liability on the sale depending on the final shape of the rules and concessions.

General

Please feel free to contact us should you wish to discuss our comments further.

Yours faithfully

Eugen Trombitas
Partner

s9(2)(a) [Redacted]
s9(2)(a) [Redacted]

Sandy Lau
Director

s9(2)(a) [Redacted]
s9(2)(a) [Redacted]

RELEASED UNDER THE OFFICIAL INFORMATION ACT

From: s9(2)(a)
Sent: Friday, 29 June 2018 11:35
To: Policy Webmaster
Subject: Proposed changes to GST on overseas purchases

I am opposed to the introduction of GST on small value overseas purchases and I urge the government to reconsider.

New Zealand has a relatively small population and is geographically isolated. It is inevitable that many items are simply unavailable for purchase within NZ. Consumers therefore have no choice but to look overseas for such items.

Furthermore, though things are improving, few retailers in NZ offer a mature and efficient online shopping experience. Even within NZ, therefore, it is often challenging to source and purchase a particular item even when it is available, especially for people living away from the main commercial centres (and even if located, items are sometime unreasonably expensive, often not in stock, delivery times can be long and unreliable, and communication poor). In many cases, then, consumers again have little choice, if they want an effective and reliable service, but to turn to overseas retailers.

I doubt that almost anyone buys overseas in preference to buying within NZ, where the latter is possible and practical. Personally, within the last month I have spent several thousand dollars with NZ retailers and about \$200 with an overseas retailer. The overseas items - particular sports equipment - could not be found in NZ, yet I previously spent around 5 times that amount with NZ retailers in related purchases. NZ retailers have not lost out. If anything, the opportunity to buy certain items overseas makes it more likely that I will make related purchases within NZ (purchases that I might otherwise not have made).

Given that consumers are shopping overseas not from disloyalty but from necessity, rather than seeing the non-collection of GST on low value goods as a loophole to be plugged, it would be fairer to treat it as a small tax break for consumers in a difficult position. Retailers complain that as things stand it is not a level playing field, but they are themselves failing to provide a level playing field for consumers, in terms of choice, price, availability, and an effective means of shopping.

If the government does unfortunately go ahead with its proposals, I would suggest it also makes another alteration, namely to do away with the \$400 threshold altogether. This threshold will be further accentuated with the proposed changes. In particular, I suggest that however the tax is collected, there should be no additional fees applied. If sub-\$400 purchases must be subject to GST (and only GST) then it would make sense - and simplify things enormously - to apply the same to all purchases. (Besides, it has always struck me as unreasonable to be charging such large amounts (or, frankly, any amount) for the administration of collecting other charges, namely tax and duty.)

Finally, as I am sure the government is well aware, the imposition of the same sort of tax in Australia has led to Amazon blocking Australian consumers from its global sites. If this were to happen in NZ, it would be a great blow to NZ consumers. Whatever the government chooses to do with regard to GST, all steps should be taken to ensure that it (or anything along the same lines) does not happen here.

Yours Sincerely,

s9(2)(a)

23 July 2018

GST on low – value imported goods
C/- Deputy Commissioner Policy and Strategy
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Dear Sir/Madam

Re: GST on Low-value imported goods: An offshore supplier registration system

Background

I am writing in regard to the discussion document released by the Inland Revenue Department (IRD) entitled “*GST on low-value imported good: an offshore supplier registration system*” (‘the discussion document’).

BusinessNZ took the opportunity to submit on this issue in 2015 via the *GST: Cross-Border Services, Intangibles and Goods* discussion document. There we outlined our views on a range of issues relating to the collection of GST on imported goods and services, including our conclusion that any changes should remain in line with New Zealand’s overall GST system, at present one of the cleanest in the world.

BusinessNZ’s principled approach

In principle, BusinessNZ supports the Government in charging GST on imported goods, as well as on digital products and other services. As with GST on goods and services domestically, GST on offshore purchases should be broad and consistent. However, we have always been conscious of the need to distinguish between such a requirement and the situation where the practical and compliance implications for those who collect the tax outweigh the revenue collected.

Ultimately, what the Government should aim for is an enhanced GST system that best meets the needs of the three key interested parties, business, consumers and government. Any solution meeting the needs of only 1 or 2 of these groups will not provide a long-term policy answer and will inevitably lead to ongoing revisions that create further distortions and compliance issues.

BusinessNZ believes the various moving parts need to be balanced. There is a fine line between ensuring GST collected from offshore purchases meets general compliance requirements and minimises tax base erosion and ensuring the collection requirement does not, at the same time, create unintended consequences that effectively damage

New Zealand's economic base. One way to make certain these objectives are met is by avoiding extreme measures and instead taking a pragmatic and reasonable approach.

Getting offshore companies on board

Chasing the 'last dollar' will invariably lead to increased compliance and transaction costs, which could fall heavily on offshore suppliers exporting items to New Zealand. For some, the increased costs will simply mean New Zealand becomes a 'no-go zone', preventing both New Zealand consumers and businesses from purchasing items they want. And New Zealand businesses could experience reciprocal problems when looking to export their own goods if this country is perceived as one where transacting goods across borders is difficult.

We strongly agree it is important to create a level playing field to enable New Zealand businesses to compete with offshore suppliers. However, from a broader perspective we would not want the Government to think the review will provide a panacea for all competitiveness woes.

Acknowledging New Zealand's place in the world

In a global context, New Zealand is a very small market, whether measured using variables such as total GDP or the value of imports and exports. We are also a distant market and therefore have become a country whose efforts to reduce trade barriers have provided at least a comparative advantage over countries and regions with far larger economic clout but with trade barriers in place.

When looking to create a better balance between the obligations of domestic and offshore suppliers, the Government should not make GST policy changes that lead those suppliers to view New Zealand as somewhere to be avoided from a terms of trade point of view - possibly due to significant compliance procedures associated with the export of goods or services. Overly complicated and onerous GST measures might more negatively affect New Zealand, compared with similar arrangements offshore, simply, as a small market in the global economy, because of existing impediments.

Simplicity of capturing at source

In our 2015 submission, BusinessNZ favoured the option of identifying those enterprises which deal with the bulk of sales to New Zealand, requesting they collect GST on behalf of the New Zealand Government. We believed identifying the main players would be relatively easy and it would not take a sizeable number of enterprises to ensure the greatest amount of revenue was collected.

Therefore, we are pleased to see that of the three options considered in the current discussion document, the Government has decided to proceed with the 'at the point of sale' option, whereby suppliers would be required to register for, collect and return GST ("offshore supplier registration").

Overall, we believe the offshore supplier registration option is the best way forward, and should be introduced.

Primary Recommendation: In principle, the offshore supplier registration system should proceed.

But notwithstanding our primary recommendation that of the options considered, the offshore supplier registration system should proceed, we also wish to take the opportunity to outline a recent concern that has arisen across the Tasman. The Government needs to be cognisant of this problem when developing the GST policy further.

Mindful of learning from offshore experiences

In relation to the point raised above regarding getting offshore companies on board, paragraph 4.4 in the discussion document points out that *"For some suppliers, the compliance costs of registering and returning GST may outweigh the revenue collected in supplying low-value goods to New Zealand customers. As far as possible any new rules should be designed in a way that does not pose a barrier to trade with New Zealand as this could reduce market competition and consumer choice"*. BusinessNZ agrees. In fact, we do not have to look far abroad to see the current state of play in Australia, given the country is going through its own major review of the GST issue.

BusinessNZ agrees the best way forward is to require offshore suppliers to register, collect and return GST on supplies of goods to New Zealand consumers where the value of the goods is \$400 or less. However, recent developments in Australia show this change process as not perhaps as straightforward as first believed.

As paragraph 2.21 of the discussion document points out, the Australian Parliament has enacted similar legislation to that proposed for New Zealand, namely that offshore suppliers of goods register for GST in Australia and collect and return GST on goods supplied to Australian consumers valued at or below AU\$1000. Suppliers must do this if the total supplied to Australia exceeds the AU\$75,000 threshold for GST registration. The requirement comes into force on 1 July 2018.

However, in late May, Amazon announced that from 1 July it would block Australians from buying from its international e-commerce websites and restrict them to a smaller local platform. While other significant offshore suppliers such as Ebay and Alibaba have confirmed post the Amazon announcement that they would not be blocking Australian users, the fact that one of the largest suppliers of goods in the world has taken this step means there is nothing to stop other major suppliers following a similar path, especially if the challenge of implementing the tax is greater than the size of the market supplied. Given the New Zealand population is roughly 20 percent the size of Australia's, our pulling power as a market puts us in an even more delicate position.

At the very least, BusinessNZ believes there are two steps IRD needs to take before looking to implement an offshore supplier registration system. First, it needs to assess exactly where Australia sits in relation to the collecting and remitting of GST in terms of major international suppliers other than Amazon. We do not consider lack of agreement from a few offshore suppliers should prevent this new regime from proceeding. However, if some of the largest suppliers to the New Zealand market are blocking customers, then the trade-off between the three interested parties discussed above comes into play, as the benefit of revenue collection may be superseded by loss of consumer choice due to an adverse offshore business reaction.

Second, with regard to the above, we note, on page 5, that what is proposed would apply from 1 October 2019. Should there be continuing uncertainty over possible

retaliatory measures from major offshore suppliers, BusinessNZ would recommend delaying the application date. Ensuring the most cost effective and optimal way of tackling the GST issue is one thing, but the cost of having a large part of the offshore goods pipeline blocked for New Zealanders might be too high a price to pay.

Recommendation: That the application date of 1 October 2019 is moved out if there are ongoing and persistent concerns over offshore suppliers blocking New Zealand buyers.

Private Sector Technical Assistance

Given the current issues in Australia and the potential to move application dates out to ensure a quality regulatory outcome, BusinessNZ is also mindful of the fact that the implementation of an offshore supplier registration system may be more problematic for certain businesses than initially considered. In particular, those facilitating the sale of goods between third-party buyers and sellers.

The Government needs to be mindful of what this system would mean for such companies that either wholly or partly provide a way in which to enable consumer-to-consumer and business-to-consumer sales through their website. We believe that to ensure an outcome that minimises compliance costs and recognises that one size does not fit all, the formation of a private sector technical working group to work through such issues should be considered. Only by having direct input from such private sector experts will IRD be able to ensure a system that not only works for all those affected, but also seeks to collect the correct amount of GST revenue.

Recommendation: That IRD look to establish a private sector technical working group for those businesses who facilitate the sale of goods between third-party buyers and sellers.

Thank you for the opportunity to comment.

Kind regards

s9(2)(a)

s9(2)(a)

Economist
BusinessNZ

GST on low value imported goods: an offshore supplier registration system

CA ANZ Submission, June 2018

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Cover letter

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29 June 2018

Cath Atkins
Deputy Commissioner, Policy and Strategy
Inland Revenue
PO Box 2198
Wellington

Dear Cath

GST on low-value imported goods: An offshore supplier registration system

Thank you for the opportunity to comment on the Discussion Document “*GST on low-value imported goods: An offshore supplier registration system*” and provide feedback. We have also had the benefit of discussing the proposal with officials to feed in our thoughts at a concept stage and appreciate the time and effort made by officials to engage with us.

Overall we believe the proposals are sensible, timely and appropriate. A fundamental principle of GST is that it should tax the consumer at the place of consumption, in the simplest and easiest way possible. A summary of our submissions is set out at the end of this document and our detailed submissions are in chapters 3, 4 and 5.

In our view the proposed rules should be seen as an interim step to an eventual technological solution. We assume that, in time, technology will have advanced sufficiently for Governments to receive information about the nature and value of goods in a timely manner and to be able to deal with the tax aspects in an easy and low cost way. We urge officials to continue to investigate and develop technology solutions that will reduce compliance costs for businesses, Government and consumers.

In addition, we strongly believe that the proposals point to the need for a publicly searchable register of New Zealand businesses and their GST status. This would provide independent comfort to offshore suppliers looking for reassurance that their customer is GST registered. A searchable register would also be invaluable to New Zealand businesses and to Customs for compliance checks. The Ministry of Business, Innovation and Employment (MBIE) provides a searchable register for the NZBN, but this register does not include GST registration status. In our view, that register should include GST registration status, or a separate register should be introduced by Inland Revenue that provides information on a business’s GST registration. We

would not anticipate privacy issues given that all GST registered taxpayers are required to advise their customers that they are GST registered by issuing a Tax Invoice.

We would be happy to discuss our submission with you. Please contact s9(2)(a)

Yours sincerely



John Cuthbertson, CA
NZ Tax Leader, CA ANZ



Paul Dunne, FCA
Chair, CA ANZ Tax Advisory Group

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General comments

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General comments

Thank you for the opportunity to comment on the Discussion Document and provide feedback. We have also had the benefit of discussing the proposal with officials at a concept stage and appreciate the time and effort made by officials to engage with us.

Overall we support the proposal to introduce the measures outlined in the Discussion Document as an interim measure. We assume that, in time, technology will have advanced sufficiently for governments to receive information about the nature and value of goods in a timely manner and be able to deal with the tax aspects in a simple and low cost manner, as well as provide a more comprehensive collection of the consumption tax.

The Tax Working Group's conclusion was that these proposals should proceed because practical concerns meant that the alternative options (either taxing between the point of sale and delivery, or after delivery) were not feasible in the short term. Governments should continue to investigate advances in technology so that when the practical concerns of the alternative collection options have been addressed then Government can introduce the alternatives. The "expanded vendor" registration model is not a perfect solution. The model will result in some goods not being subject to GST – such as when the goods have a value of less than \$400 and the vendor is not GST registered (even if they should be). Thus, the proposals still leave a significant hole in the collection of GST on imported goods.

Notwithstanding the above, in our view, the "expanded vendor" collection model currently has the greatest potential to provide an efficient and effective solution to the issue of taxation of low-value imported goods. We support the proposal as an interim step for a vendor model that also leverages the scale, aggregating and centralising power of electronic distribution platforms and intermediaries in the supply chain where appropriate. We acknowledge that expansion to include further entities will include some complexity and we discuss this further in chapter 3 of our submission.

The measures proposed will have the effect of aligning the rules for goods with the rules for services, already introduced. (Although we note that this is not the case if the goods are consumer-to-consumer supplies).

Moreover, the proposed measures are very similar to those introduced in Australia and are also broadly similar to the model used in the EU. This will promote ease of business for multinationals who are looking to register in many countries at once. The Australian rules have only just come into effect and New Zealand should be looking to Australia to see where their measures have been effective and where we should look to modify our proposals to deal with issues encountered.

The similarity with overseas jurisdictions will also be invaluable as technology develops further and a wider range of measures become available to collect tax on cross-border sales of goods. We believe the measures outlined in the Discussion Document will eventually be superseded by a technology solution, likely involving international co-operation. Therefore, it is imperative that New Zealand develop a new regime that takes international norms into account as much as is

possible while constructing a system that is appropriate for our economy and business environment. We believe that the proposals as outlined strike an appropriate balance between these two considerations.

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Offshore supplier registration: scope of the rules

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Offshore supplier registration: scope of the rules

Goods included and excluded

Exclusions of certain goods from the proposed regime

We agree with the proposal to exclude certain goods from the proposed rules.

It is consistent with GST policy to continue to treat fine metal as exempt from GST and thus not subject to the proposed rules, although we agree with the comments in the Discussion Document that it is unlikely that many will seek to import fine metal with a value below the threshold of \$400.

In addition, we agree with the proposal to exclude alcohol and tobacco products from the proposed rules. These products have their own regime and are subject to additional taxes for public health reasons. It would not be sensible to include these products within what is intended to be a simplified regime. In addition, we note that this is in line with the rules in Australia.

Supplies of multiple low-value goods

We agree with the proposal to treat a consignment of goods that is above the threshold as being subject to the current rules and taxed at the border. This rule is consistent with current practice and is sensible where the supplier is aware of the total value of the goods supplied. In addition this approach is consistent with the rules to be implemented in Australia.

Preventing double taxation

We agree that double taxation needs to be prevented. However, significant work needs to be done to ensure that an efficient process is applied. The current proposal is to allow a consumer to contact Customs with evidence that GST has already been paid on the goods. Officials will need to give thought to how to make this process as streamlined as possible. The proposal in the Discussion Document sounds time consuming and bureaucratic.

One suggestion would be to include a prior notification procedure. The vendor could notify Customs that they are sending goods where GST has already been charged. Customs needs to develop trusted vendor or documentation protocols which allow easy Customs clearance so that the focus is on audit activity rather than clearance at the border.

Another option would be to allow consumers to notify Customs prior to their goods coming into the country that they are expecting a shipment of goods with GST paid. This procedure would also allow Customs to check when the goods arrive and allow the consumer to receive goods in a timely manner.

Ultimately we expect that a technology solution is needed but understand that this may not be possible in the short-to-medium term. Therefore, we recommend that officials consider one of the options above.

“Reasonable belief” exemption

The Discussion Document asks for feedback on whether New Zealand should adopt Australia’s “reasonable belief” exception. The exception “means that if the supplier reasonably believes that the multiple goods will be grouped together and shipped in one consignment, GST can be charged at the border instead of by the offshore supplier” (paragraph 3.20). Feedback from our members in public practice suggests that this would be useful for their clients.

Option to tax

If a “reasonable belief” exemption is not adopted, it would be of use to offshore suppliers to have an “option to tax” – that is, if the supplier is not sure whether the goods will be shipped in one consignment or not, they could have an option to charge GST. If it is subsequently discovered that the goods are shipped in a larger consignment and GST is charged at the border, the consumer could use the process proposed at paragraph 3.17 to prevent double taxation.

Returns and refunds

We support the proposal in paragraph 3.23 of the Discussion Document. The proposed rule is that, when an offshore supplier issues a refund, they would be able to adjust their output tax in a subsequent GST return. There would be a time limit for the adjustment based on the input tax rules.

This rule is necessary as most offshore suppliers will be using simplified (pay-only) GST returns and are not able to claim input tax credits.

Supplies to consumers and GST-registered businesses

We support the proposal to include only supplies to consumers within the scope of the new rules.

We also support the proposal to allow an offshore supplier to zero rate the supply to a New Zealand registered person.

We discuss both of these in more detail below.

Identification of New Zealand consumers

It is proposed that a supply will be treated as being made to a New Zealand consumer if there is a New Zealand delivery address. This is appropriate as it is highly likely that the consumption of

the goods will be in New Zealand. In addition, this is a straightforward test and thus has low compliance costs for suppliers.

Supplies to businesses excluded

We support the proposal to exclude supplies to New Zealand GST-registered businesses. There is currently no revenue leakage provided the business is fully taxable and therefore we do not believe that there is a need to include these supplies within the scope of the regime.

There will be an increase in compliance costs for some overseas suppliers, who will need processes in place to identify business suppliers.

However, the exclusion of supplies to GST registered recipients from the rules places an incentive on the recipient to inform the supplier of their registration status. This is because, if the business is inadvertently charged GST, the New Zealand business will need to obtain a Tax Invoice from the supplier. The Tax Invoice will need to comply with the requirements in section 24 of the GST Act. Obtaining a Tax Invoice is likely to be difficult and the process time consuming. It will be simpler for the New Zealand business recipient to simply supply its IRD number to the overseas vendor. This incentive to provide an IRD number increases the likelihood that the GST charge is accurate.

The introduction of these proposals should also give Government an opportunity to review the requirements in section 24 and consider whether the advances in technology mean that certain fields are no longer necessary. In addition, we suggest that the threshold for the simplified tax invoice be raised.

We agree with the comments in the Discussion Document that the proposed exclusion may mean some offshore suppliers are outside the regime entirely (i.e. those which supply only to GST registered businesses), which we agree is desirable.

Rules for identifying business-to-business supplies

We agree with the proposed rules for identifying business-to-business suppliers. In particular, we support the proposal to allow the recipient to use the New Zealand Business Number (NZBN). The MBIE website has a searchable register which allows anyone to confirm independently that the NZBN is correct.

Officials should consider extending the publication function. It is our view that Government should provide a searchable register that shows a business's name, GST registration status and IRD number (if GST registered). If there are concerns with making a registered person's IRD number publicly available, Government should consider using the NZBN for GST purposes.

Our members have a strong desire for an independent process that would enable them to verify another business's GST registration status. This function is available in Australia and generally works well. The argument is even stronger for offshore suppliers. Offshore businesses that

supply goods and services online will generally have less direct interaction with their customers compared to those who sell domestically. In the case of suspected fraud, it would be most helpful if the supplier could search a register to check if a business was legitimate and was in fact GST registered.

Ability to zero-rate business-to-business supplies

We support the proposal to allow an offshore supplier to zero rate the supply to a New Zealand registered person. It will allow an offshore supplier to claim input tax if they have incurred costs in New Zealand which were subject to GST.

Allowing an option to zero rate is also consistent with the rules in section 8 of the GST Act, which essentially allow an overseas supplier making supplies to New Zealand GST registered recipients to opt into New Zealand's registration system.

The proposed rule is also consistent with the rule for offshore suppliers of services.

Reverse charge for GST registered businesses

We agree with the proposal to require a New Zealand registered recipient to return GST where the goods will also be used for exempt or private purposes.

We question whether this should be more accurately characterised as a change of use adjustment. We assume that a change of use adjustment would be more accurate and more similar to domestic purchases.

We still see a place for a reverse charge where the goods will be used wholly for non-taxable purposes and the purchaser has incorrectly provided an IRD number and is not actually GST registered, or has incorrectly claimed that the goods will be used for business purposes.

New Zealand businesses being inadvertently charged GST

The easiest and most painless way for a New Zealand business to recover inadvertently charged GST is to claim the GST as input tax in its next GST return.

The proposal in the Discussion Document is to allow a New Zealand business to claim the GST in its return, provided the recipient is able to obtain a full Tax Invoice from the supplier. We believe this is a good intermediate step between allowing an input tax claim (low compliance cost) and requiring the business to obtain a refund from the supplier (generally higher in compliance cost). We recognise that officials will see a possible revenue risk in allowing an input claim without evidence that the supplier has paid the corresponding output tax and thus we support the proposals as drafted.

Tariffs and cost recovery charges

We agree with the statement in the Discussion Document that Customs collecting tariffs and cost recovery charges on goods valued at or below \$400 would undermine the efficiency of the proposed system (paragraph 3.45). We strongly support the proposal to remove the tariffs and cost recovery charges on low-value goods for the reasons outlined in paragraph 3.46 of the Discussion Document.

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Registration requirements and return filing

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Registration requirements and return filing

Registration threshold for offshore suppliers - \$60,000

We agree with the threshold of \$60,000 of New Zealand supplies. This will be easily understood because New Zealand currently has a registration threshold of \$60,000. We believe having a common registration threshold that is easily understood will make it more likely that offshore suppliers will comply.

Moreover, there has been comment in the New Zealand media about the role of the proposals in “levelling the playing field” for New Zealand retailers. Requiring the same dollar value registration threshold will enhance the credibility of the proposals as establishing a level playing field.

In reality, the threshold applies only to supplies made to consumers in New Zealand, whereas a domestic supplier must take into account total worldwide supplies, to both businesses and consumers, so domestic and offshore suppliers do not in fact have the same registration threshold. Nevertheless we agree that the New Zealand Government should be careful not to impose a barrier to trade and thus should not look to impose a compliance burden on an offshore supplier unless it will result in a revenue benefit.

We note that where a non-resident vendor exceeds the \$60,000 threshold it is unlikely that they will automatically register for GST in New Zealand. Rather, it is likely that only those vendors who have material supplies of goods into New Zealand will register. This is an inherent issue with the vendor registration model. While it is addressed partly by the proposed “marketplace” rules, they do not provide a full solution, hence our comments above that these proposals should be seen as only an interim step.

Special rules for marketplaces and re-deliverers

Marketplaces

The Discussion Document proposes that a marketplace be required to register when:

- customers would normally consider the marketplace to be the supplier; and
- this is reflected in the contractual arrangements.

Paragraph 4.10 of the Discussion Document suggests three criteria for determining when the marketplace be required to register (i.e. when the two criteria above are met). They are when the marketplace:

- authorises the charge to the customer;
- authorises deliver of the goods to the customer; or
- sets any of the terms and conditions of the transaction.

These criteria are very similar to those in the Australian rules.

By way of background, many popular New Zealand sites are more akin to online classifieds. Australian officials consider online classifieds to be outside the scope of the “marketplace” rules and we agree with this treatment.

One of New Zealand’s most popular e-commerce sites is a listing platform, allowing vendors to advertise and sell their goods. Offshore vendors may also use the platform to list their goods. Goods purchased on the platform are not purchased from the platform itself, or from a related company. The platform supplies the vendor with the means to list the goods and charges a listing fee (either before or after sale). The platform is similar to a mall operator such as Westfield, in that it provides a shop front for retailers and charges a fee to the retailers, but is not responsible for, or involved in, the sales to the consumers. Taking this example, we assume that these platforms would qualify as online classifieds and would not meet the definition of a “marketplace”.

At the other end of the spectrum are sites such which allow consumers to purchase through a range of channels. They supply goods directly to New Zealand consumers but also hosts other suppliers on its website. The other suppliers also sell the goods directly to consumers. Some of the other suppliers are part of the same group of companies. Others are independent retailers.

Taking this example, we assume that such a overseas platform would qualify as a “marketplace”. The definition will need to make clear for which supplies:

- The offshore platform is the seller in its own right;
- The offshore platform must return GST as a “marketplace”; and
- The offshore platform does not need to return GST because the seller is registered separately for New Zealand GST and is required to charge New Zealand GST on the sale.

A practical concern is that it is not always clear to consumers whether they are making a payment to the platform or the underlying supplier. Therefore, in our view, the criteria should not require customer knowledge of the contractual arrangements.

We understand that the criteria in paragraph 4.10 are very similar to those used in Australia. However, from discussions with our members it would seem that the Australian rules do not always allow the parties to distinguish between each of the scenarios easily.

One example is the criterion relating to authorisation of payment. We understand that some suppliers of online classifieds provide a service whereby the platform may hold the payment until the goods are received. This service provides protection for supplier and recipient. However, we do not believe that offering this service makes the platform the supplier. Accordingly, in that situation, the platform should not be required to remit the GST on the goods supplied. We request specific clarification on this point and to have further consultation if a different view is proposed.

The Discussion Document states (at paragraph 4.12) that underlying suppliers would still be required to register for supplies made to New Zealand residents not connected with the marketplace. A key question is whether the overseas supplier would need to take into account supplies made through the marketplace or whether the registration requirement would exist only where the supplies made outside the marketplace exceed the registration threshold. We assume that supplies through a marketplace are excluded when determining whether the threshold is met for direct supplies but believe this must be specifically clarified.

In addition, it will be crucial to know when a supply is considered to be “through the marketplace” and when it is not.

The Discussion Document states (paragraph 4.13) that “the compliance costs for these smaller suppliers fall away when the requirement to register and return GST is shifted to the marketplace”. We would like to know whether Government has evidence of this. The marketplace rules remove registration, GST return and payment from the supplier. However, there will be other compliance costs between the marketplace and the supplier (e.g. complex reimbursement arrangements) which would mean that the overall compliance costs for the supplier have not reduced overall.

Re-deliverers

We agree that it is sensible to require a re-deliverer to register for and charge New Zealand GST where the original supplier has no knowledge that the goods are to be shipped to New Zealand. We understand that most re-deliverers require the consumer to provide information about the type and value of the goods to be shipped. We assume that re-deliverers will be able to alter their systems to charge GST to the consumer in addition to their current costs. However, we recommend that officials check with re-deliverers to ensure that this is workable.

(We note that the inclusion of re-deliverers in the model means that there is a consumer GST model being applied – although aggregated to a re-deliverer – and wonder whether this suggests that a consumer model is achievable).

We support the proposal that freight forwarders and courier companies, who are simply carrying out a delivery function, not be caught by the rules for re-deliverers. However, the rules will need to provide a clear distinction between a re-deliverer as described in the proposals, and a simple freight forwarder.

Moreover, the rules should provide a distinction between a re-deliverer and a finance-type company such as lay-buy or afterpay. We understand that these companies may pay the merchant directly for the goods and arrange for the merchant to ship the goods to New Zealand. Thus the payment company would meet the second of the criteria listed at paragraph 4.19 because it is purchasing the goods on behalf of the consumer.

In our view, it would be more logical for the retailer to return the GST in that situation rather than the payment company. We assume from the comments in paragraph 4.11 of the Discussion

Document that officials are aware of this issue and intend that the rules will be drafted so that it is the retailer who accounts for GST rather than the payment company. We mention the issue here because there is a risk that a payment company could fall out of the “marketplace” rules yet be required to account for GST as a “re-deliverer” and we do not believe this would be a desirable result.

Simplified registration system

We agree with the proposal to allow overseas suppliers of goods to use the simplified registration system already in place. We understand from our members that this system is working well (although we note that our members have said that their clients generally find the New Zealand GST registration process to be straightforward by comparison with other countries).

Consequence for non-residents registered to claim input tax

At present, non-residents are able to claim New Zealand GST input tax on costs incurred in making their overseas supplies. However, a condition of a non-resident being able to claim GST for their overseas supplies is that the non-resident does not make taxable supplies in New Zealand.

If these non-residents are subject to the non-resident supplier rules, the GST refund rules would need to be modified to allow GST to be claimed for expenses relating to their overseas supplies.

Filing periods

We strongly support the proposal to allow offshore suppliers to file quarterly returns. This is consistent with the EU filing requirements. Thus it will reduce compliance costs for large international organisations who file indirect tax returns across the world.

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Enforcement, compliance and penalties

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Enforcement, compliance and penalties

We agree with the comments in the Discussion Document that ensuring that the rules are workable and easy to comply with will be the best way to ensure voluntary compliance.

Measures to bolster compliance

We strongly support the proposal to explore joint compliance initiatives with other jurisdictions in the future. In particular, we believe that a joint GST registration system with Australia would likely result in additional Government revenue from businesses that would not otherwise be required to register.

The first steps will be to investigate technology that will allow this. Officials should continue to investigate ways in which this could occur including the technology used in other jurisdictions.

Penalties for false representations by consumers

We believe it is appropriate to extend existing penalties and interest rules to offshore suppliers.

The Discussion Document proposes to require a person to register and pay the GST that should have been returned where as a consumer they have made false representations that they are in business to evade the GST impost. The Discussion Document gives very little detail on this proposal except to say that it would apply in exceptional cases. The spirit of the rule sounds sensible. However, the detail will be important. Without further information we are unable to provide additional comment.

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Summary of submissions

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Summary of submissions

General Comments

- Overall, we believe the proposals are sensible, appropriate and timely.
- The proposals should be unnecessary once sufficient technology is available to allow New Zealand Customs to tax at source.
- We continue to believe that Government should publish a publicly available list of those registered for GST with either their IRD number or NZBN.
- We support the proposal to change the basis of the de minimis to the value of the goods imported. This will be more workable for suppliers. We believe the \$400 threshold is sensible and appropriate.

Offshore supplier registration: scope of the rules

Goods included and excluded

- We agree with the decision to exempt fine metal, alcohol and tobacco from the proposed rules.
- We agree with the proposal to treat consignments of goods where the total value is above the threshold as subject to tax at point of sale.
- A procedure should be put in place to allow the person to contact Customs in advance to advise that GST has already been charged.
- New Zealand should adopt a “reasonable belief” exemption
- If a “reasonable belief” exemption is not adopted, the rules should allow an “option to tax” where there is reasonable belief that the goods will not be grouped together, or where the vendor is unable to ascertain whether goods will be grouped together.

Returns and refunds

- We support the proposal to allow an offshore supplier who issues a refund to adjust their output tax in a subsequent GST return.

Supplies to consumers and GST-registered businesses

- We agree that a New Zealand delivery address would be adequate evidence that the goods are likely to be consumed in New Zealand.

- We agree with the proposal to exclude supplies to New Zealand businesses. This is consistent with the rules for services.
- We agree with the proposals for identifying New Zealand businesses and, in particular, the proposal to allow the use of the NZBN.
- We strongly believe that officials should consider a public, searchable register of a business's GST status.
- We agree with the proposal to allow an offshore supplier to zero rate business-to-business supplies.
- We agree with the concept of requiring a New Zealand business to return GST if the goods are purchased partly for private or exempt purposes. We question whether this would be better achieved through the change of use rules.
- We agree with the proposal to allow a New Zealand businesses inadvertently charged GST to obtain a Tax Invoice from the supplier and return GST in its GST return.

Tariffs and cost recovery charges

- We agree with the decision to remove tariffs and cost recovery charges on imported goods below the threshold.

Registration requirements and return filing

Registration threshold

- The threshold of \$60,000 is sensible and logical. Making the threshold at the same level as for domestic sellers of goods should assist to "level the playing field" with domestic sellers.

Special rules for marketplaces and re-deliverers

- The rules will need to be clear about what is considered a "marketplace" and subject to the marketplace rules. In particular, online classifieds should not be a "marketplace" and should not be subject to the marketplace rules. New Zealand should not simply adopt Australia's rules.
- The rules will also need to be clear about which supplies are included in the registration threshold – particularly where an offshore merchant makes supplies in its own right and through a marketplace.

Simplified registration system

- We agree with the proposal to include overseas suppliers of goods within the simplified registration system and to allow quarterly filing.

Enforcement, compliance and penalties

- We strongly support the proposal to explore joint compliance initiatives with other jurisdictions in the future.
- We believe it is appropriate to extend the existing interest and penalties rules to offshore suppliers.

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GST on low-value imported goods
C/- Deputy Commissioner Policy and Strategy
Inland Revenue Department
PO Box 2198
Wellington 6140

29 June 2018

Email: policy.webmaster@ird.govt.nz

Dear Cath

Submission on government discussion document *GST on low-value imported goods: An offshore supplier registration system*

We refer to the proposals contained in the government discussion document, *GST on low-value imported goods: An offshore supplier registration system* ("the DD") and Inland Revenue's associated memorandum *GST on low-value imported goods proposals: Scope of the marketplace rules, double taxation issues and valuation methods for determining whether goods are above or below the proposed \$400 threshold* ("IRD memo"). We appreciate the opportunity to comment on the proposals.

- 1 Summary of main comments
 - 1.1 The proposals address a material, longstanding hole in the GST base and in principle we support charging GST on low-value imported goods. The proposals should improve the tax neutrality between imported and domestically retailed low-value goods, without imposing major disruption on consumers importing goods.
 - 1.2 However, aspects of the proposals require further consideration to ensure the rules are workable in practice and do not result in unnecessary compliance costs. Our main comments are summarised below, followed by a more detailed analysis:
 - ▶ We believe it will be hard to enforce compliance with the proposed rules and there is a risk that many businesses will not comply.
 - ▶ The ability of Customs to administer the \$400 threshold will be crucial to the success of the proposals.
 - ▶ The option of collecting GST between the point of sale and delivery should be further explored for possible implementation in the medium term – the current proposals are likely to provide an interim solution only.
 - ▶ A post-implementation review should be carried out after no more than five years following enactment of the proposals.
 - ▶ In relation to double taxation:
 - The ideal solution would be to stop double taxation from occurring in the first place. Could there be a Customs hotline or online portal to allow the supplier/consumer to prevent double taxation before the goods arrive?
 - If preventing double taxation is not possible, the question of how the consumer can provide appropriate evidence as to GST already collected needs to be explored and appropriately resolved before the proposals are implemented.
 - Requiring exchange rate information on import entry documentation is likely to place additional compliance requirements on Customs when the variances may not be material. In addition, a special system for New Zealand may not be realistic. Instead,

if Customs has evidence that GST has been paid, could it be allowed not to enforce the \$400 threshold for those goods rather than check exchange rate calculations?

- The "reasonable belief" exception is too subjective and will be difficult for Inland Revenue to enforce.

▶ In relation to electronic marketplaces ("EMPs"):

- We agree with treating the marketplace as the default supplier of the goods, however there is a risk that some EMPs may be reluctant to supply into the New Zealand market as a result of the new rules, similar to the experience in Australia.
- Deeming the EMP operator to be the supplier in relation to supplies made in New Zealand (on which GST is working well) seems unnecessarily complex. The alternative option of deeming the EMP operator to be the supplier only if the vendor is based outside New Zealand is also not without issues.
- We do not support a carve-out for EMPs through which predominantly domestic supplies are made as it would require complex tracking and assumes an unchanging business model in a fast-moving space.

▶ Other matters:

- Identifying business-to-business supplies - further consideration should be given to how offshore suppliers can accurately identify GST-registered businesses, particularly in the absence of a public register for GST-registered businesses.
- Joint registration system - such a system is likely to be unworkable in the foreseeable future. Instead, the Government should focus its resources on data matching and information sharing with the Australian Tax Office.

2 Compliance issues

- 2.1 We question the accuracy of the statement at paragraph 5.1 of the DD that "It is expected that most offshore suppliers of low-value goods would comply with the rules..."
- 2.2 The proposals are dependant on voluntary compliance from many non-resident vendors (including small businesses) and marketplaces with no presence in New Zealand. Ensuring compliance will require offshore enforcement against each of these businesses in every country in which they operate.
- 2.3 There is a risk many businesses will not comply with the proposals, and it will be difficult to identify all instances of non-compliance and impose consequences on those who do not comply. For all except the biggest suppliers, the collection of GST will in substance be voluntary.

3 Scope and thresholds

- 3.1 The proposals appear to be a partial stop-gap - goods valued at \$400 or less from offshore suppliers whose total supplies of goods and services to New Zealand consumers do not exceed \$60,000 a year would remain outside the base.
- 3.2 As stated at paragraph 3.3 of the DD, under the proposals the taxing point for imported goods valued at or below \$400 would shift to the point of sale. We agree that for a system of this nature to work the low-value threshold must be as low as possible in order to keep revenue losses to a minimum.
- 3.3 However, the ability of Customs to administer the \$400 threshold will be crucial to the success of the proposals. We note the equivalent rules in Australia have a threshold of AUD 1,000. Careful consideration needs to be given as to whether the \$400 threshold is workable, including:

- ▶ Is a lower threshold possible?
- ▶ What changes can Customs consider to its systems to ensure administering the \$400 threshold (or a lower one if possible) is cost effective?
- ▶ Is Customs prepared to take a loss on cost recovery to keep the threshold low?

4 Will reform be temporary only?

4.1 Paragraph 1.9 of the DD refers to the option of collecting GST between the point of sale and delivery, where courier companies and New Zealand Post would collect GST, tariffs and cost recovery charges. However, the DD defers to the Tax Working Group's view, supported by the findings of the Australian Productivity Commission, that this option is not feasible in the short-term.

4.2 In our view:

- ▶ Requiring the delivery agent to collect GST could be explored further, as it places the liability for assessing and collecting GST on entities within New Zealand and does not exempt goods from suppliers below the registration threshold. Using information technologies to monitor enforcement or facilitate collection seems desirable. Care would need to be taken to ensure that unreasonable compliance costs were not placed on the delivery agent.
- ▶ Such an approach seems likely to achieve higher compliance and collection rates but at the cost of a higher administrative and compliance burden.
- ▶ Currently, the existing paper-based declaration processes still in operation for most goods sent by international mail would make this approach too costly. We note the Australian Productivity Commission has stated that the Universal Postal Union is currently promoting an upgrade to a system involving electronic data transmission, but not until 2023¹.

4.3 We believe the option of collecting GST between the point of sale and delivery should be further explored for possible implementation in the medium term once international postal agreements catch-up. The current proposals are likely to provide an interim solution only.

5 Post-implementation review

5.1 We recommend a post-implementation review be carried out after no more than five years following enactment of the proposals. This review should consider whether the proposals are working as intended and whether it is desirable to change to a model which collects GST between the point of sale and delivery. In particular, this review should look at:

- ▶ Whether offshore suppliers are complying with their obligations to collect GST on low-value imported goods.
- ▶ Technological changes and whether international mail has upgraded to a system involving electronic data transmission. This consideration would be consistent with the Tax Working Group's comment in its Letter to Ministers where the Group states²:

"...the Group recommends that the Government continue to review the options to collect GST between the point of sale and delivery and after delivery following implementation of an offshore supplier registration model. This continued review should consider whether the feasibility issues with these options can be overcome as technology and data sharing improvements occur."

¹ Australian Productivity Commission Inquiry Report *Collection Models for GST on Low Value Imported Goods*, 31 October 2017, page 8. See <http://www.pc.gov.au/inquiries/completed/collection-models/report> (last accessed 28 June 2018).

² See <http://taxpolicy.ird.govt.nz/sites/default/files/news/2018-05-01-dd-gst-low-value-goods-twq-letter.pdf> (last accessed 28 June 2018).

6 Double taxation

Further exploration of possible solutions necessary

- 6.1 As noted in the DD and elaborated on in the IRD memo, the proposals may result in the consumer being subject to double taxation in certain circumstances, such as where the consumer has purchased multiple goods which are packaged together in the same consignment. While the IRD memo contains more discussion than the DD, both documents are light on details regarding how double taxation will be prevented.
- 6.2 Paragraph 3.17 of the DD suggests the consumer would need to provide Customs with appropriate evidence that GST had already been paid on the low-value goods portion in the consignment before they can obtain a refund of the double taxation. The IRD memo suggests the vendor or transporter should be able to indicate on the import entry documentation the items in the consignment on which GST has already been collected. In the absence of such notification, the IRD memo suggests the consumer will need to provide Customs with a receipt or invoice showing GST has already been charged on some or all of the goods.
- 6.3 In our view, it is unrealistic to expect the vendor or transporter to provide an indication as to GST on the import entry documentation. Vendors, transporters and, more specifically, customs brokers are likely to be reluctant to move away from the established norm and accuracy / compliance may be less than desirable.
- 6.4 We agree with the concerns at page 8 of the IRD memo that consumers may not be aware double taxation has occurred, or may not wish to incur the compliance costs associated with obtaining a relatively small refund. The ideal solution would be one where double taxation does not occur in the first place. Could there be a Customs hotline or online portal to allow the consumer to prevent double taxation before the goods arrive or the supplier to confirm GST has been charged?
- 6.5 If preventing double taxation is not possible, we agree with the IRD memo that consumers need to be made aware of the potential for double taxation whenever they have paid GST to Customs and that obtaining a refund should be as painless as possible. The question of how the consumer can provide appropriate evidence as to GST already collected needs to be explored and appropriately resolved before the proposals are implemented. The following should be considered:
- ▶ What will amount to "appropriate evidence" GST has been collected?
 - ▶ How will the proposed solution (providing Customs with appropriate evidence) work in practice? Can evidence be provided by contacting a Customs hotline, via an online portal or will paper-based evidence be required?
 - ▶ How will refunds of double taxation actually occur? Will the consumer need to provide Customs with their bank account details so the refund can be made electronically? How long will it take Customs to process the refund?
 - ▶ Would it be possible to have an "approved supplier" system where the Commissioner has the discretion to issue a notice stating that offshore suppliers with good systems and/or good New Zealand compliance history can be assumed to have applied the rules correctly?
 - ▶ Could the \$400 threshold be optional? For example:
 - The vendor must collect GST on goods valued at or below \$400, and
 - The vendor may collect GST on goods value above \$400, and
 - Customs collects GST at the border if no evidence of vendor collection is provided.

Exchange rate issues

- 6.6 Page 6 of the IRD memo refers to double taxation, or non-taxation, which may arise when the vendor sells the goods at or below \$400, but Customs calculates the value to be above \$400. The IRD memo notes that this issue is most likely to occur when goods are priced in a foreign currency which needs to be converted into New Zealand dollars.
- 6.7 The proposed solution in the IRD memo is for the import entry documentation to list the value in New Zealand dollars based on the conversion rate at the time of supply and possibly also the date of supply to allow Customs to check the correct exchange rate was used.
- 6.8 Consideration should be given as to whether it is desirable to place additional compliance requirements on Customs when the variances may not be material. In addition, we are unsure whether a special system for New Zealand would be realistic. Instead, if Customs has evidence that GST has been paid, could it be allowed not to enforce the \$400 threshold for those goods rather than check exchange rate calculations?
- 6.9 We also question whether it is necessary to have separate exchange rate rules for goods as compared to services - if time of supply is the only viable choice for goods (as suggested in the IRD memo), then that is what will be used out of the four conversion options.

Reasonable belief exception

- 6.10 We do not support the adoption in New Zealand of the Australian "reasonable belief" exception referred to at paragraphs 3.20-3.21 of the DD and pages 7-8 of the IRD memo. This test is too subjective and will be difficult for Inland Revenue to enforce. We agree with the IRD memo that there would be a risk suppliers would perceive (or claim) there to be a reasonable belief low-value goods will be sent in a consignment valued above the threshold even when this is not the case.

7 EMPs

EMPs as the default supplier

- 7.1 Proposed special rules in relation to EMPs are outlined at paragraphs 4.7-4.15 of the DD and pages 1-5 of the IRD memo.
- 7.2 Paragraph 4.15 of the DD asks for feedback on whether, as a default rule, treating the marketplace as the supplier of the goods provided that any of the conditions in paragraph 4.10 are met is workable. Issues to address include:
- ▶ We agree with the comment on page 3 of the IRD memo that it is possible some EMPs may be liable for GST in situations where it may not be reasonable to deem them to be the supplier for GST purposes - such as where they might not have enough information to accurately determine the GST treatment of a supply and account for GST without incurring disproportionate costs. We support the suggestion that EMPs should be able to apply to the Commissioner for an exercise of her discretion if the EMP operator considers it has a compelling case that it cannot reasonably be expected to be able to comply with the requirements.
 - ▶ We are uncertain as to the scale of the systems challenge for EMPs to collect GST on transactions agreed using the EMP. Each EMP may operate a slightly different platform and, in addition, EMPs could be reluctant to invest scarce systems development and coding expertise in complying with the proposals until the legislation is enacted in its final form.
 - ▶ There is a risk some EMPs may be reluctant to supply into the New Zealand market as a result of the new rules, similar to the experience in Australia regarding geo-blocking of Australian consumers from overseas websites. A similar response by EMPs to New Zealand's proposed rules would reduce choice for New Zealand consumers.

Scope of the rules

7.3 The potential scope of the proposed rules for EMPs is discussed at pages 4-5 of the IRD memo, with two main options:

- (i) Deeming the EMP operator to be the supplier regardless of residency or location of the vendor, or
- (ii) Deeming the EMP operator to be the supplier only if the vendor is based outside New Zealand.

Option (i)

7.4 In our view, deeming the EMP operator to be the supplier in relation to supplies made in New Zealand (on which GST is working well) seems unnecessarily complex.

Option (ii)

7.5 In terms of assessing residency should option (ii) be adopted, we question whether using the location of the supplier is an appropriate proxy for the vendor's residency given many New Zealand businesses may have offshore distribution hubs.

7.6 Page 4 of the IRD memo states it might be less costly for the EMP operator to return GST on all supplies of low-value goods to New Zealand consumers, rather than be required to make further changes to their systems so that GST is not applied to goods sold by vendors located in New Zealand. A solution to this issue suggested in the IRD memo is the possibility of allowing EMP operators to agree with vendors who are located in New Zealand that the EMP operator is responsible for GST on supplies made through its marketplace to New Zealand consumers. We do not consider this option to be viable, given that vendors are likely to sell through a range of outlets (such as physical stores, their own website, various EMPs etc.). Such an approach would therefore complicate vendor systems and result in the risk of errors.

7.7 Pages 4-5 of the IRD memo suggest special rules for GST-registered vendors who are located outside New Zealand. In our view, this situation is unlikely to be common enough to warrant special consideration.

Possible carve-out for EMPs through which predominantly domestic supplies are made

7.8 Page 5 of the IRD memo suggests a potential carve-out under options (i) or (ii) for EMPs where the majority of sales of low-value goods to New Zealand consumers through the EMP are made by resident vendors. We do not support this carve-out as it is likely to require complex tracking and assumes an unchanging business model in a fast-moving space.

8 Other matters

Identifying business-to-business supplies

8.1 Paragraph 3.32 of the DD proposes that offshore suppliers would be required to assume a New Zealand consumer is not a GST-registered business unless the customer has communicated to the supplier their GST registration number, New Zealand Business Number or self-certification as a GST-registered business.

8.2 Further consideration should be given to how offshore suppliers can accurately identify GST-registered businesses. For example, should there be an online tool for checking the validity of GST numbers?

Joint registration system

- 8.3 Paragraphs 5.6-5.9 of the DD refer to the opportunity to explore a joint-registration system with other countries, particularly Australia, in the future.
- 8.4 While a joint registration/payment system sounds good in theory, we believe such a system is likely to be unworkable in the foreseeable future. It would require a greater alignment of the GST rules and significant technological investment. Concentrating on data matching and information sharing with the Australian Tax Office is likely to provide the Government with a greater return on investment.

We would be happy to discuss any aspect of our submission with you. Please contact me in the first instance in that regard.

Yours sincerely



David Snell
Executive Director
Ernst & Young Limited

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From: s9(2)(a) s9(2)(a)
Sent: Friday, 29 June 2018 16:48
To: Policy Webmaster
Cc: s9(2)(a)
Subject: Trade Me Submission on GST on low-value imported goods
Attachments: 20180629 Trade Me Submission on GST on low value imported goods.pdf; 20180629 Trade Me Submission on GST on low value imported goods.docx

Please find attached the Trade Me Submission on GST on low-value imported goods.

We have included a submission on:

- the “Government Discussion Document” titled “GST on low-value imported goods: An offshore supplier registration system; and
- IRD’s “Additional Memo” on the GST on low-value imported goods proposals re “Scope of the marketplace rules, double taxation issues and valuation methods for determining whether goods are above or below the proposed \$400 threshold”.

In terms of the **Memorandum: Options for marketplace rules**, we haven't had a chance to fully digest this having only received it yesterday, however at face value it appears some aspects of the "recognised marketplace" are similar to the "approved marketplace" that we reference in our attached submission. The lack of time means we haven't commented on this memorandum but suggest we organise a meeting where we can discuss our feedback face to face.

If you give us a few days we should also then have time to give you an update on the further request for information: **NZ IRD questionnaire for marketplaces - GST on LVIGs**, we are looking at how we can get this information to you in a way that protects commercial sensitivity.

We look forward to hearing from you.

Attachments include: A PDF & Word version of the same document so any notated commercially sensitive information can be removed before publishing.

Kind regards

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s9(2)(a)

Commercial Manager | Trade Me



E. s9(2)(a)

M. s9(2)(a)

F. 0800 33 44 43



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29 June 2018

GST on low-value imported goods
C/- Deputy Commissioner Policy and Strategy
Inland Revenue Department
PO Box 2198
Wellington 6140

Emailed to policy.webmaster@ird.govt.nz

Trade Me Submission on GST on low-value imported goods

Thank you for the opportunity to submit on:

- the “Government Discussion Document” titled “GST on low-value imported goods: An offshore supplier registration system”; and
- IRD’s “Additional Memo” on the GST on low-value imported goods proposals re “Scope of the marketplace rules, double taxation issues and valuation methods for determining whether goods are above or below the proposed \$400 threshold”.

Our key messages

Trade Me supports:

- A fair regime for the collection of GST on low value imported goods.
- Further consideration of an extended status quo model of collection.
- In the event a supplier registration model is adopted, New Zealand taking a slightly different approach to Australia by adjusting some key settings to ensure a more workable regime. In particular, we support:
 - The electronic marketplace (“EMP”) definition not applying to onshore marketplaces.
 - Special provisions for ‘approved marketplaces’ that are offshore.
 - The Commissioner having a discretion to allow partial compliance of offshore suppliers and marketplaces.
 - A more simplified regime, with fewer exceptions, to reduce compliance costs for offshore suppliers and marketplaces and address double taxation risks.

We believe these changes will help to reduce offshore supplier and EMP compliance costs. This is important as otherwise there is a material risk that suppliers and EMPs will cease supplying services to New Zealand residents, and consumers will be adversely affected.

We have set out separately below our submissions in respect of the key issues discussed in the Government Discussion Paper and Additional Memo. When developing our submission, we have adopted the following principles. Over the past 19 years of operating online, we’ve found that laws work best when they are:

- straightforward and easy for consumers to understand and apply;

- practical for businesses and traders to operationalise and enforce with clear definitions;
- implemented in a pragmatic way;
- consistent online and offline; and
- sufficiently technology neutral to withstand the test of time.

Our recommendations in respect of the Government Discussion Paper

Issue/Proposal	Our submission
Scope of the rules	
<p>GST is not currently collected on low value GST goods</p>	<p>We think it's important that businesses supplying goods to New Zealand pay their fair share of tax and we support the development of a fair regime to collect GST on low value imported goods. It is an anomaly that GST is not levied on these goods and this creates a distortion between retail purchases from New Zealand based retailers and from international online retailers. We understand the competing interests here because we have both domestic and international sellers trading on our platform.</p>
<p>Options for collecting GST on low-value goods</p> <p>Various options have apparently been considered, including at the point of sale ("offshore supplier registration"), between the point of sale and delivery and after delivery of the goods.</p>	<p>If a supplier collection model is introduced, there is a material risk that a large number of offshore suppliers will:</p> <ul style="list-style-type: none"> • stop supplying to the New Zealand market in order to avoid additional New Zealand compliance obligations. We consider this to be a more acute risk than faced in the larger Australian market. However, even in the larger Australian market some sites have already announced they will cease supply when the new regime commences on 1 July; or • not comply with an offshore supplier registration model, and it will be problematic for IRD to enforce against extra-territorial non-complying suppliers. Again, despite Australia being a larger market, the Australian Tax Office is expecting a fairly high level of non-compliance. <p>We consider it will also be confusing for consumers and merchants to have one collection regime for low value supplies and a different collection method for high value goods.</p> <p>Accordingly, we support further consideration of an extended status quo model (i.e. where courier companies and NZ Post collect GST, tariffs and cost recovery charges).</p> <p>We understand that an extended status quo collection method was ruled out partly due to the policy decision in Australia and the operational costs that would be incurred by carriers. However, there is limited information available on how the unique features of the New Zealand market have been considered. For example, was there an analysis of the operational costs offshore suppliers and marketplaces would be likely to incur complying with an offshore supplier registration system and whether these are likely to be disproportionate to the benefits such suppliers and marketplaces receive from supplying to the comparatively small New Zealand market?</p> <p>In our view, if the collection obligations are placed on entities with a local presence (such as a carrier or card scheme), then conscientious offshore suppliers and marketplaces who want to</p>

Issue/Proposal	Our submission
	<p>promote their services to New Zealand customers will streamline their sites and products to recognise that GST will be collected (e.g. in their pricing guides), but would not be at a disadvantage to less conscientious suppliers and marketplaces (who would not otherwise collect and account for GST).</p> <p>If the obligation is not placed on organisations with a local presence, a significant portion of GST collected from complying entities would need to be spent on enforcement and compliance. Alternatively, in the absence of an appropriate enforcement regime the lack of compliance could create genuine market distortions and questions around the regime's overall utility.</p> <p>As it is difficult for submitters to consider this aspect based on the information available in the Government Discussion Paper, we support further investigation of an extended status quo model. In the event an offshore supplier model is adopted at this stage, we recommend this policy decision is reviewed within 2-3 years of implementation to ensure that it is not having adverse consumer consequences.</p>
<p>Offshore suppliers will be required to register, collect and return GST</p>	<p>To be effective, an offshore supplier registration system will need to be very simple for offshore suppliers and marketplaces to implement.</p>
<p>Offshore suppliers will be required to charge GST unless the recipient identifies themselves as a GST-registered business or provides their GST registration number or NZBN. Goods supplied to GST registered businesses would be excluded, unless the offshore supplier has decided to zero-rate the supply.</p>	<p>Offshore suppliers are unlikely to know which of their customers are businesses that have registered for GST and/or have systems for keeping information such as an NZBN in their systems. It will increase compliance costs if offshore suppliers have to make system changes to capture the GST status of NZ customers. The offshore supplier requirements should be as simple as possible to incentivise compliance and reduce the number of suppliers that cease shipping to New Zealand.</p> <p>We support the offshore supplier being able to charge GST on all purchases (whether supplied for business or other purposes). A New Zealand based registered business can claim back any GST collected by an offshore supplier.</p> <p>We discuss other steps to reduce compliance complexities for marketplaces in our submission on the Additional Memo.</p>
<p>A reverse charge (that is, when the recipient of the goods accounts for the GST) would apply to GST-registered recipients that use goods for non-taxable purposes (such as private purposes).</p>	<p>As noted above, we believe GST should be charged by the supplier on all purchases (whether for business or other purposes).</p>
<p>Registration requirements and return filing</p>	
<p>Offshore suppliers would be required to register if their total supply of goods and services to New Zealand exceeds \$60,000 a year (the registration threshold)</p>	<p>In an international online shopping environment it can be difficult to forecast taxable supplies. We envisage the current threshold will create compliance uncertainty for suppliers who are growing a presence in the New Zealand market and who are anxious to avoid accidentally non-complying.</p> <p>The current drafting of the threshold in the GST legislation requires a business to consider whether their suppliers were</p>

Issue/Proposal	Our submission
	<p>\$60,000 or more in the last 12 months, or will be \$60,000 or more in the next 12 months. As it will be difficult for new suppliers to assess what they expect to sell into New Zealand on entrance, we are concerned that having to forecast taxable supplies makes the requirements too onerous, and that this will put suppliers off entering the New Zealand market.</p> <p>We believe offshore suppliers should be able to assess quarterly whether the threshold has been met and assessment should be assessed on a historical basis, to align with the suggested report period.</p>
<p>Offshore marketplaces and re-deliverers would be required to register and return GST if they meet the registration threshold.</p>	<p>As discussed further below, the definition of marketplace will be very important and we believe the current definition will not operate as intended.</p> <p>We have assumed, consistent with the current EMP drafting, that onshore marketplaces that facilitate the supply of offshore purchases will not be captured by the regime. We support this.</p> <p>However, to further incentivise compliance, we believe the regime should require onshore marketplaces to provide information on the offshore suppliers that use their platforms and the regime should clarify that offshore suppliers that use onshore marketplaces are required to account for GST.</p> <p>We also support the concept of an 'approved marketplace' for offshore marketplaces, with suppliers on an approved marketplace being separately required to account for GST. We discuss this in more detail below in our submission on the Additional Memo.</p>
<p>A simplified "pay only" registration system is proposed to minimise compliance costs for offshore suppliers.</p>	<p>We agree that a simplified system is appropriate.</p>
<p>Quarterly GST filing is proposed for offshore suppliers of low-value goods.</p>	<p>This seems appropriate.</p>
<p>Enforcement, compliance and penalties</p>	
<p>New Zealand can ask a foreign tax authority to use its enforcement powers to help collect the GST on New Zealand's behalf under its international agreements with a number of our major trading partners.</p>	<p>We agree that this will assist compliance, but only if the obligations on suppliers and marketplaces are simple and clear. If there is a dispute as to a supplier's or marketplace's New Zealand GST obligations and liability, then an international "Assistance in Collection" arrangement is unlikely to provide assistance in resolving this dispute.</p> <p>We are concerned that the obligations on offshore suppliers and marketplaces will not be sufficiently clear and will be difficult to enforce.</p>
<p>The existing penalties and use-of-money interest rules would apply to offshore suppliers as they do to domestic suppliers.</p>	<p>We support this in principle, but this reinforces the need for the regime to be as simple as possible. Companies will not enter, or continue to supply to, markets where the compliance requirements are uncertain. Offshore suppliers and marketplaces</p>

Issue/Proposal	Our submission
	<p>will be concerned about inadvertent non-compliance which may incur potentially large penalties.</p> <p>If the regime is not clear and penalties may apply, this will result in suppliers and marketplaces with a more conservative risk appetite choosing not to supply the New Zealand market.</p>
In addition, existing penalties would apply to consumers that falsely represent themselves as a business to avoid GST.	We do not believe this provision will be necessary if offshore suppliers charge businesses GST.
For the worst offenders, the rules would provide Inland Revenue with discretion to require a consumer to register and pay the GST that should have been returned.	We do not believe this provision will be necessary if offshore suppliers charge businesses GST.
Further measures to bolster compliance will be explored, for example, possible joint registration systems with other countries and data matching programmes.	We have made a number of recommendations below in relation to 'approved marketplaces' that we believe would also help to bolster compliance.
Maintaining effective border-risk management	
Changes to GST need to take into account border implications.	We agree.
Importers will still be required to provide information to Customs and the Ministry for Primary Industries to support effective risk and biosecurity assessment on low-value imported goods.	We agree. Plus, to further incentivise compliance we would support Customs and IRD looking at a trusted trader or similar status for offshore suppliers and marketplaces that collect GST. For example, if at the border there was preferential processing of packages from suppliers and EMPs that had collected GST (as opposed to suppliers that hadn't) then this would encourage suppliers to comply.
Application date	
Legislative changes would take effect from 1 October 2019	We believe a transitional period of at least 12 months will be required. Our experience in working through the changes needed to our site to comply with the new Australian model is that it is operationally challenging. For example, historically we had not collected records regarding whether sellers are separately GST registered, and we also now need to implement different product approaches for low value and high value goods.

Our submission on the Additional Memo

Issue/Proposal	Our submission
Issue One: Scope of Proposed EMP rules	
The current definitions of electronic marketplaces in section 60C of the Goods and Services Act, means that the requirements	We agree that this is a sensible policy. There are a number of benefits (including to consumers in terms of consumer protection laws) from onshore marketplaces that facilitate the supply of goods. Onshore markets also facilitate the supply of international and domestic goods, which will make compliance more problematic.

<p>only apply to marketplaces operated by non-resident persons.</p>	<p>However, as noted above, we recommend that a new provision be included that requires any such onshore marketplaces to provide information about each offshore supplier's aggregated supplies to New Zealand to the IRD. This would better enable the IRD to enforce the GST requirements against suppliers who supply over \$60,000 per year.</p>
<p>Main policy justifications for treating the EMP operator as the supplier for low value goods for GST purposes:</p> <ul style="list-style-type: none"> • <i>Minimisation of compliance costs</i> • <i>Higher rates of compliance</i> <p>There is a spectrum of EMPs, some more akin to classified advertisements, to those that sell their own goods and have a great amount of control over third-party sales. There will be a point along this spectrum where the costs of compliance to the EMP operator are disproportionate to the revenue collected or to the compliance cost savings to underlying vendors trading through its platform.</p> <p>The EMP is deemed to be the supplier unless all of the following conditions are met:</p> <ul style="list-style-type: none"> • the documentation provided to the recipient identifies the supply as made by the underlying supplier and not the marketplace; • the underlying supplier and the operator of the marketplace have agreed that the supplier is liable for the payment of the GST; and • the marketplace does not authorise either the charge or the delivery to the recipient, nor set the terms and conditions under which the supply is made. 	<p>We agree that there is a spectrum of online marketplace types, with differing levels of involvement in the sale of goods and services.</p> <p>Most marketplaces set some terms and conditions for the transaction in order to create a safe and trusted marketplace. As a result, we believe, the scope of the regime is potentially broader than perceived.</p> <p>If the definition is not carefully set, New Zealand risks creating a new set of distortions in the market. For example, consider the structure of a traditional taxi co-operative in New Zealand against the structure of the Uber ride-sharing service. Uber has structured their operations in such a manner that each driver who operates via the platform separately contracts with the customer. As a result, the applicable GST threshold is considered for each driver, and not for Uber at an organisational level. The outcome of this is that there is a significant portion of ride-sharing activity (and associated transactions) on which GST is not being collected.</p> <p>We believe that if any definition of "marketplace" is not sufficiently thoughtful and well-constructed, this could result in a shift in the manner in which online shopping and services are structured. For example, if social media platforms are not captured by the definition but bespoke marketplaces are, this would provide a social media platform with a 15% competitive advantage on price, which would distort activity across different business models.</p> <p>In addition, we are concerned that by creating a GST collection environment which gives a 15% benefit to less structured platforms, this may reduce the level of protection afforded to New Zealand consumers.</p> <p>For example, if we considered the EMP definition in respect of a marketplace with operations similar to Trade Me:</p> <ul style="list-style-type: none"> • <i>ensure that the documentation identifies the supplier as making the supply:</i> Trade Me already does this, and requires the supplier to comply with product safety, intellectual property and other legal obligations. • <i>ensure that the supplier is liable for the payment of GST:</i> Trade Me already requires that all auctions must include GST and all tax obligations are the responsibility of the seller and/or the buyer (as the parties determine). The "or the buyer" phrase is particularly applicable for high value imported goods. • <i>change its terms such that the marketplace does not authorise the charge or the deliver to the recipient, nor set the terms and conditions under which the supply is made:</i> Trade Me already does not authorise the charge or the delivery. We often do not even see the charge. For example, Australian based sellers listing on our site can register an NZ bank account and we allow them to receive payment into that bank account, with them arranging and

authorising delivery once they've confirmed payment is received.

As a result, the only thing that a marketplace structured in a similar manner to Trade Me would need to do to avoid being the deemed supplier would be to change its terms and conditions such that the marketplace doesn't set any of the terms and conditions under which the supply is made. We think this creates adverse consequences.

Currently, almost all marketplaces set some general terms and conditions that apply to sellers using their marketplaces, and the supplier sets the specific terms relating to a trade (e.g. shipping timeframe, returns policies etc). As a result there is a hybrid arrangement. However, the terms that Trade Me sets are focused on ensuring trust and safety, and ensuring appropriate consumer protections apply in our New Zealand environment – i.e. terms to ensure that members have trust in our site and products sold on our site are safe. We think it would not be desirable for marketplaces to be incentivised not to set such terms in order to avoid GST liability.

We agree there is a spectrum of marketplaces. We have compared on the following page ASOS, Amazon, eBay, Trade Me and Facebook.

If the policy settings favour using online marketplaces or suppliers to collect GST, we support either:

- all marketplace platforms, including social media being captured by the relevant definitions (i.e. all the examples above); or
- only those marketplace platforms that behave like a supplier (i.e. in the table below ASOS and Amazon being captured).

From a practical perspective, we acknowledge that if a particularly broad definition is used then it will be harder for some social media platforms to comply with the requirements. This is why we support (see below) the Commissioner having a discretion to allow aspects of non-compliance where marketplaces have a compelling case not to comply with the requirements.

Accordingly, we recommend a broader definition of EMP with and an ability for EMPs to be able to apply to the Commissioner to gain exemption from certain requirements.

High involvement throughout purchase

Low involvement throughout purchase



Marketplace	Description	Authorises the charge to the customer	Authorises the delivery of goods to the customer	Sets T&C's for the transaction
Asos	ASOS is a global fashion marketplace for 20-somethings. They sell branded and self-brand products online, delivering from fulfilment centres in the UK, US, Europe and China to almost every country in the world.	Yes	Yes	Yes
Amazon	Amazon is an online marketplace that enables third-party sellers to sell products on a fixed-price online marketplace alongside Amazon's regular offerings to customers all over the world. Under the Fulfillment by Amazon service, Amazon handles shipping and customer service for certain products.	Yes	Yes - with fulfilled by Amazon	Yes
eBay	eBay is an online marketplace for buyers and sellers to purchase and sell goods and services. Buyers can purchase directly from the platform using PayPal or other payment options and receive the goods direct from the supplier.	Yes - If through PayPal	No	Yes
TradeMe	TradeMe is an online marketplace for buyers and sellers to buy and sell goods and services. Buyers can purchase directly from the platform using Ping or other payment options and receive the goods direct from the supplier.	Yes - If through Ping	No	Yes
Facebook	Facebook is an online marketplace that allows users to buy and sell goods / services to other people in their area. Delivery and payment is organised directly between the buyer and seller.	No	No	Yes

Issue/Proposal	Our submission
<p>Include a provision allowing the Commissioner of Inland Revenue to exercise a discretion where marketplaces have a compelling case not to comply with the requirements.</p>	<p>We support this and support the ability for the Commissioner to exercise that discretion in relation to all or any part of the marketplace or supplier's operations. We would support the Commissioner being able to issue class exemptions, to reduce administrative load. In practice, similar compliance issues are likely to arise in respect of multiple marketplaces and suppliers.</p> <p>s9(2)(b)(ii)</p> <p>[REDACTED]</p> <p>In terms of the spectrum of marketplaces, we think it would be unusual for the Commissioner to exempt marketplaces that behave like suppliers and have a high level of involvement throughout the purchase and goods delivery process (like ASOS and Amazon). Exemptions would be more common for marketplaces which usually have low to medium involvement in a customer's purchase (like ebay and Facebook).</p> <p>Approved marketplace construct</p> <p>In addition, we recommend that an approved marketplace regime be included in the Act, such that following successful application</p>

Issue/Proposal	Our submission
	<p>to the Commissioner, approved marketplaces are not required to account for GST but their sellers are required to account for GST.</p> <p>To be approved, we believe an approved marketplace should:</p> <ol style="list-style-type: none"> 1. Provide appropriate consumer protection to New Zealand residents: Approved marketplaces should commit to New Zealand residents that sales over their platform will meet New Zealand consumer protection or equivalent standards e.g. their sellers should agree that CGA and FTA type requirements apply. In exercising his or her discretion, the Commissioner should ensure that the marketplace can enforce this against sellers. 2. Improved reporting and monitoring on international seller supplies. Approved marketplaces should: <ul style="list-style-type: none"> • Commit to collecting and providing information on aggregate seller trades, through the marketplace, to the IRD in respect of the GST regime, and be able to provide information to the Commerce Commission and other regulatory bodies in respect of consumer protection. • Ensure sellers agree to terms and conditions such that the approved marketplace is authorised to communicate with IRD about each seller (e.g. about each seller's aggregate trades). 3. Not provide services to sellers that the marketplace knows is in breach of the GST regime. The approved marketplace should commit to not providing services to sellers who have not registered for GST and which the IRD have confirmed should be registered. <p>We also considered, whether approved marketplaces should collect and remit GST for an individual seller whose trades on the approved marketplace exceed the threshold in a given year. However, we do not think this is workable. For example, for a marketplace similar to Trade Me this would involve building new and dynamic code and the marketplace may not know if the seller is separately registered and already collecting GST or what they are selling direct or through other marketplaces. We consider the implementation of this requirement is also likely to be disproportionate in many cases. s9(2)(b)(ii)</p> <p>[REDACTED]</p>
Determining the scope of the deemed supplier approach – other considerations	
<p>The Additional Memo highlights that there are additional scope questions, such as the treatment of domestic goods supplied sold through an offshore platform.</p>	<p>Our initial view is that option one is preferable. It is unfortunate that this option creates additional compliance costs for New Zealand based vendors using offshore platforms, but this is much simpler to administer and educate New Zealand businesses. It will be difficult to structure option two in a manner which covers</p>

Issue/Proposal	Our submission
	all nature of marketplaces, plus marketplaces will have limited resources to build complex solutions.
Option one: Deem the EMP operator to be the supplier regardless of residency or location of the vendor.	IRD will need to educate businesses of the implications of this option.
Option two: Deem the EMP operator to be the supplier only if the vendor is based outside New Zealand.	We agree that this creates complexity for the EMP (e.g. the operator would need to know whether the vendor is a resident and whether the goods are in New Zealand at the time of supply).
Possible addition to options one or two – carve out EMPs through which predominantly domestic supplies are made	This may warrant further consideration.
Issue Two: Double Taxation	
<p>There is a risk of double taxation in respect of:</p> <ul style="list-style-type: none"> • Consignments valued above \$400 containing multiple goods some or all of which are valued below \$400. • Vendor sells the goods at or below \$400, but Customs calculates the value to be above \$400 • Vendor incorrectly collects GST and Customs correctly collects GST. <p>Options:</p> <ul style="list-style-type: none"> • Customs doesn't collect GST if provided evidence that GST has already been collected. • Vendor doesn't charge GST if they have a reasonable believe that the good will be sent in a consignment valued above the low-value threshold <p>Relief where double taxation applies – Customs or vendor?</p>	<p>We agree that these are risks, and they will be difficult to manage in practice. These risks, and other implications, is the reason why we consider an extended status quo option warrants further consideration.</p> <p>The simpler the regime the better. Unless the regime is simple for suppliers and marketplaces, many will exit the New Zealand market given the compliance costs involved.</p> <p>We believe the simplest option is:</p> <ul style="list-style-type: none"> • The \$400 threshold should be applied on a consignment basis. This will be easiest for marketplaces to automate. • Additional GST should not be collected by Customs if the Vendor sells the goods below \$400, but Customs value over \$400. This would be confusing for consumers who have paid less than \$400 for goods. • Where there is double taxation, Customs should return the GST. <p>We agree that there should be an awareness campaign to ensure that consumers are aware of the potential for double taxation.</p> <p>We note that a marketplace may not know the consignment value for all supplies. For example, if a supplier has organised the shipping then the marketplace will not know the total shipped price. Where this occurs, the marketplace should be able to apply for an exemption from the Commissioner (see above).</p> <p>We would also support an option for marketplaces and suppliers to collect GST above the \$400 threshold, such that the platform can automate to collect GST on all purchases, and where this occurs Customs would not need to collect GST.</p>
Issue Three: Valuation methodology for determining whether GST is required to be charged on a supply of goods	

Issue/Proposal	Our submission
<p>There is potential complexity for vendors, EMP operators and re-delivers in determining whether goods are above or below the proposed \$400 threshold (and therefore whether they need to charge GST) if the threshold is based on the Customs value of the goods (e.g. whether the vendor also needs to consider the amount to transport and insure the goods).</p>	<p>We believe that consumers prefer suppliers and marketplaces to present the price for the goods to be delivered to the consumer. This is evidenced by the number of suppliers and marketplaces that bundle their pricing and present a cost for a good that includes “free shipping”.</p> <p>Accordingly, we believe that the consignment should be based on the total price (i.e. of the goods plus any additional freight and insurance charges). If the value threshold is not structured in this manner, it will encourage suppliers and marketplaces to structure each charge separately which is not helpful for consumers and occasionally misleading.</p> <p>Recognising this consumer preference, we recently changed our success fee model for in trade sellers so that fees are charged on the total value of the transaction (including shipping). We found that sellers could include large shipping costs separate to the price of the item to avoid fees, and this created a pain point for buyers using the site. By charging our fees based on the total value, sellers are incentivised to offer “free shipping” and advertise their prices more accurately.</p> <p>This issue also reinforces that only marketplaces that have a high involvement in the purchasing process (i.e. are more akin to a supplier) will be able to fully comply with the regime. Where the marketplace does not ship the goods to the consumer it will likely be problematic for the marketplace to calculate whether goods are above or below the threshold.</p>

Thank you for considering our submission. If it would be helpful, we would be happy to discuss our submission and recommendations in person.

Sincerely,



Jon Macdonald
Chief Executive Officer



3 July 2018

Submission GST on low-value imported goods
C/- Deputy Commissioner Policy and Strategy
Inland Revenue Department
PO Box 2198
Wellington 6140

Submitter Details:-

This submission is from the Board of Directors of the Conference of Asia Pacific Express Carriers (CAPEC New Zealand).

CAPEC New Zealand can be contacted via the New Zealand secretariat:

Sherelle Marie Kennelly

s9(2)(a)

s9(2)(a)

CAPEC New Zealand wishes that the following also appear in support of this submission.

The New Zealand Board Members represented by and for:-

Dianella Ngakuru, Country Manager – Federal Express (Chairman)
Karina Horne, Country Manager – United Parcel Service
Ruud Smeets, General Manager Business Services - TNT Express Worldwide
Mark Foy, Country Manager – DHL Express Worldwide

CAPEC New Zealand Incorporated
PO Box 53-046
Auckland Airport, Manukau 2150

CAPEC represents New Zealand's four major express carriers - DHL Express, TNT, Federal Express, UPS.

Background

The Conference of Asia Pacific Express Carriers Limited (“CAPEC New Zealand”) is an industry association representing the interests of the world’s leading integrated air express parcel delivery companies. Its members are DHL, FedEx, TNT and UPS.

CAPEC New Zealand Members provide daily services of time sensitive shipments to thousands of businesses of all sizes in all sectors of the New Zealand economy, as well as to the many individual consumers whose choices have been widened as a result the development of ecommerce. As a group of carriers we represent a large portion of the ECI pathway.

An efficient flow of goods is crucial to our local economy and for maintaining and growing New Zealand’s international competitiveness.

CAPEC New Zealand is not belligerently opposed to changes in lowering the threshold for duties and taxes.

CAPEC New Zealand has consistently held the view that any changes to the collection of taxes for low value goods should be underpinned by the following Guiding Principles:

- Effective and efficient collection of revenue;
- Competitive neutrality (between air cargo and post);
- Consistent application of border clearance and taxation arrangements;
- Recognition of CAPEC New Zealand’s unique and essential role as a provider of time definite delivery services.
- Ongoing and meaningful consultation with Government

Executive Summary

CAPEC New Zealand has reviewed the GST on low-value imported goods – an offshore supplier registration system publication by the Inland Revenue, along with the Explanatory Material and Q&A, released in June 2018.

It should be noted that New Zealand Customs and the New Zealand Government has engaged closely with CAPEC New Zealand Members as part of the consultation process for the last 3 years.

This engagement has proven to be invaluable in terms of clarifying policy intent and reviewing the practicality of various processes and procedures. CAPEC New Zealand greatly appreciates being consulted on such important policy reform.

CAPEC New Zealand believes that the only equitable, timely and cost effective methodology to collect GST from Low Value Goods is through collecting the GST for goods valued at under \$400 directly at point of sale at origin.

This methodology can be implemented without the need to delay the movement of goods through the Border and will assist in Facilitation of Trade.

We understand the position taken by Government on the current inequities of GST collection between low value on shore and off shore purchases.

We also believe that the consumer should be able to access the benefits of a truly global market place.

With this in mind we firmly hold the position that the collection of tax must be done in a way that the cost of collection does not outweigh the amount collected and done with minimal disruption. Furthermore the consumer should not have to take on additional collection costs over and above that of the tax itself.

Based on the above CAPEC New Zealand strongly supports the offshore collection of GST and endorses the model and approach that Australia has taken.

CAPEC New Zealand would like representation and consultation in relation to any potential changes to the LVG threshold and any changes to the current collection at the border for tax & duty.

Notwithstanding this stakeholder engagement, there remain several key areas of focus for CAPEC New Zealand Members have concerns with the offshore collection model.

These can be summarized as follows:-

- Double Taxation
- Valuation
- Issue of Combined Entries
- Refund of Undue Payments
- Reconciliation
- Vendor Compliance/Enforcement
- Currency (Exchange rate)

Double Taxation

CAPEC New Zealand believes that double taxation will be common if duties are calculated at invoice item/line level and strongly suggests taxation at a total invoice level per transaction.

CAPEC New Zealand is concerned that consignments valued above \$400 containing multiple goods, some or all of which are valued at or below \$400, will have a common occurrence of double taxation.

When the goods valued above \$400 enter New Zealand, they will undergo a formal customs clearance and will be subject to import transaction fee, duties and GST.

CAPEC New Zealand supports the reasonable belief test for vendors to apply. This allows the vendor to not collect GST on a low-value imported good if they have a reasonable belief that the good will be sent in a consignment valued above the low-value threshold.

Valuation

CAPEC NEW ZEALAND believes the Customs value of the goods should be based on CIF by the vendor. This is because GST is currently collected by NZ Customs for goods over \$400 based on CIF.

If the vendor collected GST where the valuation of the goods is based on the Customs value, the occurrence of double taxation will be more likely(see below)

Example of Double Taxation:

Customs Value based on Cost of Goods (NZD)

IPAD Cost	380
Total GST Charged by Vendor:	57

(If the vendor only charges GST on the value of goods and doesn't include the freight component when it reaches New Zealand, the freight component will push it over threshold).

When the Goods enter NZ they will undergo a customs entry and the below charges will apply:

Total GST Charged by NZC	63.00
<u>Import Transaction Fee</u>	<u>52.67</u>
Total Charges	115.67

Therefore it is important that the mechanism to collect GST is based on CIF when collecting GST using the vendor collect model. This will therefore match the way GST is assessed at the border for goods over \$400.

Issue of Combined Entries

New Zealand Customs currently combine entries for multiple shipments for same importer but different suppliers.

Example: Consumer buys a shirt from Vendor A worth NZ\$300 and shoes from Vendor B worth NZ\$200. Because the value is worth less than \$400 for both Vendor A and B, the offshore vendors charge GST at the point of sale.

New Zealand Customs requires the shipments to undergo combined entry when they enter New Zealand. These goods will then be subject to duties, GST and entry charges. Therefore double taxation will occur.

CAPEC New Zealand believes that all entries into New Zealand for goods under current threshold should be exempt from combined entries if they are from different suppliers.

This will reduce the amount of potential double taxation.

Refund of Undue Payments

When both New Zealand Customs and the Vendor have charged GST a process will be needed to relieve the double taxation by refunding the consumer for the extra revenue they have paid.

There are three main ways in which this could occur:-

- Customs could refund the GST they have collected without the need to cancel and or adjust the original entry.
- The vendor could refund the GST they have collected.
- The consumer could request a refund of GST through an IRD refund claim process similar to how businesses currently claim GST refunds.

Carriers and New Zealand Customs do not have the resources to handle the additional work associated with entry adjustments and refunds where GST has been collected by the vendor and at the border.

Preferred option would be the consumer would approach the vendor for a refund.

Reconciliation

What mechanisms will be in place for reconciliation of paid consignments?

Vendor Compliance / Enforcement

CAPEC New Zealand strongly suggests that any non compliance/enforcement will not be the responsibility of the Members.

Currency (Exchange Rate)

The Customs value, or the value for duty of imported goods, is used to calculate the Customs duty.

When the invoiced amount is not in New Zealand dollars, it will be converted at the rate in force on the day your entry is presented to us. Exchange rates used by us are set for a two-week period, and are published 11 days in advance.

These rates may differ slightly from the currency rates published by overseas trading banks.

The Members strongly recommend review for consistency.

Summary

The vendor collect model is acknowledged by CAPEC New Zealand's the best approach and commends Inland Revenue's decision to avoid the receiver collect model.

Our belief is that the Inland Revenue wants to gain maximum clarity on the effectiveness of the vendor collect model without adding increased cost and regulatory burden to the express industry.

We believe that the model proposed, whilst avoiding tax collection at the border, creates a new set of challenges which need to be considered during the process design.

We encourage Inland Revenue to review the proposed design for collecting GST offshore and ensure that is effective and efficient for the express industry, provides meaningful data to the regulators and improves the GST revenue for the Crown.

CAPEC New Zealand looks forward to receiving a response from Inland Revenue for consideration prior to the Draft proceeding to Parliament. Further industry consultation is critical in ensuring this policy reform leads to a more efficient and effective process.

In this regard, CAPEC New Zealand Members would again extend an invitation to Inland Revenue officials to visit our facilities to gain a better understanding of the international air express environment and we would like to be involved in any workshops/working groups when it comes to industry input and feedback for the design of the proposed offshore GST collection model.

Yours sincerely



Dianella Ngakuru, Country Manager – Federal Express (Chairman)

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OFFICIAL INFORMATION ACT



2 July 2018

GST on low-value imported goods
C/- Deputy Commissioner Policy and Strategy
Inland Revenue Department
PO Box 2198
WELLINGTON 6140

Dear Cath

GST ON LOW-VALUE IMPORTED GOODS: AN OFFSHORE SUPPLIER REGISTRATION SYSTEM

The Corporate Taxpayers Group ("the Group") is writing to provide comment on the discussion document "*GST on low-value imported goods: An offshore supplier registration system*" ("the discussion document").

Our submission

Overall the Group is supportive of the changes proposed in the discussion document, subject to the changes made being practical and workable for those impacted. The proposals will act to protect New Zealand's tax base and align New Zealand's position on this issue with where other jurisdictions around the world are heading. Introduction of GST on low-value imported goods should remove some of the unfairness in relation to the competitiveness of domestic suppliers versus suppliers who provide imported goods into New Zealand.

Alignment with Australia

The Group submits that consideration should be given to closer alignment of the New Zealand rules with the Australian rules. This will simplify matters for non-residents and may result in a greater level of understanding and compliance with the rules. In particular, consideration should be given to having a low value goods threshold of \$1,000. The Group does not consider there would be much fiscal risk from an increased threshold as it is understood that historically only a very small portion of imported goods fall within the \$400-\$1000 range. Having a higher threshold will also reduce pressures on NZ Customs and New Zealand Post with stopping goods at the border for further processing.

Re-deliverer delivery costs

The Group submits that it should be clarified that re-deliverers should only be collecting and returning GST on the goods that they are "redelivering" and that any delivery costs charged by the re-deliverer continue to be zero-rated.

Contact the CTG:

c/o [REDACTED] Deloitte
PO Box 1990
Wellington 6140, New Zealand
DDI: [REDACTED]
Email: [REDACTED]

We note the views in this document are a reflection of the views of the Corporate Taxpayers Group and do not necessarily reflect the views of individual members.



The re-deliverer's service is a distinct service from the good that is being supplied and is a separate supply on which the GST treatment should be considered separately. This is consistent with *IS 17/03: Goods and Services Tax – Single supply or multiple supplies*, under which consumers would view the supply of redelivery services provided by re-deliverers as a separate service from the goods that are purchased from another store.

To consider the appropriate GST treatment to this separate supply, the Group does not support GST being charged on redelivery charges as these represent a supply of services that is being undertaken outside of New Zealand (a supply of services made offshore). It would not be appropriate to effectively raise the price of redelivery services by imposing GST on redelivery, as there is no taxing point for New Zealand (given there is no consumption in New Zealand of this service by the New Zealand customer).

For example take the situation where:

- A customer in New Zealand purchases a book from a store in America that doesn't ship to New Zealand.
- The New Zealand customer arranges for this item to be sent to a re-deliverer's US address, to then be shipped to New Zealand by the re-deliverer.
- The initial cost of the book is paid by the consumer direct to the American store, while a re-delivery charge is imposed by the re-deliverer (which the New Zealand consumer must pay before their book is released).

In line with the discussion document proposal, the re-deliverer should now pick up the value of the goods to be redelivered to New Zealand and charge and return GST on this amount. It should be clarified that in this situation, no GST should be applied to the re-delivery charge imposed by the re-deliverer as this is a supply of services made offshore.

For your information, the members of the Corporate Taxpayers Group are:

- | | |
|---|---|
| 1. Air New Zealand Limited | 22. New Zealand Racing Board |
| 2. Airways Corporation of New Zealand | 23. New Zealand Steel Limited |
| 3. AMP Life Limited | 24. New Zealand Superannuation Fund |
| 4. ANZ Bank New Zealand Limited | 25. NZME Limited |
| 5. ASB Bank Limited | 26. Pacific Aluminium (New Zealand) Limited |
| 6. Auckland International Airport Limited | 27. Powerco Limited |
| 7. Bank of New Zealand | 28. Shell New Zealand (2011) Limited |
| 8. Chorus Limited | 29. SKYCITY Entertainment Group Limited |
| 9. Contact Energy Limited | 30. Sky Network Television Limited |
| 10. Downer New Zealand Limited | 31. Spark New Zealand Limited |
| 11. First Gas Limited | 32. Summerset Group Holdings Limited |
| 12. Fisher & Paykel Healthcare Limited | 33. Suncorp New Zealand |
| 13. Fletcher Building Limited | 34. T & G Global Limited |
| 14. Fonterra Cooperative Group Limited | 35. The Todd Corporation Limited |
| 15. Genesis Energy Limited | 36. Vodafone New Zealand Limited |
| 16. IAG New Zealand Limited | 37. Watercare Services Limited |
| 17. Infratil Limited | 38. Westpac New Zealand Limited |
| 18. Kiwibank Limited | 39. WSP Opus |
| 19. Lion Pty Limited | 40. Z Energy Limited |
| 20. Meridian Energy Limited | 41. ZESPRI International Limited |
| 21. Methanex New Zealand Limited | |



We note the views in this document are a reflection of the views of the Corporate Taxpayers Group and do not necessarily reflect the views of individual members.

Yours sincerely

John Payne
For the Corporate Taxpayers Group

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Submission to the Inland Revenue Department on *GST on low-value imported goods: An offshore supplier registration system* discussion document

3 July 2018

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Overview

This document is a submission on the proposed imposition of the Goods and Services Tax (GST) on Low Value Goods (LVGs) sold to and imported by New Zealand buyers (**Proposed Measures**) using electronic distribution platforms (EDPs) by an industry group comprising Alibaba Group's AliExpress, eBay and Etsy, which are third party online marketplaces (3P).

Applying the same tax burden to remote, often small, retailers is unfair and potentially at risk of being reciprocated by other Governments on NZ small businesses operating online.

The current proposal will result in high rates of non-compliance and thus not achieve the desired revenue increases for the Government of New Zealand, will disadvantage customers on 3P platforms, and will not achieve the Government's objective of levelling the playing field for New Zealand retailers.

We also recommend the establishment of an IRD-led industry working group (including marketplaces, logistics providers, payments systems and retailers) on this matter and a review of any model twelve months after any legislation is passed. Equally NZ should take stock of Europe's timeline on this matter and align with those global timelines.

The extraterritorial imposition of GST is contrary to good tax policy and has the following technical complications:

1. Reduced revenue of \$40-65 million per annum – and rising

The Government's own estimates assume that two-thirds of online purchases will be captured by the proposed model.

The Australian Treasury, when proposing a similar model in 2017, assumed a compliance rate of just 25%. Based on a similar compliance rate in New Zealand, the actual revenue raised by this tax would be \$40-65 million per annum less than is projected, with the shortfall rising by about 10% annually as the volume of online trade increases.

The proposed model will result in significantly reduced revenue to be reinvested into essential services for New Zealanders compared to a model which captures a larger percentage of online transactions.

2. Very high rates of non-compliance

We believe compliance will be low as consumers will simply turn to websites or marketplaces that are not compliant; or use eBay or AliExpress as a search engine then purchase the equivalent product directly from the seller or through alternative, non-compliant retailers who will be able to offer the products at 15% less than compliant players; and which have spotty track records regarding consumer protection and regulatory compliance.

There will be no new border processes to ensure GST has been captured. We understand that neither IRD nor Customs will be given additional resources to enforce the new rules.

3. We are not traditional retailers

As a technical matter, the proposed model is extremely difficult for 3P marketplaces to implement and we are yet to analyse any issues related to measures taken to comply with the flawed Australian collection model. 3P marketplaces do not hold the goods, and do not control the movement of the goods. We are not the sellers or owners of the goods, we simply connect buyers and sellers. The focus should be on 1P retailers/suppliers in the truest sense of that word. Government could consider an exemption for 3P marketplaces and focus on suppliers in the truest sense of that word. In our view however a logistics services/freight handler model would be far more effective and capture all LVG parcels coming across the border, as we outlined during Australian consultations too.

4. Unprecedented compliance costs will increase costs for Kiwi consumers

The proposed model will require extensive system changes and ongoing compliance costs that will at least be partly borne by consumers as the NZ GST is a consumption tax, and therefore a tax on consumers. What Government is proposing is that suppliers bear the brunt of collection. eBay, Etsy and AliExpress are global platforms. These system changes are technically difficult and will still result in a less-than-optimal rate of revenue collection. There is a high degree of risk that consumers and businesses will face complications with the implementation of the proposed model as it is novel, complex and remains untested.

5. New Zealand retailers remain disadvantaged

To use Australian Treasury modelling as an example, New Zealand businesses will continue to be disadvantaged as up to 75% of low value goods imported into New Zealand will continue not to be taxed, and thus continue to have a tax-price advantage over goods sold locally in New Zealand. This rate could increase should overseas retailers or marketplaces decide not to offer products to New Zealand consumers. This has been the case in Australia where Amazon has decided to restrict cross-border sales. Changing the GST laws as they relate to overseas online purchases will not fix all the issues faced by traditional retailers: for example, but not limited to wages, cost of rent and general cost of doing business in NZ.

6. Unfair to SMBs and individual sellers

Under current GST rules, vendors who sell less than \$60,000 of goods into New Zealand are exempt from GST. Under the new proposal, overseas Small and Micro Businesses (SMBs) will no longer be exempt if they sell through a platform like eBay, Etsy or AliExpress. This puts small businesses at a severe, clear and discriminatory disadvantage if they use 3P marketplaces, compared to suppliers who sell directly through websites or other channels which may result in decreased visibility, transparency and compliance in respect of regulations set by New Zealand authorities.

7. Higher trade barriers

The extraterritorial application of New Zealand's GST laws will create additional costs for overseas businesses and limit the free trade of goods into New Zealand. This is not in the spirit of various free trade agreements across the globe.

The proliferation of efforts to expand the imposition of local sales-type taxes on remote small businesses in the name of fairness will make it harder for Internet-enabled small enterprises to export.

Before the Internet very small enterprises and microentrepreneurs rarely, if ever exported. They were generally trapped in their local market, increasingly faced direct competition from large enterprises with greater access to global markets, and were subject to ups and downs of their economic neighbourhood. The Internet has dramatically expanded the opportunity to small businesses to trade. While it is still very difficult for small and micro enterprises to compete head-on with giant competitors, access to global commerce platforms with many millions of users has allowed small enterprises, including in New Zealand, to carve out successful niches and grow. A better future for small businesses, who will continue to face large competitors with their traditional access to global markets, is to maintain low tax barriers and promote access to greater Internet-enabled exports and imports.

A fairer more efficient collection model

The authors of this submission believe the proposed model should be abandoned and replaced with a fairer more effective model, for example one based on an extension of current systems such as via collection at the border. This is what already happens for goods worth more than \$400. Under the current proposal, there would be one system for goods under \$400, and another system for everything else.

A border collection model would address many of the concerns raised above, and would significantly increase the revenue captured. 100% of imports pass through the border so 100% of GST would be collected.

Alternatively, the current proposals require rewriting to ensure they are workable. In particular, 3P marketplaces that merely provide listing and processing services to users should be treated differently under the proposed amendments. 3P marketplaces do not set the price, hold or handle goods, or have full knowledge of the flow of physical goods – therefore a model intended for online retailers cannot be easily applied to our platforms.

We would welcome the opportunity for further discussion of the points made in this submission.

About Us

The members of the Industry Group operate websites that provide the ability for sellers to list goods for sale to buyers. These services are referred to as “3P”. 3P service providers rely on the information provided from users, do not set the price of the goods, and do not handle the goods. It is important to distinguish “3P” services from “1P” services where the website operator acquires the goods wholesale and resells the goods in its own right.

Further information on each member of the Industry Group is outlined below.



Alibaba Group's mission is to make it easy to do business anywhere. The company aims to build the future infrastructure of commerce. It envisions that its customers will meet, work and live at Alibaba, and that it will be a company that lasts at least 102 years.



eBay Inc. (NASDAQ: EBAY) is a global commerce leader including the Marketplace, StubHub and Classifieds platforms. Collectively, eBay connects millions of buyers and sellers around the world, empowering people and creating opportunity through Connected Commerce. Founded in 1995 in San Jose, Calif., eBay is one of the world's largest and most vibrant marketplaces for discovering great value and unique selection. As at Q1, 2018 eBay had 171 million active users globally. For more information about the company and its global portfolio of online brands, visit www.ebayinc.com



Etsy, Inc. is the global marketplace for unique and creative goods. Our mission is to keep commerce human, and we're committed to using the power of business to strengthen communities and empower people. We connect millions of buyers and sellers from nearly every country in the world. Buyers come to Etsy to be inspired and delighted by items that are crafted and curated by creative entrepreneurs. For sellers, we offer a range of tools and services that address key business needs. A typical Etsy seller is a female entrepreneur working out of her home to supplement her household's income. In 2017 Etsy had 1.9 million such microentrepreneurs.

Complications with the Proposed Measures

The Proposed Measures are most likely to be ineffective in levelling any playing field due to a number of complications with the Offshore Supplier Registration Model. It is essential that the GST treatment of LVGs is aligned to best practice tax policy, particularly as it is currently intended to apply extra-territorially.

The stated goal of the Tax Working Group was to achieve a collection method which has:¹

- Sufficiently low compliance costs;
- High compliance rates; and
- And is consumer friendly.

The proposed model does not achieve any of these goals as it will face high rates of non-compliance and unprecedented high costs to online platforms, sellers and consumers. The model is untested anywhere in the world (given the Australian model only commences on 1 July 2018) and there is a significant risk that New Zealand consumers will suffer, while local retailers continue to be disadvantaged by non-compliant online traders. In fact the OECD is working on a longer timeline for consideration of this issue and we recommend that the NZ Government consider aligning with those timelines.

Finally, it is quite likely that Internet-enabled small businesses in New Zealand will be harmed by the new Australian model and negotiating more beneficial treatment for small exporters is a better long-term policy than competitive tax efforts.

1. Reduced revenue of \$40-65 million per annum – and rising

We believe the Proposed Measures will raise only 25% of the available revenue for LVGs. Even based on the Government's more optimistic forecasts, \$40 million of revenue will be foregone in 2020/21, increasing every year after that.

The proposed measures will only capture a fraction of the available revenue, thus only addressing a fraction of the problem.

It is difficult to forecast the potential revenue and compliance rates for collection of GST. The Government's own forecasts estimate that the foregone GST revenue was around \$80 million in 2016. This is lower than the previous estimate of \$140 million, and the Retail NZ estimate of \$235 million. The Government assumes payable GST will increase to \$127 million in 2020/21.²

The Government's current estimate of \$53 million collected in 2019/20, increasing to \$87 million in 2020/21, anticipates non-compliance of around 33%. We believe non-compliance will be much higher. The Australian Treasury, when proposing the Australian model which the Proposed Measures are based on, estimated only 25% of online transactions would be captured. The Discussion Document has not outlined the rationale that compliance would

¹ Tax Working Group 2018.

² Customs and IRD advice cited by Tax Working Group and Government Discussion Document.

be significantly higher in New Zealand than Australian Treasury modelling showing estimated compliance at just 25% in the first year.

If the proposed model is adopted, the Government will therefore be missing out on revenue of between \$40 million (based on the Government's best-case estimates) and \$65 million per annum (based on the Australian Treasury's estimated compliance rate) by 2021.

These amounts would increase every year based on the Government's projected increases of 12% per annum.

The revenue lost through an unenforceable and inadequate model could even be in the range of \$78-176 million if the higher RetailNZ estimate of total volumes is correct.

We have outlined in the next section the reasons for high non-compliance. This is unavoidable under the proposed model. An alternative model could attract compliance of close to 100%, thus much better achieving the Government's objectives of raising revenue.

2. Very high rates of non-compliance

The Proposed Measures are wholly inadequate in achieving a meaningful level of compliance due to the absence of effective compliance and enforcement mechanisms.

Effective compliance mechanisms are absolutely essential. Without some form of solution to identify goods on arrival at the border to ensure duty and/or GST is captured, there will be limited incentive for voluntary compliance.

The proposed compliance mechanisms rely on information exchange and an amorphous joint-registration system with other countries at an unspecified point in the future. We understand there will be no additional resource allocated to IRD or Customs to assist with compliance and collection.

We believe compliance will be low as consumers will simply turn to websites or marketplaces that choose not to collect GST; or use 3P marketplaces as a search engine then purchase the equivalent product directly from sellers or through alternative sites. This not only puts our platforms at a disadvantage; it will make enforcement nearly impossible from the Government's perspective. Furthermore, driving consumers away from large 3Ps who are compliant (and able to invest in other compliance measures to restrict the flow of unlicensed and dangerous goods into New Zealand) to smaller marketplaces and standalone online retailers will provide New Zealand authorities with reduced visibility of listings and product information and data already provided by larger 3P marketplaces.

3. Distinction between online retailers and 3P marketplaces

The proposed model is extremely technically difficult for 3P marketplaces to implement, as we are not involved in the payment transaction between buyer and seller.

3.1. Our marketplaces are not directly involved in transactions

There are two key misconceptions throughout the Discussion Document. The first is that the marketplace is generally in a better position to register and return GST on supplies compared with the underlying supplier:³

Typically, the marketplace would be larger and better resourced and may have a closer relationship with the customer. Requiring the marketplace to register may also reduce compliance costs, as a potentially large number of smaller suppliers may not be required to register. It is anticipated that the marketplace and the underlying supplier will have commercial arrangements in place that could take any GST costs into account.

Our marketplaces do not fall in the same category as Amazon, ASOS or other online retailers. 3P marketplaces are not sellers. 3P marketplaces do not own, sell or supply goods. 3P marketplaces are not involved in payment or shipping. Buyers are connected directly with sellers. The assumption that an online platform is directly warehousing and selling goods may be true in traditional retail; but is not true in the case of platforms like eBay, Etsy and AliExpress.

3.2. Applying GST to goods is more complex than intangibles

The second misconception in the Discussion Document is that the successful application of GST on intangibles demonstrates the simplicity of applying GST to goods. Again, this may be the case for suppliers of online services or intangible goods who directly provide a service to consumers. Our platforms do not make direct transactions with customers in the same way. The application of GST via a third party marketplace remains entirely untested. In the vast majority of instances, the GST on intangibles is applied to businesses directly controlling both the supply and pricing of services and intangibles with relatively standardised pricing. 3P marketplaces, on the other hand, do not control the pricing or supply of a vast array of goods.

4. Unprecedented compliance costs will increase costs for Kiwi consumers

The proposed model introduces unprecedented technical difficulty and compliance costs for our global platforms and it is unavoidable that some of these costs will be passed on to consumers.

4.1. Unprecedented compliance costs for global platforms

The Proposed Measures will require extensive system changes and ongoing compliance costs. It is unavoidable that these costs in addition to the GST will be partly borne by consumers.

There has been no modelling released that shows the impact of the proposed model on consumers and we urge the Government to very carefully consider the impact of this model.

³ Government discussion document.

The development cost of adjusting our platform to meet local demands is significant. AliExpress, eBay and Etsy are global platforms. We will strive to make the investments required, but suggestions that this is a simple or costless process for us are simply incorrect. We believe it is unfair for government to shift expensive compliance costs onto us in this manner, rather than take steps itself to increase collection with the support of 3P marketplaces working in collaboration with Government.

4.2 Untested model

We are aware of suggestions that we are already required to collect GST or VAT in other jurisdictions beyond Australia. This is not correct. If adopted, New Zealand would be only the second country in the world to apply GST to LVGs through an Offshore Supplier/Marketplace Hybrid Registration Model. Nor is it simply a matter of adapting the Australian model to New Zealand. Australia's GST system is vastly different to New Zealand's and significant additional investment will be required.

There is a high degree of risk that consumers and businesses will face complications with the implementation of the proposed model as it is novel, untested and complex.

The Proposed Measures will be ineffective in addressing the Government's stated objective of levelling the playing field for New Zealand retailers and will result in further market distortions.

5. New Zealand retailers will remain disadvantaged

New Zealand businesses will continue to be price disadvantaged as up to 75% of low value goods imported into New Zealand will continue not to be taxed. There is limited incentive for overseas businesses to voluntarily comply as they will be put at a price disadvantage vis-à-vis non-compliant businesses.

This exposes New Zealand small businesses to continued price pressures from non-compliant businesses.

The anticipated levels of non-compliance mean that the Proposed Measures will be ineffective in addressing the Government's stated objective of levelling the playing field for local retailers. The absence of effective compliance and enforcement mechanisms will directly lead to market distortions.

Perhaps the Government could consider some type of reciprocal small business tax treatment between different countries, particularly for those small businesses who rely on export markets.

6. Unfair to SMBs and individual sellers

The Proposed Measures will result in small businesses being disadvantaged and will not achieve the Government's stated objective of levelling the playing field.

The Discussion Document acknowledges that vendors whose total supplies fall below the threshold of \$60,000 will be disadvantaged:

It is acknowledged that in the absence of marketplace rules, supplies of low-value goods by these smaller suppliers would not be subject to GST because the total value of their supplies to New Zealand consumers would fall below the GST registration threshold. While the purpose of the registration threshold is to reduce compliance costs for suppliers that do not supply many goods and services to New Zealand consumers, the compliance costs for these smaller suppliers fall away when the requirement to register and return GST is shifted to the marketplace.

It is not correct that these smaller suppliers will not face compliance costs. Obviously, they will face the significant cost of GST being added to the price of their goods. In addition to this they will need to grapple with the uncertainty created when price and taxation differs depending on where the successful buyer is located.

Small businesses typically operate through third party platforms as they do not have the capital or infrastructure required to develop a stand-alone online store. Third party platforms offer small businesses a lower-cost entry to market, including international markets, which is vital for encouraging domestic growth. However, the Proposed Measures put small businesses at a disadvantage compared to larger businesses as the GST turnover threshold is determined at the platform level, rather than based on the individual seller's turnover cost. Small businesses operating through third party platforms therefore lose the benefit of the GST/VAT registration threshold.

For example, Etsy's sellers are predominantly microentrepreneurs, few of whom would ever reach the \$60,000 threshold. However, the proposed model treats Etsy as one individual seller, and GST would be applied to each individual seller's product, even if it was the first sale they ever made into New Zealand.

The Proposed Measures will disadvantage small business and create impediments for small business and individuals to access the New Zealand market.

7. Higher Trade barriers

The Proposed Measures create a trade barrier for overseas businesses supplying goods to New Zealand.

The extraterritorial application of New Zealand's GST laws will create additional costs for overseas businesses and limit the free trade of goods into New Zealand. As outlined above, overseas businesses will be subject to compliance costs when they sell goods to New Zealand consumers. This serves as a barrier to trade and is contrary to New Zealand's advocacy for free trade and removal of trade barriers.

There is a risk that other countries may implement reciprocal arrangements, especially as reciprocity has become a key policy argument at the WTO and in other international trade discussions which could put New Zealand at a further disadvantage. This would result in

New Zealand businesses having a registration requirement and compliance obligations in overseas jurisdictions. New Zealand businesses would incur costs in meeting these compliance obligations which may stifle entrepreneurship, innovation and decrease exports.

8. Contrary to Tax Design Principles

The Proposed Measures are contrary to best practice tax design principles.

We have assessed the Proposed Measures in accordance with the principles of the Ottawa Taxation Framework Conditions as endorsed by the OECD in the matrix below:

Tax Design Principle	Rating and observation
<p>Efficiency</p> <p>Compliance costs for taxpayers and administrative costs for the tax authorities should be minimised as far as possible.</p>	<p>Rating: Medium</p> <p>The Proposed Measures expose overseas businesses to increased compliance costs.</p>
<p>Neutrality</p> <p>Taxation should seek to be neutral and equitable between forms of electronic commerce and between conventional and electronic forms of commerce. Business decisions should be motivated by economic rather than tax considerations. Taxpayers in similar situations carrying out similar transactions should be subject to similar levels of taxation.</p>	<p>Rating: Low</p> <p>While the Proposed Measures are designed to apply to all businesses, the lack of an enforcement mechanism at the time of arrival of the goods will result in compliant businesses being at a price disadvantage vis-à-vis non-compliant businesses.</p>
<p>Certainty and simplicity</p> <p>The tax rules should be clear and simple to understand so that taxpayers can anticipate the tax consequences in advance of a transaction, including knowing when, where and how the tax is to be accounted.</p>	<p>Rating: Low</p> <p>The intricacies of determining the correct GST treatment is problematic for overseas businesses with limited familiarity with applying GST to goods.</p>
<p>Effectiveness and fairness</p> <p>Taxation should produce the right amount of tax at the right time. The potential for tax evasion and avoidance should be minimised while keeping counteracting measures proportionate to the risks involved.</p>	<p>Rating: Low</p> <p>The absence of an enforcement mechanism at the time of arrival of the goods substantially reduces the effectiveness of the proposed measures.</p>

The Proposed Measures should be abandoned and replaced with a fairer more effective model based on collection at the border.

A fairer more efficient alternative collection model

The Proposed Measures lack an effective compliance and enforcement mechanism which will lead to low compliance rates. This would result in New Zealand implementing an inefficient, inadequate and untested system.

Given expectations that the level of online purchases will only increase, we believe that New Zealand should implement a robust system which limits market distortions yet achieves more revenue and results in more low value goods being captured. A variety of models were briefly considered by the Tax Working Group in an addendum to their report. The Discussion Document refers to the Tax Working Group report without providing any further depth. We are concerned by the lack of detail in the analysis that has so far been publicly released.

The Industry Group believes that a border collection model is the best option for reform. It also is business model agnostic by focusing on the actual goods in question rather than the type of online business model. This model addresses many of the concerns raised above as follows:

- Increased revenue and limited market distortions – imports would be captured at the border thereby eliminating the need to rely on voluntary compliance;
- Reduced costs passed on to consumers;
- Increased certainty and simplicity for business – there are already systems in place in relation to goods exceeding the current threshold, and it is reasonable to expect that these systems could be modified to capture GST on low value goods.
- Increased effectiveness and fairness – proximity and sovereignty would allow for more effective enforcement.

Alternatively, the Proposed Measures require a fundamental rewrite to ensure that they are workable. In particular, platforms that merely provide listing and processing services to users should be excluded from the Proposed Measures. 3P service providers do not set the price, hold or handle goods, or have knowledge of the flow of physical goods and should be distinguished from 1P service providers who are acquirers and resellers of goods. 3P service providers should be treated in the same way as online listing services and payment processing services in being excluded from the Proposed Measures. 3P service providers connect sellers and buyers and would require a significant change to our systems and business processes, including the type of information sourced from sellers and buyers, in order to comply.

From: §9(2)(a)
Sent: Thursday, 5 July 2018 2:45 a.m.
To: Chris Gillion; §9(2)(a)
Cc: §9(2)(a)
Subject: Re: Last call for BIAC members written input by Friday July 6th - on New Zealand consultation regarding the proposal for an offshore supplier registration system for GST on low value imported goods

Dear All,

I apologise that due to illness I have not been on earlier calls and have not contributed to the discussions to date.

However, I have some general observations which may be of benefit.

There are so many ways that low value goods can be sold, including via market places, directly, via third parties, under agency agreements etc etc that it would be very difficult to lay down strictly defined rules for how GST must be accounted for in each situation. The document discusses differing possibilities for compliance, and there will be many more in practice including issues arising for mixed and multiple supplies and possible different rates of GST..

Company structures and supply chains will also be constantly changing as technology develops and new issues arise, and any legislation should be future proofed as far as possible. .

This will also be further complicated as the status of suppliers and customers will change and any system will have to allow for such changes in residency, domestic/foreign suppliers, with all the attendant issues in respect of establishment, PE, B to B and B to C etc.

There will also be the very practical issue of returns, credit notes, discounts etc which will also have related GST considerations and any system must allow for.

It might be preferable that the scope of the market place rules are drafted in such a way that the general principles are clearly set out as to who is responsible for the collection and payment of the tax.

The direction of travel is clearly for the EMP to be responsible, which makes sense for all parties and should account for the vast majority of values.

These rules would be drafted broadly in reach and some really good guidance can be found in the International VAT/GST Guidelines where NZ was a very active participant and much of the language can be reused in your deliberations.

Guidance notes can be prepared setting out some of the considerations that can apply, which should give the right answer depending on the precise circumstances .

This would include double taxation situations , and valuation methods.

To try to pin down precise % , or any other prescriptive methods would lead to difficulties , certainly in practice for both businesses and National tax Jurisdictions.

I think that less is more at this stage and try to keep things simplewhich is the difficult bit.

I hope that this is helpful.
With Regards,

Mike Molony.

this case, the EMP Operator being responsible for the collection of the tax is clearly the direction of travel, as this must make more sense for both the Government and for businesses.

I think that less is more at this stage

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From: s9(2)(a)
To:
Cc: s9(2)(a)
Date: 03/07/2018 14:48
Subject: Last call for BIAC members written input by Friday July 6th - on New Zealand consultation regarding the proposal for an offshore supplier registration system for GST on low value imported goods
Sent by: s9(2)(a)

To: Business Members to the OECD Technical Advisory Group on VAT/GST

Dear Colleagues,

Thanks so much again to those of you who joined the two BIAC calls yesterday to provide oral input on the New Zealand proposal for an offshore supplier registration system for GST on low-value imported goods, as well as those of you who have already given direct written input to our New Zealand colleagues.

In case you did not have time to join the calls or to provide written input, there is still a time window until the end of this week (Friday July 6th) to provide written input.

We have attached the relevant consultation documents again in this e-mail for your convenience.

The first consultation document deals with the scope of market place rules, double taxation issues and valuation methods for the proposed \$400 threshold.

The colleagues from New Zealand Inland Revenue are mainly seeking feedback on the below 3 points which they also mentioned in their memorandum:

1. How to define an electronic marketplace for the purposes of an offshore supplier registration model, if we propose to deem electronic marketplaces the suppliers who must collect the tax.
2. How to minimise the potential for double or non-taxation where low-value goods are transported with higher value goods and how to deal with refunds.
3. What is the appropriate value to apply the tax: the custom's value or the price paid by the consumer.

In addition, we received another consultation document this morning from the New Zealand colleagues (which you will also find attached) focusing on approaches to the marketplace rules. Any input to this document is also highly appreciated. We would like to kindly encourage you to share your written input directly with the following colleagues from New Zealand Inland Revenue:

Chris Gillion s9(2)(a)

s9(2)(a)

In case you have any follow up questions to the consultation, please feel free to contact the above mentioned colleagues directly.

Thanks so much again as always for your great support.

All the very best,

s9(2)(a)

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GST on low-value imported goods
C/- Deputy Commissioner Policy and Strategy
Inland Revenue
Via email (policy.webmaster@ird.govt.nz)

5 July 2018

Dear Sir/Madam

KPMG Submission: GST on low-value imported goods: An offshore supplier registration system

We are pleased to provide our submission on the *GST on low-value imported goods: An offshore supplier registration system (A government discussion document)*.

Our submission and the current consultation requires some context.

GST policy and its interaction with trade

From a GST policy perspective, it is clear that goods acquired from offshore should be subject to GST if the goods would be subject to GST if acquired in New Zealand. However, that relatively straight-forward policy position is much harder to put into practice. There is also a risk that implementation of the policy will affect consumer choice and trade.

The *South Dakota v Wayfair, INC., Et Al (585 U.S. (2018))* ("Wayfair") decision of the United States Supreme Court illustrates both positions.

The majority, albeit in the context of state level taxes (which are not full value added taxes), saw that the lack of taxation of cross-(state) border sales as a significant problem for taxation by US states and local authorities. It allowed, in their view, consumers to avoid the tax properly payable on their consumption. It created, in their view, unfair competition. However, the majority also recognised that the taxation of cross-border sales required an appropriate set of rules so as not to unduly hamper cross-border sales.

The minority saw the potential to disrupt the current commercial arrangements, which had grown in the context of their current rules, as a significant problem to deciding in favour of South Dakota's rules. (This, in the specific United States constitutional context, led to their view that *Wayfair* should succeed.)

When we have debated the New Zealand policy proposal within KPMG, the same two broad points are made:

- 1 Not taxing cross-border sales is an increasingly significant gap in taxing New Zealand consumption.
- 2 The imposition of the tax runs the risk that cross-border sales will not occur. The driver for cross-border sales is the variety and choice available. The relative cost differential is less of a driver with GST accounting for some of the difference. The real concern is that the goods will be simply unavailable if foreign suppliers cease to trade with New Zealand consumers. (We have seen examples of foreign suppliers ceasing to supply to Australia as the result of Australia's rules.)

Further, implementing the proposal is unlikely to be as straight-forward as assumed. This is particularly the case for deemed suppliers whose existing systems and contracts may not readily deal with the requirements to comply with the GST.

Submission

On balance, we consider it is now appropriate to apply GST to cross-border sales. However, it is important that the GST is implemented in as efficient a way as possible. Government needs to recognise that the proposal will disrupt commercial arrangements and that it is necessary for the administration of the system to be as light touch as possible. At the border compliance, particularly, needs to have a mind-set change so that goods from compliant suppliers are efficiently cleared.

Foreign Supplier Model

The starting point in *Wayfair* is that the tax is a tax on the consumer of the goods. However, collection and enforcement problems mean that the collection is imposed on the supplier. That is also the position for the document's proposal – in particular, that technology limitations mean that the supplier should charge and collect the GST.

However, the proposal is not limited to a supplier model. Both electronic marketplaces ("EMPs") and re-deliverers are also required to register. The first extends the GST to goods supplied that would not be taxable if acquired in New Zealand. Individual businesses are not able to use the threshold and consumer to consumer ("C2C") supplies are within the net. The re-deliverer registration requirement is a consumer collection model (albeit a before the border model).

This hybrid model suggests that the limitations may be overstated. Further, the model means that there is a difference between the (theoretical) incidence of the tax (on the consumer) and the legal liability (on the supplier/deemed supplier).

The proposed model is a mix of compromise and opportunism to raise as much revenue as possible.

Submission

It is important that there is on-going attention paid to the regime to make changes to reduce the costs as quickly as changes to Customs and postal processes allow.

Summary of submissions

Our further detailed submissions are in the Appendix. We summarise below our submission points.

- To reduce compliance costs for offshore businesses required to register and account for GST under the proposed rules, we recommend that:
 - New Zealand's rules for GST on low-value imported goods should be aligned with Australia's to the extent Australia's rules are workable. Problems arising from those rules should be dealt with and not repeated in New Zealand's rules.
 - Registrants should be given the option to charge GST on all their low-value imported goods sales, so that they do not have to verify which sales are made to GST registered businesses.
 - A searchable public register of GST registered businesses is made available to allow registrants to determine whether they are making supplies to GST registered businesses.

- The rules should include provisions to ensure that consumer-to-consumer sales of low-value imported goods made through an electronic marketplace (“EMP”) are not subject to GST.
- The threshold for the low-value goods should be determined with reference to the Customs value of the goods and the GST value of the goods should include delivery charges.
- Consideration should be given as to whether the threshold can be increased from the proposed NZ\$400 to NZ\$1,000.
- Customs and Inland Revenue need to have an efficient clearance and audit process to ensure double taxation does not arise. In particular, processes should be established so that it is reasonable to rely on audit rather than at the border clearance processes.
- The time limit for making output tax adjustments for refunds given by offshore suppliers should not be limited to two years.
- The rules should provide practically achievable criteria for EMPs to apply for an exemption from the rules so that the primary obligation to return the GST on the sale of low-value imported goods is on the actual supplier. The overriding of commercial arrangements and the cost of implementation should be dealt with by the proposal.
- The rules should state the time of supply for vouchers issued by EMPs is at the time of redemption as opposed to issuance.
- The rules should confirm that offshore suppliers only take into account direct sales when determining whether the offshore supplier has exceeded the NZ\$60,000 registration threshold. Officials should also consider a simplified set of threshold rules being applied.
- Non-resident suppliers required to charge GST under these (or the remote services) rules, should be entitled to recover input tax on acquisitions for their non-New Zealand activity and supplies.
- The application of New Zealand consumer law to GST pricing of foreign suppliers should be considered and if necessary, it should be confirmed that GST exclusive quoting but GST pricing at the checkout is allowed.

Further information

Should you wish to discuss further with us any aspect of our submissions or require any further information, please contact us.

Yours sincerely



Peter Scott
Partner



John Cantin
Partner

Appendix: Submission on GST on low-value imported goods: An offshore supplier registration system (A government discussion document)

General design comments

Extended offshore supplier registration model

The discussion document notes that three options were considered for the collection of GST on low-value goods being:

- 1 **At the point of sale** where the offshore supplier will be required to register for GST and collect GST on their sales.
- 2 **Between the point of sale and delivery** where the courier companies and New Zealand Post would collect the GST on low-value goods sales.
- 3 **After the delivery of the goods** where the recipient of the goods would pay the GST after their delivery.

The discussion document recommends an offshore supplier registration model (under the first option) at present as there are practical concerns for the latter two options that make them infeasible in the short to medium term.

We note that the model outlined in the discussion document is not a pure offshore supplier registration model due to the extension of the GST registration requirement to include EMPs and re-deliverers. These are not the supplier of the goods. This presents some policy and practical challenges that need to be carefully considered in the design of the proposed rules. Further, particularly for EMPs, existing business models and contractual arrangements will not easily accommodate the proposals. We note below particular submissions that may allow more appropriate outcomes.

Alignment with Australian rules

GST applies to low-value goods imported into Australia from 1 July 2018. The proposed rules for charging GST on low-value goods imported into New Zealand are largely similar to the Australian model.

Given Australia and New Zealand's close relationship and geographic proximity, there will be many offshore suppliers, EMPs and re-deliverers that will be selling/shipping low-value goods to both countries. We would encourage officials that, to the extent possible, New Zealand's rules should be aligned with Australia's. This will help minimise the compliance cost for offshore businesses that need to comply with both countries' low-value goods rules.

However, equally, attention should also be paid to practical and technical problems with the Australian rules. Our feedback is that the rules are not always as easily implemented as the model would suggest. New Zealand has time available to work with suppliers to consider the rules and to find solutions.

Consumer to consumer (C2C sales)

From a policy perspective, so that New Zealand and foreign sourced goods have the same treatment, the proposed rules should not apply to sale of goods that would not be subject to GST if supplied in New Zealand.

The proposals may overreach where the goods are being sold by a private seller, i.e. C2C sales through an electronic marketplace.

The proposed rules should ensure that C2C sales are not subject to GST where they are sold through an electronic marketplace. Some suggestions on how this can be achieved are:

- Exclude from the EMP rules, platforms that mainly only provide a service to list goods for sale. This will ensure that C2C sales would not be subject to GST. The offshore private seller would not have an obligation to charge GST under the proposed rules. On the other hand, offshore businesses that use the listing platform to sell their goods would still have the requirement to register for and charge GST on their low value goods sales.
- If this exclusion is not workable, then we would recommend that EMPs are given the option not to charge GST on the sale of goods made through their platforms where they reasonably expect that the seller is not carrying on a taxable activity, e.g. EMPs would require their customers to confirm whether they are a business or private seller when onboarding users onto their platform.

Valuation

We believe that two separate issues need to be considered:

- 1 what value of the goods should be used for determining whether the goods are below the threshold for GST to apply
- 2 whether, if a good is subject to the low-value goods regime, the costs of delivery and insurance to the end customer should be included in the taxable value of the goods.

We consider the second issue first.

Including international freight and insurance in the value of the goods

We agree that delivery charges (i.e. international freight and insurance) for low-value goods should be included in the value of the goods for GST charging purposes.

Simply, the value of the consumption in New Zealand includes the price of the goods plus the cost of getting the goods to New Zealand. Therefore, it is logical that those costs are included in the value of the goods. This is consistent with the current valuation rules in section 12 of the GST Act.

This is also consistent with the stated policy objective of applying GST on low-value imported goods in order to level the playing field with local suppliers. For local suppliers, their cost of making the goods available to their customers includes the cost of delivery of the goods into their shops, and these delivery costs are then recovered in the price for which they sell their goods. Accordingly, not including delivery charges for low-value imported goods would not put the local suppliers in a level playing field.

Value for determining whether goods are low-value goods

Officials are considering two valuation options in determining whether goods are low-value goods, being:

- 1 the Customs value of the goods
- 2 the GST value of goods (i.e. the customs value plus delivery charges – see above).

Our preference would be for the threshold to be based on the Customs value of the goods because:

- From the offshore supplier/EMP re-deliverer's perspective, it would be easier for them to set-up their systems to add GST where the value/price of the goods is below the low-value goods threshold. This is because, typically, delivery charges are not known until the customer proceeds to 'check-out' the goods, so whether GST applies or not would be

determined only at the end. Including the delivery charges can then be accommodated by adding GST to the delivery charge at the end of the process.

- From a customer experience perspective, it would also be preferable that the prices quoted by the offshore supplier (for example in the supplier's website) includes all applicable taxes, e.g. customers may not be happy to see a price of NZ\$370 for example, and then find out when they proceed to the check out that they need to pay an additional 15% on top of the price quoted as the delivery charges exceeded NZ\$30.
- Australia's low-value goods threshold is based on the Customs value of the goods. Aligning the New Zealand threshold valuation method with that of Australia's will help minimise the compliance cost for offshore businesses that need to comply with the rules in both countries.

Threshold value

The discussion document proposes a NZ\$400 threshold in order for GST to apply on low-value imported goods.

We recommend officials consider whether this threshold can be increased. If this is an option, then we would recommend a threshold value of NZ\$1,000.

The practical benefits of increasing the low-value goods threshold are:

- Given that Australia's low-value goods threshold is set at AU\$1,000, increasing the New Zealand threshold to NZ\$1,000 will further align the rules between the two countries.
- A higher threshold will reduce cases where a single consignment has multiple low value goods that exceed the threshold and the practical issues associated with that issue.

We note that the Customs *de minimus* value will need to be aligned with the threshold to ensure there is no double-taxation of the imported goods.

Supplies of multiple low value goods

Double taxation

As noted in the discussion document, there is a potential for double taxation where a single consignment includes multiple goods that individually are below the low-value goods threshold, but in aggregate, exceed the threshold. In this case, the offshore supplier (assuming they are required to register for GST) would have charged GST on the individual items sold under the proposed rules; however, as the consignment value is above the customs *de minimus* value, NZ Customs will also seek to collect GST at the border, when these goods are imported.

In order to prevent double taxation, it is proposed that the consumer would need to provide Customs with appropriate evidence of the GST payment so that GST will not be collected again at the border. While we agree that this is an option, we would urge officials to consider more efficient procedures for providing evidence to Customs that GST has already been paid at the point of sale.

Requiring customers to produce the evidence that GST has been paid on the imported goods creates a delay in the movement of goods at the border (as the goods will not be cleared until the customer has provided the evidence required). This raises the concern that implementing the GST on low value goods will unduly interfere with trade.

Further, this adds administrative costs to Customs in contacting the customer and processing the evidence provided. A trade-off for GST being applied on low value goods is that duty and cost recovery charges will not apply. We assume that will be the case for consignments of low value goods otherwise consumers will pay GST and customs cost recovery charges and duty. The costs would not therefore be recovered by Customs.

We recommend officials consider Customs:

- Develop an Approved Supplier regime for registered suppliers/EMPs/re-deliverers. Consumers of goods supplied by Approved Suppliers would not be required to separately prove GST payment. Instead, Approved Suppliers would be subject to post-importation audit activity by Customs and Inland Revenue, and/or
- Provide documentation guidelines that would allow a supplier to show that GST has been charged. We would expect over time suppliers would comply with these requirements if it made the customer experience easier.

If measures such as these are implemented, enforcement of the proposed rules should be easier. Complying suppliers will be more visible so that audit checks are simpler. Potentially non-complying suppliers will also be more visible.

We have made two assumptions:

- 1 Information will be exchanged between Customs and Inland Revenue under the Customs and Excise Act 2018.
- 2 The proposals' references to the consumer proving GST has been paid is intended to be a reference to GST has been charged. A consumer is unlikely to ever be in a position to prove that GST has been paid by the supplier.

Reasonable belief

Australia has a reasonable belief test for whether goods will be part of a consignment or not and therefore whether the threshold is breached or not. If New Zealand has an equivalent rule, the reasonable belief exclusion should be optional. This would allow:

- GST to be applied automatically to goods that are below the threshold. This is likely to be attractive if Customs processes for confirming that GST has been charged are efficient and not intrusive.
- Suppliers, who are uncertain whether goods are part of a single consignment or not, to charge GST without any concern that it may have been incorrectly charged.

Option to charge GST on B2B sales

It is proposed that only sales of low-value imported goods to non-GST registered recipients (B2C sales) will be subject to GST under the proposed rules. However, there will be an option to zero-rate sales to GST registered recipients (B2B sales).

The proposed rules will require the offshore supplier, EMP or re-deliverer to differentiate between B2C sales that are subject to the proposed rules and B2B sales that are not. This creates a compliance burden as procedures/systems to verify whether the recipient of the goods is GST registered will be required.

In order to ease the compliance burden for registrants, we recommend they are also given the option to charge GST on all their low-value imported goods sales, i.e. not to differentiate between B2C and B2B sales. We emphasise that this should be an option and not the default rule as not all registrants may want to charge GST on all their sales. Registrants that already have their systems set-up to differentiate between B2B and B2C sales will want to have the option to continue to treat B2B sales as not subject to GST or zero-rated.

Public register of GST registered businesses

As noted above, the requirement to differentiate between B2B and B2C sales under the proposed rules is a compliance burden for the registrant.

In order to ease this burden, we would also recommend that a searchable public register of GST registered businesses is made available. This would provide registrants with an easy and cost-effective method for checking whether the recipient is GST registered. This would have the additional benefit for a range of other situations under current GST legislation where confirmation of the GST status of a supplier or recipient is needed to determine the correct GST treatment (for example, zero-rating of land transactions; insurance claims paid by insurers; claiming of second-hand goods credits).

Refunds/returns

Where an offshore supplier provides a refund to the customer for goods returned by the customer, it is proposed that the supplier will be able to adjust its output tax for the GST refunded. However, it is noted in the discussion document that the time limit for making the output tax adjustment would be two years, as required under section 20 of the GST Act 1985. We do not agree that the two year time limit applies to a domestic supply. The two year time limit only applies to unclaimed GST input tax. It does not apply to output tax adjustments (for example, via credit note). A two year limit should not apply to offshore suppliers.

If there is an option to charge GST on B2B sales, we would expect the recipient's input tax claim would automatically be adjusted via the credit note rules. We recommend that is confirmed.

Requirement for EMP to register and return GST on low-value imported goods

Under the proposed rules, EMPs will be required to register for and return GST on low-value imported goods sold through their platform where customers would normally consider the EMP to be the supplier and this is reflected in the contractual arrangements between the parties.

Policy and practical considerations

We note that this proposal is contrary to the scheme of the rules that apply to domestic suppliers. This is a significant departure from the policy of the domestic rules. Even an agent for a supplier is not the supplier for GST purposes unless specific rules are followed and the parties agree.

The proposal is justified on revenue and compliance grounds. The proposal will capture more supplies with fewer registered persons.

Officials should be aware that the:

- Proposal comes at a cost to EMPs. Implementing the rules when the EMP is not the actual supplier is not necessarily straight-forward or cheap.

- Goods are likely to be less tied to a platform than remote services. Suppliers have direct distribution channel options that may not be the case for remote services. The differences in thresholds may therefore encourage suppliers to direct rather than EMP channels. This would mean that the same economic transaction has different GST results.
- Proposal is likely to require that commercial arrangements will need to be renegotiated. We have not analysed the position in any detail but we would not expect section 78 to facilitate amendments to existing contracts between suppliers and EMPs. (These contracts are unlikely to have New Zealand as the governing law. We have not researched whether section 78 can have extra-territorial reach. However, even if it can, commercial renegotiations would still likely be required.)
- Proposal may mean that consumer to consumer transactions are included when they would not be if the supply was a domestic supply.
- Resident EMPs, which may have resident and non-resident suppliers, have a particular problem as domestic suppliers are deemed to sell through the EMP as well.

We recommend that, if the EMP proposal proceeds, these particular issues are dealt with.

Ability for supplier to be responsible

It is proposed that the remote services rules of when an EMP will be required to register will be applied for low-value imported goods, i.e. an EMP will be required to charge GST unless all the following criteria are met the:

- 1 documentation provided to the recipient identifies the supply as made by the underlying supplier and not the EMP
- 2 underlying supplier and the EMP have agreed that the supplier is liable for the payment of the GST
- 3 EMP does not authorise either the charge or the delivery to the recipient, nor set the terms and conditions under which the supply is made.

In respect of the second criteria above, we understand that if a supplier is not required to register, as it does not meet the NZ\$60,000 registration threshold, the criteria can still be satisfied. In other words, if the supplier agrees to meet their GST obligations, that is satisfied if they are below the threshold and not required to register for GST and charge GST.

We also note that based on our discussions with various EMPs, it is highly unlikely that the EMPs will be able to satisfy especially the third criteria in practice. This is a concern as in some cases it would not be reasonable for the EMP to have the primary responsibility for returning the GST, e.g. if the payment is received directly by the supplier. The EMP proposal is also contrary to a supplier model of responsibility for charging and collecting GST.

To mitigate those concerns, it is also proposed that EMPs will be allowed to not be treated as the supplier, at the Commissioner's discretion, where the EMP has a 'compelling case' that it cannot be reasonably expected to be able to comply with its obligations. While we support consideration of this option, we would encourage officials to:

- set the criteria for what a 'compelling case' would be at a practically achievable level; and
- consider whether this option can be more widely applied, given the EMP rules do not sit easily with domestic policy.

Vouchers issued by EMPs

Some EMPs issue gift cards/vouchers that can be used to purchase goods in the EMP's platform.

The vouchers may be used to:

- Purchase goods that are not consumed in New Zealand, for example, if goods are purchased using a voucher but are not shipped to New Zealand. No GST should apply.
- Purchase goods that are above the threshold so that there will be double taxation if GST is charged on issue.

Further the vouchers may be in denominations that are more or less than the threshold but may be used for low value goods or not.

We recommend that a specific time of supply rule is included in the rules for vouchers issued by offshore EMPs, so that the time of supply for these vouchers is only on redemption of the vouchers. This will ensure that GST will only apply where these vouchers are used to purchase low-value imported goods into New Zealand.

Registration threshold

The proposed rules require an offshore supplier to register for and charge GST on low-value imported goods where its supplies exceed NZ\$60,000. However, it is not clear from the discussion document, whether the NZ\$60,000 threshold for an offshore supplier will only include its direct sales to New Zealand customers, or whether they include both direct sales and sales made through an EMP. We understand that the threshold is to be applied only to direct sales. This should be clear in the proposed rules.

The registration threshold rules have look back and look forward rules. With exchange rate as well as demand volatility, it is likely that foreign suppliers will move above and below the threshold. Theoretically, and consistent with domestic suppliers, this would make them liable to register and provide them with an option to deregister.

Consideration should be given to whether the threshold tests can be amended for offshore suppliers so that they can practically be applied. As an example, the test could be applied annually based on the supplier's financial balance date rather than on a rolling 12 month basis.

Section 54B Non-resident supplier registration

Non-residents are able to register and recover input tax for supplies acquired for a taxable activity that does not involve New Zealand taxable supplies. This rule is consistent with the policy that GST is a tax on personal consumption and is not a tax on business.

The rules currently prevent a non-resident from using these rules if they make any New Zealand taxable supplies.

In our view, they should still be able to claim input tax for acquisitions which relate to supplies outside the scope of New Zealand's GST. A consequential change to section 54B is required to allow this to occur.

GST inclusive pricing

New Zealand consumers are used to transacting on a GST inclusive basis. If that is not the case, suppliers are careful, as a result of New Zealand consumer law, to make it clear that the quoted price does not include GST (i.e. GST will be added to determine the total consideration.)



Offshore suppliers are unlikely to be transacting on the same basis. This is particularly the case where the supplier sells to multiple jurisdictions with different tax rules. As the application of a particular rule is not known with certainty until the goods are ordered, tax is often added at the check-out. We would expect foreign suppliers to want to continue with their current processes.

Whether and how New Zealand consumer law applies to imported low-value goods needs to be considered. The current and desired position should be confirmed and consulted on by Officials.

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High Level Summary of Key Points on the GST on low value goods proposals in New Zealand

General

- A simple and flexible tax regime is key from a business and tax authority perspective in order to ensure that trade remains as unaffected as possible by VAT/GST considerations, thereby maximising tax revenues – a win-win for all parties. Striking the right balance in terms of compliance requirements should also help minimise the cost of collection for business and the cost of administration/enforcement for tax authority. This is particularly important for the new marketplace rules on low value goods where a variety of fast evolving business models exist, which makes it difficult to come up with a “one size fits all” approach, therefore flexibility is key. With this in mind giving business a range of options at hand, which they can choose from based on clear rules and sound administrative practices will create certainty and will allow them to act as tax collector in the best possible way ensuring neutrality of the tax and market (channel) neutrality through creating a level playing field, while at the same time safeguarding VAT revenues for governments. Given the significant complexity around scope, double taxation and valuation, therefore any solution needs to be efficient, simple and flexible.
- On the basis that the measures impact foreign businesses, determining an effective communication strategy is critical to success – how will non-resident businesses know that the rules exist? Australia’s approach with roadshows, etc. might also be helpful to consider. Happy to support on this, as I have done with the Australian colleagues.
- Sufficient lead time should be set aside in order that business and tax authority are able to make adequate preparations for implementing the rules. This is also important for the communication strategy. From a business perspective, 6 – 12 months is generally considered a minimum length of time for making ready, although longer may be required if significant IT systems development is necessary.
- The rules introduced for digital services in New Zealand a couple of years ago (which BIAC also facilitated input to) try to keep things simple and flexible for business regarding the way how best and easiest to comply and should therefore also be as much as possible followed for low value goods. Business sees the New Zealand rules on digital services as best practice in the international context and encourages New Zealand Inland Revenues to build the new rules for low value goods on this fundament. Looking at the consultation documents, business clearly recognizes, that New Zealand Inland Revenues’ aim is to make things as business friendly as possible, which the business community is highly appreciating and is very thankful for.

Specific aspects

As mentioned in our calls, businesses from the marketplace sector are best placed to share business specific aspects on the points addressed in the consultation documents, as they know the commercial environment best. However, I am very happy to share my personal thoughts based on my experience and what I have learned from my discussions with them.

- Scope of the proposed EMP rules:
 - It might make sense to deem the marketplaces the supplier in all circumstances in order to avoid undue complexity. However, this raises potential equity issues for small businesses trading below the registration threshold but selling goods through a platform versus small businesses acting independently and not charging VAT. Personally, I'm not sure there's much option here but to allow a slightly unlevel playing field since the value of supplies should be low versus potentially high complexity.
 - As mentioned in the consultation documents, a broad approach might potentially result in some EMP operators being liable for GST in situations where it may not be reasonable to deem them to be the supplier for GST purposes. Therefore, giving them the possibility to approach Inland Revenues in a kind of ruling request to achieve certainty whether they are in scope or not of the new tax collector regime is very helpful and highly appreciated.
 - Both options highlighted in the consultation document
 - Option 1: Extend the marketplace rules for remote services to low-value goods but include a Commissioner's discretion
 - Option 2: Marketplace liable unless they are a "recognised marketplace"

have pro's and con's as highlighted in the consultation document. From my perspective, these options are not mutually exclusive. Therefore offering both as a starting point when the new rules are introduced and then try out which one works best in practice and then discard the other one later, might also be an approach to consider.

 - Regarding the aspect whether to deem the EMP operator to be the supplier regardless of residency or location of the vendor, or only if the vendor is based outside New Zealand, my personal view is that the option should be picked which most likely creates a level playing field and ensures both (monetary) neutrality (no VAT costs) and market channel neutrality for business. For this to happen the domestic supply "underlying supplier to marketplace" (B2B supply) needs to be treated as outside the scope of VAT to avoid cash flow and neutrality issues for the marketplaces. The possible addition to carve out EMPs through which predominantly domestic supplies are made is an excellent idea, which could also be followed. Also here, keeping things flexible as a starting point and gain practical experience before discarding things, might be an approach to consider.
- Double taxation
 - The multiple consignment issues, FX variances and reasonable belief tests look complex, but business appreciates that NZ IR are being reasonably flexible in their approach. Conceptually, I would rather have fewer and more certain rules, but from a practical perspective, I think it makes sense to start with flexibility here and then adjust in light of experience.
 - Even with the best intention and process there will always be instances of double taxation it is therefore very important that an efficient refund process is put in place. There are two main ways mentioned in the document how

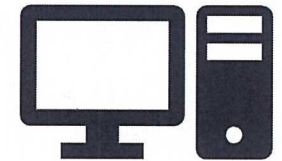
things could be set up - customs could refund the GST they have collected, or the vendor could refund the GST they have collected. Also here I think both ways are not mutually exclusive it might depend on the specific circumstances to decide which way is best to go. Therefore offering both ways as a starting point and then finding out in practice, which one works best and then discard the other one might also be an approach to consider. We are living today in a technology driven world of “try and improve”, therefore, adapting such an approach giving flexibility as a starting point and then see what works best in practice might be an avenue to explore and to reach the best way forward in practice after having tried things out first.

- Valuation methodology:
 - It seems overly complex to set up a system to calculate GST based on the total value, but only charge this if the Customs value is equal to or less than \$400.
- Australian Experience
 - The experience in Australia will be critical. At this moment, given the rules are only effective since July 1, 2018, there is not much experience out there yet from the business side how things function in practice. As mentioned on the phone, very happy to collect the BIAC members’ experience regarding Australia in the next couple of months and to set also up a conference call with all of you, if you find it helpful.

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PRIVATE AND CONFIDENTIAL

GST PAYGATE TRANSACTION SERVICES GROUP PRESENTATION



Thought Leadership discussion document
July 2018

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AGENDA

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1 TSG overview

Who are we and why are we here?

TRANSACTION SERVICES GROUP



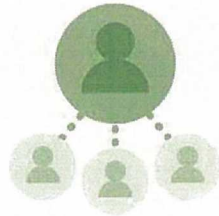
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1. Who are we?

TSG is a leading global provider of business management software and revenue management solutions – with a global executive team based in Auckland, New Zealand -



\$7 billion +
transaction volume



11,500 +
clients



#1
in every core market



**In New Zealand
we trade as
DebitSuccess**



**Majority
New Zealand
Owned**

8 million +
Transactions processed
per month (globally)

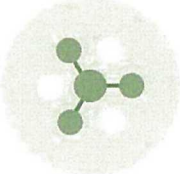





4.5 million +
customers

592
employees

20 + years
of trading after having
been established in New
Zealand

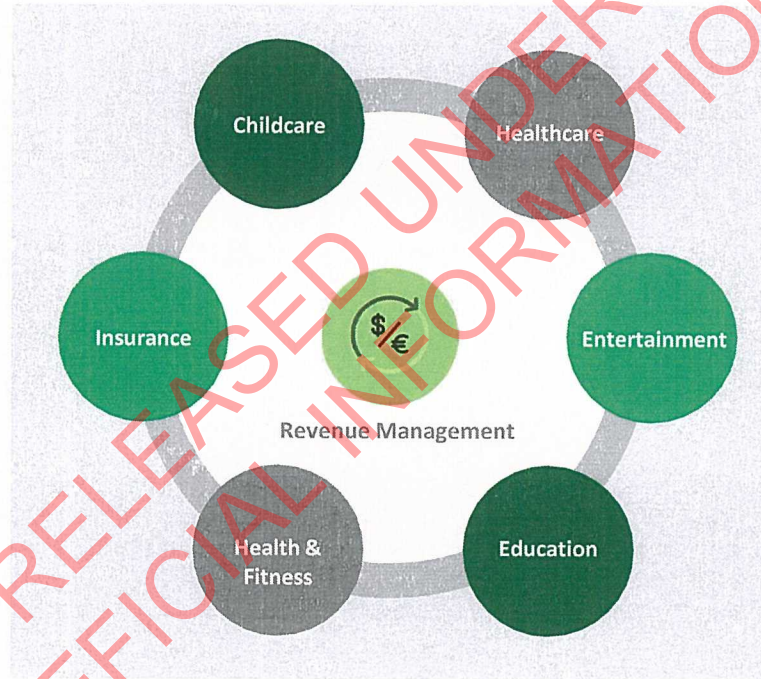
TSG core products and services

TSG partners with clients to onboard and maximize their revenue through a range of high quality Software platforms integrated with best in class Revenue Management Services (including Payment Processing)

					
Sales	Payment Processing	Customer Service	Credit Control, Recovery and Retention	Debt Collection Services	Analytics
<ul style="list-style-type: none"> ▪ Online customer sign-up ▪ API enabled integration 	<ul style="list-style-type: none"> ▪ Highly flexible payment schedule (any day, any frequency) ▪ Accepts all payment types 	<ul style="list-style-type: none"> ▪ Fully outsourced customer payment relationship ▪ Services day-to-day customer account and billing enquiries 	<ul style="list-style-type: none"> ▪ Automated email/SMS alerts for missed payments ▪ Dedicated outbound call center ▪ Ability to restructure payment streams 	<ul style="list-style-type: none"> ▪ Internal debt collection services offered (90+ day receivables) ▪ Engagement of third-party debt collection services also available 	<ul style="list-style-type: none"> ▪ Customized reporting and analytics capabilities

TSG sectors

Our software and services create value in multiple verticals (industries) by offering targeted Business Management Software and Revenue Management Solutions



TSG core markets and brands

We operate a global business model which relies on deploying high-quality Software into various markets, complemented by our best in class Revenue Management Services



TSG solution

Vertical Software | Horizontal Services = fully integrated solution



Why are we here?

TSG have a range of advanced payment processing capabilities and knowledge of the global banking and payment eco-system

**We have
capability the IRD
can leverage**

We wish to lend our unique **knowledge and capabilities**

We are highly focussed on **finding solutions for our clients** in the payments space

We are willing to **share our conceptual proposal with the IRD**

**We have a desire
to achieve a
positive
outcome**

TSG see an opportunity to establish a **functional process** for the e-Commerce **GST collection process**

We understand the IRD are willing to **embrace technology to their advantage**

TSG see an opportunity to **add value**

2 Current state of play

Discussion of the issue at hand



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The GST e-Commerce problem

New Zealand has a problem collecting GST from online transactions with overseas merchants

Issue at hand

Greater **awareness** of GST revenue forgone (e-Commerce)

Perception that online retail is **not a level playing field** between NZ and foreign merchants, due to inconsistent treatment of GST

Precedent in Australia - foreign merchants not willing to collect GST for ATO (i.e. Amazon)

Barriers to resolving this

Fragmented e-Commerce **data** and retail sales records

No obvious solution to establish a functional process for collection of e-Commerce GST

Limited options to **automate the process** and establish seamless collection

The answer lies in the digital footprint of the payment transaction ...

3 Proposed Solution

Details of the GST PayGate solution

TRANSACTION SERVICES GROUP

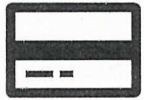


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3.0 Summary explanation – GST PayGate

A seamless, data driven, collections process...

TSG will only touch a limited number of transactions and propose to:



Engage with Card Schemes / Issuers:

Digital footprint of payment transaction extracted Data from Card Schemes / Issuers
See next [two pages](#) for further detail on digital transaction footprint



Extract limited transaction data:

Only limited Data Packet provided to TSG with only relevant transactions
See [page 16](#) as to why this data is limited

01011

Automated billing process:

TSG manage **billing process** and to recover GST collections for IRD
See [page 19](#) for explanation as to what TSG propose providing



Consumers charged GST:

Consumers simply see an **additional line item** on credit card bill
See [page 17](#) for example credit card statement

3.1 What is the digital footprint – Credit Card Data?



The digital footprint of a transaction includes both individual Credit Card Data and Transaction Data (i.e. merchant ID, merchant category codes and transaction references)

Bank of XYZ Limited – Credit Card

The digital card footprint includes:




- A Card Scheme provider (i.e. Visa)
- B Bank Number (i.e. BNZ bank)
- C Account Number
- D Check Digit

3.2 What is the digital footprint – Transaction Data?

The digital footprint of a transaction includes both individual Credit Card Data and **Transaction Data** (i.e. merchant ID, merchant category codes and transaction references)

Bank of XYZ Limited			
9 Jun 2018	A	MIKE'S SHOES LONDON 228.59 US DOLLAR at a Conversion Rate of 0.7007 (NZ\$326.24)	\$326.24
9 Jun 2018		OFFSHORE SERVICE MARGINS	\$6.85

B  Relevant attached (but usually hidden) transaction Data

The digital transaction footprint includes:

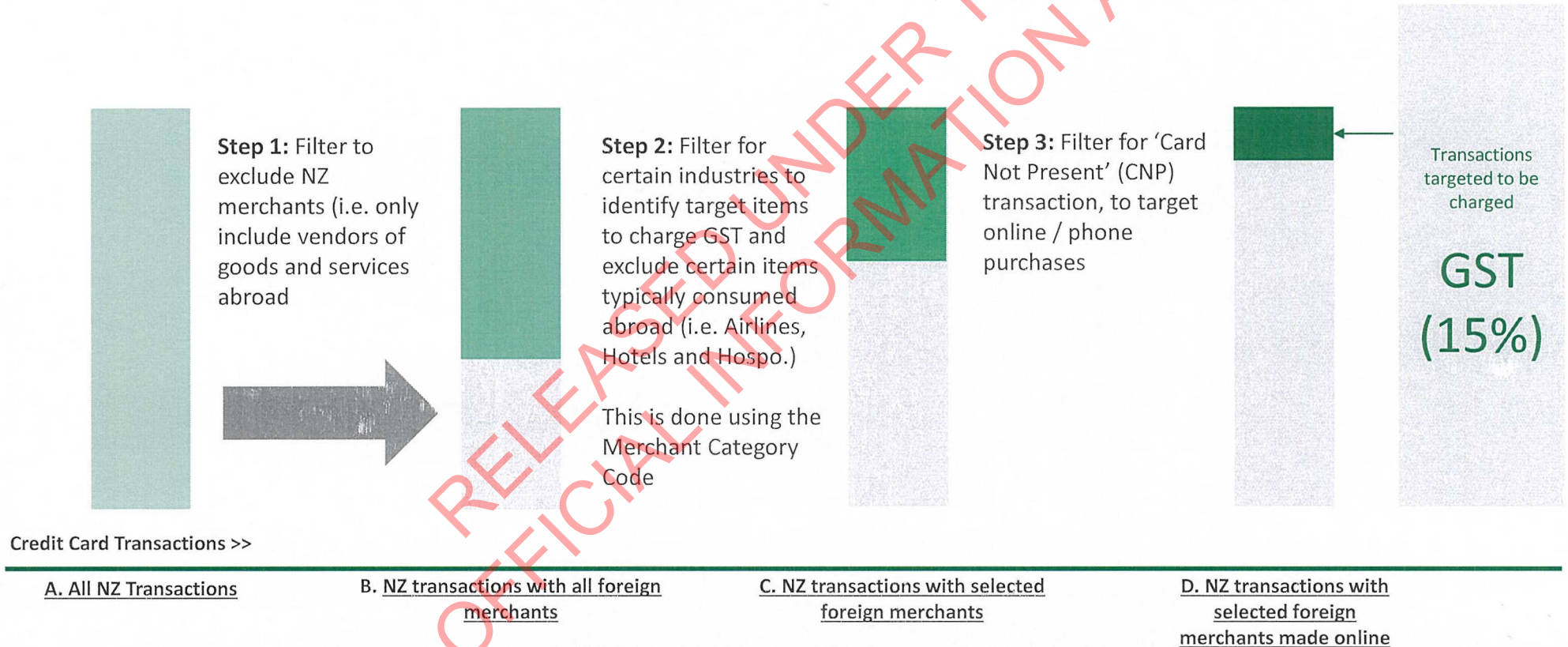
- A** This is an example of a New Zealand Issued Credit Card being matched with a transaction from a foreign merchant (Mike's Shoes London) to generate the **Offshore Service Margins**
- B** Transaction data also includes **transaction reference, merchant ID and merchant Category Code** – however consumers cannot see all of this data on their Credit Card statement

*hospitality, retail etc.
card present at terminal*

transaction or not

3.3 How do we target the right transactions?

By utilising the digital footprint for individual e-Commerce transactions, we plan to identify and charge GST on transactions made 'card not present', abroad and from certain target merchants (see D. below)



3.4 Example credit card statement

What will the consumer see?

We would expect that consumers simply see an additional line item on their Credit Card Statement:

Bank of XYZ Limited – Credit Card Statement		
9 Jun 2018	MIKE'S SHOES LONDON 228.59 US DOLLAR at a Conversion Rate of 0.7007 (NZ\$326.24)	\$326.24
9 Jun 2018	OFFSHORE SERVICE MARGINS	\$6.85
10 Jun 2018	NZ IRD GOVT GOODS AND SERVICES TAX CHARGE at 15% of Gross NZD Value (\$48.94) – Mikes Shoes London	\$48.94

4 TSG SUPPORT

How can we help?



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How can we help?

We propose working together to understand how the IRD can leverage TSG's capabilities to enable seamless collection of GST funds from consumers shopping overseas online. TSG would propose providing a complete (end-to-end) solution to collect GST on foreign e-Commerce purchases

IRD / Customers:

Need billing system and/or infrastructure and Level 1 PCI DSS certified



Banks / Card Schemes:

Not set up to handle refunds or reconcile collections. Difficult to administer and audit with multiple card providers



TSG: As New Zealand's largest billing services provider we can / have:

- ✓ Provide a complete solution to charge e-Commerce GST to NZ consumers
- ✓ A centralised processing centre that can be audited by IRD
- ✓ A sophisticated and stable billing platform
- ✓ IT infrastructure that is high-quality, used by a global client base, and scalable
- ✓ PCI DSS Level 1 certified

5 Next Steps

Where to from here?

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What next?

We propose co-ordinating a workshop with key IRD management to discuss how this may become a key policy initiative to help the IRD adapt to the changing e-Commerce landscape

Confirm assumptions:

- That no legislative changes are needed – i.e. are online purchasers 'importers' (1986 GST legislation)
- How will Card Issuers revise T&C's and other payment channels?
- Quantify value of GST forgone from e-Commerce

Conduct a workshop to consider:

- Appointment of TSG (Debitsuccess NZ) as an agent of IRD to approach Card Schemes / Issuers (i.e. Visa)
- How to approach credit card issuers (e.g. Westpac) to prove information availability
- How we get information from Issuers i.e. discuss this with the New Zealand Bankers' Association (with TSG)

Formalise and move forward

- To discuss TSG / IRD Heads of Agreement to continue progress
- Appoint an IRD and TSG GST PayGate working group
- Eventually negotiate terms upon which TSG can support the NZ Government

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29 June 2018

GST on Low-Value Imported Goods
C/- Deputy Commissioner Policy and Strategy
Inland Revenue Department
PO Box 2198
Wellington 6140

By Email: policy.webmaster@ird.govt.nz

GST ON LOW-VALUE IMPORTED GOODS: AN OFFSHORE SUPPLIER REGISTRATION SYSTEM

Introduction

New Zealand Post (“NZ Post”) welcomes the opportunity to provide its feedback to the government’s consultation on the design of a system that would require registered offshore suppliers to collect Goods and Services Tax (GST) on low-value imported goods supplied to New Zealand residents.

NZ Post consists of a range of businesses providing communication and business solutions from the mail and courier business through to digital solutions, warehousing and supply chain logistics.¹

Proposed Offshore Supplier Registration System

NZ Post supports the government’s proposal to implement an “offshore supplier registration” system with effect from 1 October 2019 that would require registered non-resident businesses – i.e. merchants, electronic distribution platform operators or re-deliverers who sell physical goods – to collect GST at an offshore point of sale (unless imported goods are GST-free or supplied to New Zealand GST-registered businesses).

Collecting GST at an offshore point in the international supply chain for imported goods provides the government and stakeholders with the most cost effective and practical GST collection mechanism compared to other models. It will further simplify the process of buying overseas goods online and make it closer to the experience of domestic purchasing (i.e. border delays and associated clearance costs are removed for low-value goods) and make it easier for consumers to determine the real price of goods bought online from abroad.

We also welcome the increasingly even-handed approach to GST taxation being taken by the government with offshore (online) and domestic retailers, and the increased simplicity that offshore GST collection can bring to consumers and suppliers, as successfully demonstrated with the offshore model for remote cross-border digital services and intangibles implemented in 2016.

¹ See here for further information <https://www.nzpost.co.nz/about-us/who-we-are>

However, NZ Post does not support the proposed threshold level of \$400 or that GST is only collected offshore when an individual good is valued at or below \$400 regardless of the total value of the consignment. We strongly urge the government to consider adopting a higher Customs *de minimis* that is more broadly in line with Australia, to have a \$1,000 fixed threshold based on the total value of the goods imported. The proposed offshore GST collection system would therefore be extended to apply to individual goods valued at or below \$1,000.

This would mean that tariff duty and cost recovery charges would not be collected on imported goods valued at or below \$1,000, but so long as the total value of the consignment is at or below \$1,000. For any consignment with a total value above \$1,000, existing border processes to collect GST (along with tariff duty and recovery charges) would be applied to all the goods contained in a single consignment.

Our preferred approach that contemplates offshore GST collection with a higher *de minimis* would be more efficient, less complex and less goods would need to be stopped and held at the border.

Manual processes at the border associated with revenue collection for goods valued under \$1,000 would be significantly removed. This would reduce NZ Post's compliance cost burden at the border where we are facilitating the collection of GST (and other charges) and holding goods in storage on behalf of NZ Customs. A higher threshold would also simplify the proposed design of an offshore GST collection system and avoid the need to potentially introduce new border requirements that, in our opinion, would be unfeasible to implement in practice.

In our view, the offshore collection system should be designed to be as simple and user friendly as possible. We propose that the government considers implementing a straight forward \$1,000 threshold based only on consignment value rather than on the value of individual goods. This would mean that registered suppliers would only collect GST on goods that are imported in a single consignment valued up to \$1,000. Therefore, any single consignment containing imported goods with a combined consignment value exceeding \$1,000 would be subject to the existing border process for a formal Import Entry.

We think that the proposed \$400 threshold (and other aspects of the proposed rules e.g. the 'reasonable belief' exception) will add unnecessary layers of complexity to eCommerce trade, particularly when there are single consignments containing multiple low-value and high-value goods and/or when goods have been sent by unregistered suppliers.

There are also current limitations in the postal channel at the border, which are outside of NZ Post's control, that makes it impractical to verify any consignment's compliance with an offshore GST collection system, unless there is further manual intervention which would result in significant processing delays and costs at the border.

We note that the discussion document is very light on specific details of the proposed rules that would apply to the offshore supplier model. There is considerable reliance to potentially adopt the offshore registration rules implemented in Australia from 1 July 2018. However, it is not clear what aspects of the Australian model would be replicated and enacted in New Zealand. This has made it difficult for NZ Post to effectively critique the design of the proposed rules, quantify compliance costs or identify practical implementation concerns affecting NZ Post's existing border operations and import services in the postal and commercial channels. Our submission, at this stage, is therefore limited to a qualitative review of the proposed rules.

It is also unclear how the proposed offshore registration model would be enacted under legislation (we presume it would be under the Goods and Services Act) and the model's interaction with the Customs and Excise Act that governs revenue collection at the border for imported goods. For example, this is pertinent to single consignments that may contain low-value goods with GST collected offshore (or not) and high-value goods where GST would be subject to collection at the border. We think that the underlying legislative basis for the offshore collection model should be made as simple as possible to avoid confusing

suppliers and consumers, and in a manner that enables efficient and effective eCommerce for overseas online businesses trading with New Zealand consumers.

We have not ascertained if there are any aspects of the proposed rules that would give rise to undue compliance costs. On initial assessment, we are unable to assess what the impact would be on NZ Post's operational costs at our international postal gateway, the International Mail Centre (IMC) in Auckland, as the discussion document has not specified any new process requirements at the border for postal product that we are aware of.

We expect that there will be additional compliance obligations and costs for NZ Post's YouShop platform that would meet the criteria for a re-deliverer under the proposed rules. We have not yet scoped any potential costs until the design of the rules that would apply to re-deliverers is more developed.

Other GST Collection Options

In our previous discussions with government, NZ Post has considered and assisted in developing a range of potential reform options for collecting GST on low-value imported goods. In our view, enabling a reduction in the *de minimis* requires finding an alternative method of collection that is more cost effective and streamlined than the current process of physical collection at the border.

The revenue opportunity to lower the *de minimis* for GST therefore hinges on efficient and effective implementation of the collection process while avoiding consequential delays at the border due to revenue risks.

Our concerns about the border processes are not hypothetical but rather a reflection of current circumstances. The surging growth in cross-border eCommerce is making the current manual fiscal and other risk assessment model difficult to effectively manage. For example, border agencies such as the Ministry of Primary Industries (MPI) now have to devote more resources to biosecurity risk assessment. Consequently, there are delays in processing postal product at the IMC. Not only does this create further problems for NZ Post, but it also creates problems for consumers waiting for imports to be delivered.

We consider that offshore supplier registration system is the most feasible and low-cost impact GST collection model for government to implement, providing the highest revenue opportunity with the lowest consumer impact.

We note that the discussion document refers to alternative options for GST collection that are considered unfeasible in the short-term. One option is GST collection at the border between the point of sale and delivery where NZ Post would physically collect GST, tariffs and cost recovery charges. For practical and high cost of compliance reasons, NZ Post would like to reiterate to officials and Ministers that we strongly oppose extending GST collection at the border to low-value goods where NZ Post would be responsible for revenue collection on international mail.

NZ Post would also object to any proposal that imported goods in a consignment valued at or below the proposed \$400 *de minimis* sent by an unregistered supplier should be held at the border by NZ Post until the GST and duty is paid.

We have provided further feedback below on certain aspects of the proposed rules under an offshore supplier registration system.

General Feedback on Proposed Design of the Rules for Low-Value Imported Goods

Low-Value Goods sent by Registered Suppliers

NZ Post supports the proposal that tariff duties and government cost recovery charges will not be collected on imported low-value goods that are subject to GST treatment at point of sale under an offshore supplier registration model (i.e. where GST is collected offshore by a registered supplier).

To facilitate expedited clearance and flow of low-value goods across the border, it is also our understanding that NZ Customs intends to clear all consignments (valued below the *de minimis*) of imported goods entering New Zealand through the postal channel that would be subject to offshore GST collection (i.e. there will be no revenue assessment or enforcement at the border) and that goods will only have to be held for other risk or biosecurity concerns. However, in line with our preferred approach, there would need to be a blanket clearance for all consignments valued at or below \$1,000.

As pointed out above, for international mail items NZ Post has limited ability at the border to help enforce and administer certain requirements of the proposed design with a \$400 threshold. As is current practice, NZ Post could only continue to visually identify single consignments that contain an individual item with a declared value greater than \$400 that would be handed over for GST and duty collection (i.e. as a private import declaration). We currently cannot verify for any consignment entering New Zealand in the postal channel that 1.) the items were sent by a registered supplier (or not) and 2.) whether GST has been collected offshore (or not). It is also often very difficult to identify from the information presented on parcels whether a consignment contains multiple imported goods and their individual values.

In our view, these limitations further support NZ Post's preferred option to have a higher threshold that would cover goods valued up to a \$1,000 in a single consignment because the majority of items would have had GST collected offshore by registered suppliers.

Low-Value Goods sent by Unregistered Suppliers

We support the principle, as we understand it, that imported low-value goods (individual or multiple) in a single consignment with a combined consignment value at or below the \$400 *de minimis* that have originated from a single unregistered supplier would not be subject to GST collection, tariff duties and other charges at the border (excluding alcohol and tobacco imports).

It is also our understanding that when an unregistered supplier sends only multiple low-value goods (individually valued at or below \$400) in a single consignment that has a combined consignment value over \$400, it has been proposed that only GST will be charged at the border in line with existing border processes (although it is unclear from the discussion document if NZ Customs would also collect tariff duty and cost recovery charges).

However, as explained above, it is not possible to monitor or enforce this. For clarification, we would like to understand how a consignment sent by an unregistered supplier will be processed on arrival at the border in New Zealand given that NZ Post is unable to identify unregistered supplier consignments using existing processes at the IMC. We could only capture consignments with a value over \$400, but this would also include consignments from registered suppliers. NZ Customs would have to resource a team to determine if a consignment was sent from a registered or unregistered supplier.

We think that any approach to enforce GST collection on goods at the border is inherently inefficient and unworkable in the postal channel until an electronically data driven solution can be implemented. On a practical level, there would be additional complexity in the management of having to determine if GST has, or should have been, collected. This would unnecessarily delay shipments at the border resulting in additional administration and costs for NZ Post, poor customer experience and downstream delays in delivering items once accepted into our domestic delivery network.

Raising the *de minimis* to \$1,000, as per our preferred approach, would alleviate our concerns around the proposal in the discussion document to physically collect GST at the border on multiple low-value goods in a single consignment valued over \$400 where GST has not already been collected offshore.

High-Value Goods

We understand that the discussion document proposes no change to the tax treatment of single or multiple imported goods individually valued above \$400 (i.e. high-value goods) where the existing process for collecting GST, tariff duty and government cost recovery charges at the border will continue.

However, we think it would be far more beneficial to raise the threshold to enhance the benefits of collecting GST offshore. The possible combination of high-value goods with low-value goods with the proposed \$400 *de minimis*, along with having to establish in the first instance whether the consignment originating from a registered or unregistered supplier and the proposed evidential requirements for GST relief, creates more levels of complexity requiring additional skilled resourcing, warehousing, administration, etc. which will have a detrimental impact on NZ Post and consumers.

Valuation Method for Low-Value Goods

NZ Post supports, in principle, the proposed change to the *de minimis* from a calculation of 'total duty value' owing – which is complex in its calculation² – to a simpler fixed threshold based on the 'total value' of an individual item to determine when an imported good is classified as 'low-value' and therefore subject to GST offshore collection at the point of sale. We think this is a pragmatic and simpler *de minimis* valuation approach for both importers and suppliers to follow ensuring certainty and ease of use when ascertaining if GST should be collected offshore.

Customs duty is calculated based on the 'customs value' (or 'customs import value') of an imported item. For online shopping, the primary basis of valuation is the 'transaction value' of an imported good – this is prescribed in Schedule 2 of the current Customs and Excise Act. The NZ Custom's website states that "*If you're an online shopper, the Customs value is generally what you paid for an item.*"

The transaction value therefore is the price actually paid or payable for the goods when sold for export to New Zealand adjusted in accordance with Schedule 2 of the Customs and Excise Act. The transaction value can have amounts added to or have amounts deducted from it. International transportation and insurance costs can be excluded from determining the customs value, insofar that those amounts are included in the price paid or payable and are clearly separated from the price of the item(s).

However, it would be unreasonable to expect registered suppliers to calculate a customs value as prescribed in the Act, therefore the valuation should be kept as simple as possible for offshore suppliers that are not familiar with New Zealand's local customs valuation laws. NZ Customs currently has a threshold in place to determine when a shipment should be cleared as an Import Entry. Import shipments with a value for duty (customs value) at or above \$1,000. This is determined by a person knowledgeable and competent in calculating the correct customs value.

In practice, the process used to determine the 'total value' of an individual good and therefore the value used to calculate the GST payable under an offshore registration model for low-value goods should in our opinion be based on the following:

- 1.) when the international freight and/or insurance cost is clearly separated from the price paid of a good, the price of the good should be used to determine if the item is at or below the \$400 threshold (to

² Currently, GST is collected at the border when the 'total duty value' for a shipment is calculated to be \$60 or more – i.e. it is above the *de minimis* threshold. 'Total duty value' is composed of GST, tariff duties and other charges.

calculate GST, the international freight and insurance component would then be added back to the value of the item); or

- 2.) when the international freight and/or insurance cost is not clearly separated, the total cost of the purchase (including international freight and/or insurance) is used to determine if the good is at or below the \$400 threshold.

We note that under the Australian approach for offshore GST collection, the A\$1,000 *de minimis* threshold is also based on a customs value, and that international transport and insurance costs are excluded from the valuation of goods (for the purposes of determining if they are a low-value good or not). We think that a customs value approach is too complex for offshore GST collection and eCommerce. When GST is charged on a low-value good because its customs value is A\$1,000 or less, GST is then generally applied to all amounts paid by the consumer including international transport and insurance.

The discussion document does not clearly define what components are included to determine the 'total value of the good imported' to identify it as a low-value good. In the examples given in the discussion document the total purchase prices of the fictional goods are shown to be "inclusive of shipping" (there is no reference to insurance costs). These examples imply that international shipping costs (and possibly insurance) are included as part of the valuation method that offshore suppliers would be expected to comply with.

We believe this may not be the intended approach. We consider that the total value should only be the purchase value when sold for export to New Zealand excluding international shipping and insurance where clearly identified. For stakeholders' clarity, the government needs to clearly define the valuation method that will apply to offshore supplies of imported goods.

This is a fundamental point of issue as it makes a real difference to consumers (and suppliers) as it determines whether a wider range of low-value goods will be subject to offshore GST collection rather than be subject to high fiscal clearance costs and delays currently experienced at the border.

Proposed \$400 de minimis Threshold

The discussion document proposes that registered offshore suppliers would be required to collect GST on supplies of imported physical goods to New Zealand consumers where the total value of an individual good is \$400 or less (even when multiple low-value goods are shipped in a single consignment with a combined value over \$400).

NZ Post considers that the proposed threshold has been set too low and we strongly recommend that the *de minimis* is raised from \$400 to \$1,000 (as implemented in Australia from 1 July 2018). A higher threshold would create more benefits, lower operational border and importer transactional costs, reduce complexity making it easier for consumers and suppliers to navigate eCommerce, and stimulate cross-border trade. It would also ensure that no unforeseen costs are potentially imposed on industry if a lower threshold was implemented.

We note that in the previous government's draft discussion document (July 2017), which formed the basis of this discussion document, it was proposed that GST would be collected offshore on a good valued at \$1,000 or less. The current discussion document does not fully explain the policy rationale behind the government's decision to reduce the threshold by such a significant margin (\$600 or 60%) to implement a lower \$400 *de minimis*.

It appears that government's support for a lower threshold was influenced by the Tax Working Group's advice to ministers. In its letter, the Group does not support an increase in the \$400 threshold because it is concerned "that an offshore supplier registration model would mean that GST would continue to not be collected on imported low-value goods provided by unregistered sellers" however, the Group did not elaborate on these concerns nor has it provided any supporting analysis.

We think the Group's concern is unfounded and just creates further complexity for eCommerce trade. By setting a lower \$400 threshold, New Zealand would essentially be operating five GST collection models:

- 1.) GST collection offshore for a good valued at \$400 or less;
- 2.) GST collection at the border for a good valued over \$400 and up to \$1,000 (including collection of tariff duty and government cost recovery charges);
- 3.) GST collection at the border for multiple goods individually valued at \$400 or less where GST has not been collected offshore and are imported in a single consignment valued over \$400;
- 4.) GST collection at the border on low-value goods where a registered supplier has relied on the proposed 'reasonable belief' exception; and
- 5.) GST collection at the border for a good valued over \$1,000.

There are also potentially two valuation models under different legislation being applied i.e. offshore with GST collected under the GST Act and onshore with GST collected under the Customs and Excise Act

As has been implemented in Australia, it would be far simpler and workable in our view for New Zealand to only have two GST collection models by applying a \$1,000 threshold.

We also think the fiscal risk – primarily the GST revenue foregone that would not be collected by unregistered suppliers for goods in the \$400 to \$1,000 range that appears to be the Group's main concern – is minimal. In addition, the GST revenue foregone that the Group believes will be protected will be substantially eroded once tariff duty and government cost recovery charges are applied.

The practical reality is that the volume of physical goods with a declared value between \$400 and \$1,000 is very small, and it is likely that much of the volume would anyhow originate from registered suppliers thereby ensuring that GST collection would be maximised if there is a higher threshold.

Based on NZ Post sample data of the declared value of imported goods in the 2015 financial year, the volume of mail items with a declared consignment value over \$400 accounted for approximately less than 2% of inbound volume in the postal channel (of which a proportion will have been business-to-business supplies, so the actual volume of personal imports was lower).

We also note that in its public support for an offshore supplier registration model, Retail NZ stated³ that if *"only the top 20 international suppliers became registered for GST, this would ensure tax is collected on at least two-thirds of the volume of goods entering the country – which is two-thirds more than at present."* Retail NZ also stated that 3.5 percent of offshore retailers earn more than \$60,000 in revenue from New Zealand customers, but account for 98.1 per cent of low-value transactions and 86.1 per cent of all dollars spent offshore.

Research undertaken by NZ Customs⁴ in 2016 that looked at the 'value of goods' indicated that only 2% of online shoppers purchase physical goods from abroad that cost more than \$400 'often' or 'very often' and 12% 'occasionally' and 86% 'never' purchased.

We also believe that having a \$400 threshold would be counterproductive. We know from the same research that the trigger of tax collection and government cost recovery fees⁵ at the border is a

³ <http://www.retail.org.nz/advocacy/efairnessnz>

⁴ NZ Customs: Consumer Motivation for Purchases of Low-Value Goods from Abroad, UMR Research.

⁵ On 1 July 2018, MPI increased its Biosecurity System Entry Levy to fund higher levels of biosecurity. This increase, combined with Customs' Import Entry Transaction Fee brings the total entry cost recovery fees payable to \$56.67 (including GST) per consignment.

constraining factor on the online purchasing behavior for goods over \$400 in value. If the threshold was raised to \$1,000, it is likely that higher inbound volume will be stimulated which will generate incremental GST revenue for the government when it is collected offshore.

Taking into account tariff duty and government cost recovery charges that will apply to goods valued over \$400 and up to \$1,000 cleared at the border, the government is likely to recover more GST revenue if the *de minimis* is set at \$1,000 and it would also impose less costs on importers, border agencies and NZ Post. The additional processes, complexity and work to manage GST collection at the border for imported goods valued above \$400 and up to \$1,000 are likely to outweigh the perceived benefit. As stated earlier, there is no evidence to support a \$400 *de minimis* for the very small volume of goods that will fall within the \$400 to \$1,000 value range.

Impact on NZ Post Border Operations

It is our working assumption, based on the proposed rules in the discussion document, that the government does not intend that NZ Customs would generally enforce the offshore GST registration model for low-value goods at the border.

On this basis, NZ Post does not anticipate any change to its current day-to-day operations at the IMC. NZ Post staff will continue their visual inspection of international mail consignments checking for single items with a declared value over \$400. NZ Customs would then need to determine what process needs to be taken for that consignment in line with the proposed model.

We also understand that the government intends that current processes for collecting GST (and other duties) at the border by NZ Customs would continue to apply to individual high-value goods valued over \$400 or to consignments with a declared value over \$400 where GST has not been collected offshore on any low-value good in a consignment.

If our assumption is wrong, we would need to understand how the government intends to confirm that low-value goods in the postal channel have had GST paid (if they have originated from a registered supplier) and what process would be implemented at the border when it is identified that a good should have had GST applied to it but it does not.

It is important that officials are aware of the current practical limitations in the postal channel. It is currently not possible for NZ Post (for international mail product) to confirm that mail items have been delivered by a registered supplier or to determine if GST was collected by a registered supplier.

There is currently no visual data on international mail items (at the border) or advance electronic data or any other form of evidence that can be checked by NZ Post or provided to NZ Customs that can identify if mail items have originated from a registered supplier and/or if GST has been collected.

YouShop

NZ Post offers a service called YouShop for the delivery of physical goods from the U.S.A. and the U.K. (for shopping across Europe) to New Zealand on behalf of consumers resident in New Zealand. YouShop is not involved in the collection or purchase of overseas goods.

YouShop items enter New Zealand through the commercial import channel (non-postal) so goods are cleared at the border on a commercial basis (by International Freight Services which is a subsidiary of NZ Post). Unlike the postal channel, when GST and duties are payable importers may need to use a customs broker to assist with their clearance which incurs additional charges.

As contemplated in the discussion document, the YouShop service would fall within the scope of the proposed rules for re-deliverers and would be required to register and collect GST on all goods valued at or below \$400 imported through YouShop.

We agree with the government's view that re-deliverers are, in principle, responsible for any GST on the supply of imported goods because overseas merchants in the USA and UK (Europe) selling the goods do not assist in bringing the goods to New Zealand. YouShop would potentially incur higher costs of compliance than it does now as it will have to collect and remit GST on goods valued at or below \$400.

We note that the discussion document is vague on the specific rules that would apply to re-deliverers, but it does hint that the rules could be consistent with the Australian approach. While we tentatively support the notion that the Australian model for re-deliverers is adopted in New Zealand, there are certain aspects of the Australian approach that NZ Post does not support.

Under the Australian approach, re-deliverers must in addition to the GST charged on the amount paid by the customer for the goods, also charge GST on the amount the customer pays for the re-deliverer's services to get the goods to Australia.

This raises potential concerns around what should be the GST payable on the taxable supply of goods that re-deliverers are treated as making and the GST payable on the taxable supply of services to the consumer. GST is currently not charged on YouShop's services because they are performed offshore (e.g. warehousing, repacking and consolidation) as shown in the table below (inbound international postage is also GST zero-rated):

YouShop Service	Published Price (as of 1 July 2018)	GST Status
High value item surcharge	\$6.00	Zero-Rated
Repacking fee	\$4.50	Zero-Rated

NZ Post would welcome further clarification from officials regarding what components of re-deliverers' services should have GST charged collected on.

Low-value Goods that are Gifts

There are existing legislative rules (pursuant to the Customs and Excise Act) that allow New Zealand residents under certain circumstances to avoid paying Customs duties when they receive a gift⁶. The discussion document has not explained how these rules and the \$110 concession per gift item would be applied under the proposed GST offshore registration model (not applicable to tobacco imports). NZ Customs Factsheet 28 (issued July 2016) states:

"Gifts sent from a person overseas to a person resident in New Zealand with a declared value of NZ\$110 or less are eligible for duty free entry provided the gift is unsolicited (not ordered or paid for by the intended recipient) and is of a personal nature.

Gifts valued over NZ\$110 will attract duty and GST on the value over NZ\$110.

Gift parcels containing multiple gifts for different people are also eligible for the gift concession if the individual gift can be identified at the border and the identity of each recipient can be established. One gift

⁶ <https://www.customs.govt.nz/personal/duty-and-gst/gifts-inheritance-and-taonga/> and <https://www.customs.govt.nz/about-us/news/important-notices/application-of-the-part-2-reference-75-concession-presents-or-gifts/>

concession of \$110 per individual recipient is allowable but the concession may not be combined by multiple persons on one item.

Alcohol products may be allowed the gift concession if the recipient can prove it is a genuine gift, eg, to celebrate a specific occasion and is not being imported to avoid paying of duty and GST.”

We also note that this gift concession is provided pursuant to international standards promulgated by the World Customs Organization⁷ that countries:

“Grant admission free of import duties and taxes and free of economic import prohibitions or restrictions in respect of consignments containing only gifts the aggregate value of which, determined on the basis of the retail prices in the country of dispatch, does not exceed 30 SDRs. Where several consignments are dispatched at the same time by the same sender to the same addressee, the aggregate value shall be taken to be the total value of all those consignments.”

We have not considered the implications for NZ Post, but on a practical level it may require our YouShop re-deliverer platform to design and build a more complex tax calculator to cater for gift declarations on offshore purchases made for New Zealand residents.

Exchange Rates

The discussion document has not provided any guidance to offshore suppliers and re-deliverers around how they would be expected to convert local currencies into New Zealand dollars for the purposes of determining:

- 1.) when goods are low-value goods i.e. to arrive at a ‘total value’; and
- 2.) the amount of GST payable for the taxable supply of goods.

We note that in Australia, the Australian Tax Office has applied special rules to re-deliverers when calculating GST. NZ Post would welcome further guidance from officials on this point and recommend that government publishes easily accessible exchange rate information using an agreed third party exchange rate source, NZ Customs’ published rates of exchange⁸ or an alternative method provided for under a legislative instrument.

This is important so that we can better understand the system requirements and compliance costs to implement point of sale GST collection for our YouShop re-deliverer service.

Sale for Export Value

We note that the taxing point for low-value goods covered by the proposed offshore collection model is shifting from the border to the point of sale, however, it is not clear from the discussion document at what point in the supply value chain the sale for export value is determined.

At what point in time should re-deliverers convert the overseas “total value” paid into New Zealand dollars? – for example, should it be converted at the applicable exchange rate for the day when the consideration is agreed between the importer and the overseas merchant or at another time? In NZ Post’s view, it should be at the point of sale i.e. at the time of purchase.

⁷ http://www.wcoomd.org/en/about-us/legal-instruments/recommendations/pf_recommendations/pfrecomm27freeadmnconsign.aspx

⁸ <https://www.customs.govt.nz/business/import/customs-exchange-rates/>

It is also unclear how re-deliverers would need to establish the total amount the consumer paid the merchant for the goods in order to determine if there is a supply of low-value goods and if so, to determine how much GST is payable.

It is not clear if local taxes or fees in the USA, UK and Europe should be taken into account and whether local (inland) or international transportation (from Europe to the UK) charges and insurance are included in the valuation or not. The discussion document has not provided any examples of how this would work in practice for a re-deliverer. We believe that inland (domestic) and international freight, insurance and local taxes etc., should not be included (where clearly identifiable).

Reasonable Belief Exception

NZ Post does not support the proposal to implement a reasonable belief exception to taxable supplies of multiple low-value goods exceeding the proposed \$400 threshold. We think that all registered suppliers should by default be expected to comply and only collect GST offshore.

We do not think it would be beneficial to provide registered suppliers with an option to shift their compliance from offshore to the border. It would only undermine the integrity of the offshore collection system and result in additional costs and delays for consumers, NZ Post and NZ Customs at the border. Such an exception only serves to add further complexity. As we have explained above, due to limitations in the postal channel NZ Post does not understand how a consignment with multiple low-value goods sent from a registered supplier that has exercised the reasonable belief exception could be identified at the border given existing processes at the IMC.

Conclusion

NZ Post is keen to further assist officials during the policy development process and design of an offshore supplier GST collection system. We would also be interested to discuss the practicalities of enforcement at the border and the opportunities to further streamline the cross-border taxation environment for importers.

Yours sincerely,

s9(2)(a)

s9(2)(a)

Regulatory Advisor
New Zealand Post Limited



**Submission to Deputy Commissioner Policy and Strategy –
New Zealand Inland Revenue Department**

GST on low-value imported goods: An offshore supplier registration system

10 July 2018

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Introduction

Amazon appreciates the opportunity to respond to the New Zealand Government's discussion document '*GST on low-value imported goods: An offshore supplier registration system*', and values the hundreds of thousands of New Zealanders who choose to use our services to shop, grow their businesses, innovate and export to overseas marketplaces every year.

Historically, many governments and tax authorities have adopted Goods and Services Tax (GST) policies whereby the importation of goods below a defined *de-minimis* threshold would not be subject to GST and/or associated customs duties or charges. As the NZ Government's discussion document notes, these policies have stemmed from a recognition that the compliance and administrative costs associated with low value imported goods (LVIGs) would outweigh the value of any GST collected.

Amazon recognises the NZ Government's concerns about its tax base and the position of NZ domestic retailers as being the primary drivers of the proposal to require offshore suppliers to collect GST on LVIGs supplied to NZ consumers. In addressing these concerns, Amazon urges the NZ Government to consider the elements of a GST collection model that will best meet its objectives of creating a genuinely level playing field between domestic and overseas retailers and maximising the collection of GST revenue. In particular, we urge the government to consider an approach that will ensure compliance by all suppliers regardless of differing business models. We are concerned that an unenforceable and unworkable collection model will harm both consumers and competition by potentially reducing access to competitively priced goods from overseas marketplaces.

We recognise that the NZ Government has proposed an offshore supplier registration model that would require marketplaces to be treated as the supplier for the purpose of registering for GST and calculating, collecting and remitting GST on underlying supplier transactions. We also note the advice of the NZ Government's Tax Working Group that "[o]ptions for collecting GST between the point of sale and delivery...should continue to be reviewed to see if practical issues with them can be overcome and become an effective means of collecting GST on low value goods."¹

Amazon is concerned that the proposed supplier model will not achieve the NZ Government's objectives to create a level playing field between NZ and overseas retailers and maximise GST revenue collection. Moreover, this approach will likely require dedicated resources to address its shortfalls, similar in scale to those required to implement the modernised transporter model, while collecting only a fraction of the comparable revenue.

While we welcome the opportunity to suggest improvements to the NZ Government's proposed supplier model, Amazon would ultimately need to assess the feasibility and impact of any model adopted once the implementation details were established. This assessment may result in changes to

¹ Letter to NZ Government from Hon Sir Michael Cullen, Chair of the Tax Working Group, '*GST on low-value imported goods*', 26 February 2018

the products and services Amazon is able to provide to NZ consumers, including goods or services offered by third parties on Amazon's websites.

The following submission addresses the challenges of implementing an effective model for the collection of GST on LVIGs. We have structured our submission into three distinct sections:

1. The broad issues with compliance and enforcement against entities and the necessity of border enforcement mechanisms in achieving the objectives of the proposed changes.
2. Our response to the advice of the Tax Working Group by outlining the scope and benefits of an alternative model, the modernised transporter model, for remittance of GST on LVIGs.
3. Our response to the NZ Government's proposed model for an offshore supplier registration system, with suggestions for how this approach could be improved. Amazon emphasises that even with these improvements, the model will likely not meet the NZ Government's objectives, nor match the modernised transporter model's rates of compliance or revenue collection.

As an overarching recommendation, we strongly support the proposed removal of tariffs and cost recovery charges from all imported goods valued at or below \$400 regardless of the GST collection model ultimately adopted. This approach will reduce complexity and compliance costs and deliver direct benefits to NZ consumers.

Finally, we urge the NZ Government to ensure the introduction of any new rules provides a lead time of 18-24 months to allow for businesses to implement changes to systems and processes and also to allow for appropriate communication plans to be deployed.

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1. Compliance and enforcement on low-value imported goods

Effective compliance in cross-border tax collection requires enforcement at the border. Any collection model without border enforcement will depend on voluntary compliance and offshore enforcement, as was recognised in the final report of the Australian Government's 2017 Productivity Commission review.² Australia will be the first country globally to adopt a supplier registration model. According to the Australian Government's own modelling, at maturity – five years after implementation - this model will only collect GST on approximately half of all low-value goods imported into Australia. Amazon is concerned that even these estimates are optimistic, as ecommerce business models will continue to evolve, and consumers will increasingly purchase from untaxed suppliers driven by financial incentives.

This low collection rate reflects the fundamental flaw of Australia's legislated supplier registration model, in that it lacks any mechanism to enforce compliance at the border. Without border enforcement, governments will not achieve their objectives of creating a level playing field between domestic and overseas retailers and maximising the collection of GST revenue. Amazon supports these objectives and has urged the Australian Government to adopt an approach that would better achieve them.

In its current form, the NZ Government's proposed offshore supplier registration model (the 'supplier model') is similarly dependent on voluntary compliance from many thousands of offshore suppliers (including small businesses) and marketplaces that have no presence in NZ. This will require offshore enforcement of NZ laws against each of these businesses in every country in which they operate. Local laws cannot be effectively enforced with respect to goods sold by nonresident entities, in part due to the limitations of multilateral and mutual assistance treaties. This has the real potential to disadvantage local businesses, as voluntary compliance with the law cannot be assumed. As a result, Amazon is concerned that many businesses will not comply with the supplier model and will face no consequences for non-compliance given the lack of an effective enforcement mechanism.

Another key limitation of the supplier model is that purchases made through online intermediaries and referrers are untaxed. Suppliers looking to circumvent the law will easily be able to migrate their sales to non-compliant marketplaces or new marketplaces that operate below the NZD \$60,000 threshold. Consumers will adapt their buying behaviours to seek out the marketplaces and suppliers who do not charge the GST, further reducing GST collection. Moreover, as technology advances, the cost of establishing a marketplace will continue to plummet and new marketplaces will proliferate, potentially increasing such behaviour.

A fair and effective cross-border tax collection model should be technologically neutral, keeping pace with these shifts in buying behavior and the ever-changing supply chain models that continue to emerge. Border enforcement would address this limitation and therefore create a more level playing field.

² Australian Government Productivity Commission, *Collection Models for GST on Low-Value Imported Goods*, Productivity Commission Inquiry Report, No. 86, 31 October 2017, pp. 44-47

We note the discussion document cites the NZ Government's implementation of the GST on cross-border services and intangibles as evidence that an offshore supplier registration system is "effective and relatively easy to comply with."³ However, we suggest that there are fundamental differences between the requirement for non-residents including marketplaces to collect GST on electronically supplied services (ESS) and the proposal to apply a similar requirement for tangible goods. These include:

- There is a mechanism to tax tangible goods at the time of physical importation, with the potential to achieve close to 100% compliance. This option does not exist for ESS;
- Cross border transactions of goods require the determination of where the goods are shipped from and whether the goods fall within changes to LVIG rules, raising the issue of which party is best placed to accurately make these determinations. ESS do not require similar determinations;
- A standard rate of GST is applied to all ESS transactions, whereas goods in most jurisdictions attract different GST rates depending on the underlying product type. This requires detailed analysis to determine the appropriate GST liability, raising the issue of which party is best placed to accurately make these determinations;
- Once the GST registration threshold is breached, all ESS transactions are subject to GST. This is different to LVIG requirements, where there is an additional need to identify whether the value of a transaction is above or below prescribed LVIG values; and
- Transactions involving goods can be canceled, requiring the return of items, and giving rise to additional complex requirements for the supplier to track and amend underlying GST charged on initial sales. The process is much simpler for ESS transactions, which can simply be reversed.

Amazon urges the NZ Government to consider these important differences as it assesses whether the offshore supplier registration model for ESS can be easily replicated for tangible goods. Amazon believes there is a case for considering a different approach for LVIGs, particularly in the potential role of border enforcement.

1.1. Stricter customs/border controls

A common feature of all transactions that involve goods shipped to customers from overseas is that the goods need to be imported and declared to customs or border authorities. If customs and border authorities' GST compliance activities are carried out correctly and strictly enforced, this should ensure that the majority of offshore suppliers declare and remit the correct amount of customs duties and GST on the goods they import. Robust compliance measures should apply to shipments through both express carriers and postal operators, ensuring compliance regardless of transportation mode. Amazon recommends that the NZ Government would most efficiently achieve its objectives by focusing on increased resourcing, better technological and reporting systems, and identification of indicators of fraud or under-declared values for goods.

³ 'GST on low-value imported goods – an offshore supplier registration system: a government discussion document', Policy and Strategy, Inland Revenue, May 2018, p. 10

Amazon also recognises that at present, NZ customs and border authorities may lack the resourcing and capability to undertake compliance and enforcement activities in relation to LVIGs cost-effectively at scale. However, shifting collection responsibilities and costs to offshore marketplaces is not the most efficient alternative, and ultimately, effective enforcement at the border may require much of the same resources and capabilities that the NZ Government is seeking to avoid. In this context, it is appropriate to consider which entities in the supply chain are best placed to assist with GST collection and remittance on LVIGs, in a way that facilitates effective border enforcement. Amazon notes that there is already operational infrastructure and technical mechanisms in place for the collection and remittance of GST on high-value goods at the border.

Express carriers and postal operators are involved in the actual delivery of all imported sales and are therefore ideally placed to assist in border enforcement of GST on LVIGs. They customarily contract with suppliers to fulfil the customs clearance procedures and pay the import duties and taxes on their behalf. They have the direct relationships required to collect essential shipping data elements (ultimately from the principal supplier) including description of the goods, consignee details, country of dispatch and country of destination, weight, pieces, value and currency (at shipment level).

As the NZ Government may be aware, Amazon has proposed an alternate collection model, utilising the unique position that express carriers and postal operators occupy in the supply chain for imported goods. Amazon has described this approach as a 'modernised transporter model' because it leverages the technological change that is already underway in parcel processing globally, driven by a combination of commercial and national security concerns. Amazon has provided submissions detailing the modernised transporter model to the Australian Government's Productivity Commission inquiry into models for collecting GST on low value imported goods.⁴⁵

As stated above, we recognise that the NZ Government has requested feedback on the design of an offshore supplier registration model. At the same time, we note the advice of the NZ Government's Tax Working Group that "[o]ptions for collecting GST between the point of sale and delivery...should continue to be reviewed..."⁶ This recommendation recognises that the involvement of express carriers and postal operators is critical in achieving the NZ Government's objectives for collecting GST on LVIGs.

If the NZ Government were to adopt the supplier model for GST collection on LVIGs, it would be only the second country globally to do so. The model is untested, with the Australian Government's modelling suggesting that approximately 85% of LVIGs passing its border will remain untaxed in the first 12 months.⁷ Amazon is also concerned that an unenforceable and unworkable collection model will harm

⁴ http://www.pc.gov.au/__data/assets/pdf_file/0008/221489/sub035-collection-models.pdf

⁵ http://www.pc.gov.au/__data/assets/pdf_file/0017/222182/subs004-collection-models.pdf

⁶ Letter to NZ Government from Hon Sir Michael Cullen, Chair of the Tax Working Group, 'GST on low-value imported goods', 26 February 2018

⁷ Australian Treasury estimates indicated collection rates starting at 15 per cent in 2017-18 and then 21 per cent in 2018-19. See Amazon, 'Submission to the Productivity Commission: Collection models for GST on low-value imported goods', 4 September 2017, p. 43.

NZ consumers by potentially reducing access to competitively priced goods from overseas marketplaces. We would therefore urge the New Zealand government to delay adoption and implementation until it has had sufficient opportunity to determine whether offshore suppliers are able to make the complex changes needed to comply with Australian law, whether Australian authorities are able to enforce the law, and whether large numbers of non-Australian suppliers are voluntarily complying.

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2. The modernised transporter model

Amazon proposes an alternative GST collection model that takes the core principles of border enforcement and combines them with the significant and ongoing technological developments in logistics and clearance processes over recent years. The modernised transporter model would place enforceable liabilities on a limited number of domestic express carriers and NZ Post (collectively 'transporters') who each have a physical presence in NZ, and in respect of whom Inland Revenue has jurisdiction. For these reasons, and because the model will over time drive consistent treatment of goods entering NZ irrespective of who sold them, this model will ensure nearly 100 percent GST collection rates and will truly level the playing field between NZ and overseas retailers.

Importantly, the modernised transporter model is neutral across transportation modes, using the availability of Electronic Advance Data (EAD) from both cargo and postal operators. Where currently certain transporters may be challenged to provide EAD, other stakeholders may be incentivised to provide the data in return for expedited facilitation, such as pre-arrival clearance and immediate release. In this respect, the model takes advantage of technological advancements that have occurred through recent years and are continuing to gather pace, driven by a combination of commercial and national security concerns. Governments are seeking greater visibility and assurance in regards to goods crossing their borders, while postal operators are competing with express couriers in parcel delivery, meeting the increasing expectations of customers for fast and convenient delivery. Achieving these outcomes cost-effectively and at scale requires data-driven solutions across both the cargo and postal streams to ensure there are no loopholes for non-compliant and potentially unsafe goods.

The modernised transporter model is an alternative, not a complement, to the supplier model, and the former cannot be layered on top of the latter. A single point of tax assessment with a single party (the transporter) accountable for the GST is the only model that will drive consistency and compliance. Layered models will lead to duplicate or no GST being collected and asking multiple parties to incur compliance costs will further drive up costs for consumers.

Whether under the supplier model or the modernised transporter model, the event triggering the GST liability on goods sold overseas to NZ consumers is not the sale of the goods alone (a transaction that occurs outside of NZ and which should not be subject to NZ taxes) but rather the importation of those goods into NZ. The actual importer of the goods is generally the consumer, and the supplier of the LVIGs typically engages the transporter on behalf of the consumer to handle importation of the goods into NZ and delivery to the consumer. As the transporter is the party facilitating the importation of the LVIGs for the consumer, the transporter is the most appropriate party to collect and remit the GST payable on those goods, based on information from the supplier. This model would also provide consistency with the established process whereby courier companies collect GST on goods above the de minimis threshold.

Amazon would welcome the opportunity to discuss implementation of the modernised transporter model with the NZ Government in more detail.

3. Improvements to proposed offshore supplier registration system

Amazon recognises that the NZ Government has proposed an offshore supplier registration model that would require marketplaces to be treated as the supplier for the purpose of registering for NZ GST and calculating, collecting and remitting GST on underlying supplier transactions. We are concerned that this approach will not achieve the NZ Government's objectives to create a level playing field between NZ and overseas retailers and maximise GST revenue collection. Moreover, this approach will likely require dedicated resources to address its shortfalls, similar in scale to those required to implement the modernised transporter model, while collecting only a fraction of the comparable revenue.

While we welcome the opportunity to suggest improvements to the NZ Government's proposed supplier model, Amazon would ultimately need to assess the feasibility and impact of any model adopted once the implementation details were established. This assessment may result in changes to the products and services Amazon is able to provide to NZ consumers, including goods or services offered by third parties on Amazon's websites.

3.1. Border enforcement

The primary, practical limitation of the NZ Government's proposed supplier model is that it lacks an effective border enforcement process and is instead dependent on voluntary compliance and ineffective offshore enforcement. Without border enforcement, Amazon is concerned that the NZ Government's proposed model will increasingly leak GST revenue over time and distort competition. Suppliers looking to circumvent the law will easily be able to migrate their sales to non-compliant marketplaces or new marketplaces that operate below the NZD \$60,000 threshold. Consumers will have an incentive to purchase through untaxed suppliers and marketplaces, while non-compliant entities will benefit at the expense of compliant entities, and goods will flow through the border with no GST collected and remitted. Moreover, as technology advances, the cost of establishing a marketplace will continue to plummet and new marketplaces will proliferate, increasing such behaviour. Amazon believes this outcome would be unworkable and urges the NZ Government to consider different methods of border enforcement to create a more level playing field between NZ and overseas-based retailers.

3.2. Red lane/green lane parcel processing

Amazon recommends the NZ Government consider steps to modernise parcel processing for LVIGs with the aims of maximising compliance and GST revenue collection. The NZ Government may consider leveraging recent and ongoing technological advancements in parcel processing to put in place border enforcement that is low-cost and scalable over time, with minimal impacts on NZ consumers. While this approach would not achieve the same level of compliance as the modernised transporter model, any level of border enforcement would improve compliance and level the playing field among offshore sellers.

Under present arrangements, Electronic Advance Data (EAD) is required to be submitted to the NZ Customs Service for packages sent via express couriers and freight forwarders. Amazon proposes that suppliers should be required to provide the NZ Customs Service with certain minimum EAD to help assess on an expedited basis that GST has been collected and remitted. Customs should then 'match' carrier information with supplier information and, accordingly, determine which packages are GST compliant. Based on this compliance determination, packages should be directed through different channels at the border. If a package is not GST compliant because it cannot be 'matched' between a marketplace and courier, that package should automatically be sent to a red channel. GST compliant packages would be directed through a green channel.

3.3. Primary liability

A principle underpinning any fair and effective cross-border tax collection model is that it should not shift tax debts onto parties that do not have – and may be unable to obtain – sufficient information to determine the tax payable. The marketplace operator or provider is not the legal seller of record (SOR) in the transaction and marketplaces will not always know where and how these suppliers conduct their business to determine the GST accurately. For example, third party sellers who list their goods on Amazon are in control of their product listings, terms of sale, and fulfilment of sold goods to consumers. While some sellers can elect to use Amazon's logistics services, Amazon frequently will not touch the goods or services that are sold by third parties through Amazon's online stores since many sellers will directly fulfil orders submitted by consumers. In such cases, Amazon only facilitates orders between shippers and importers and may lack necessary information for determining the tax payable. Amazon therefore recommends that marketplaces should not have primary liability for GST or associated penalties for any GST errors relating to third-party sales due to inaccurate information provided by the suppliers. Rather, in an offshore supplier registration model, tax liability should be either on the SOR or the importer, with the marketplace operator (or carrier) liability limited to remitting collected proceeds designated by the SOR or consumer.

3.4. Channel neutrality

A key limitation of the offshore supplier model is that suppliers looking to circumvent the law will easily be able to migrate their sales to non-compliant marketplaces or new marketplaces that operate below the NZD \$60,000 threshold. Amazon considers that any GST law should be neutral and equitable in terms of its application across businesses. In particular, if the NZ Government seeks to place any obligations upon marketplaces, these should be the same regardless of the structure of marketplace operations and whether marketplace operators are physically located within a particular territory or not. The scope and meaning of 'marketplace' should be based on the broadest possible definition that captures all marketplace models and operations that facilitate underlying transactions between third-party sellers and customers.

3.5. Marketplace neutrality by enforcing or removing GST exemptions

Amazon is concerned that the registration threshold of NZD \$60,000 of low-value goods into NZ would make it nearly impossible for the government to detect noncompliance with the new GST law for all but the largest offshore suppliers. For example, without this threshold, it would be possible to execute a test buy for an inexpensive product from a company that is suspected of noncompliance in order to check whether they are paying the GST. However, with such a sizeable exemption, it may be very difficult to prove that a foreign business is above the threshold or required to be registered for GST.

A similar issue arises with goods improperly classified as gifts to avoid taxation. The NZ Government should consider measures to prevent circumvention. This could be achieved by eliminating the NZD \$60,000 threshold. Similarly, the gift exemption should either be fully enforced or eliminated to prevent improper classification.

3.6. Additional enforcement measures

Inland Revenue should consider additional measures applicable to other parties that would continue to be involved in the supply of goods to NZ consumers. This could include financial institutions involved in the payment chain playing a further role in identifying non-compliant suppliers and blocking payments for underlying transactions where GST has not been collected. While including financial intermediaries is a potential option, there may be significant limitations to its implementation given the complexities of cross-border payment systems and the number of financial institutions and services involved. Express carriers and postal operators, which have control over the goods and customs formalities, should be required to undertake due diligence on both the consignment of goods and suppliers so that they are able to provide sufficient details to the authorities to identify non-compliant providers.

Inland Revenue, working with the NZ Customs Service, should dedicate time and resources to actively identifying non-compliant suppliers. This could be achieved by performing 'test buys' from relevant websites and following those purchases through to determine whether GST is being collected and remitted by those suppliers. This would then allow the NZ Customs Service to focus specifically on bad actors and subsequently route packages shipped by those suppliers through a red channel.

3.7. Administrative simplifications

Ease of implementation is an important consideration, not only for offshore suppliers, but also for government, as it will make implementation of any GST collection model more achievable. In part, the following simplifications support measures already proposed in the NZ Government's discussion document:

- Amazon strongly supports the proposed removal of tariffs and cost recovery charges from all imported goods valued at or below \$400 regardless of the GST collection model

ultimately adopted. This approach will reduce complexity and compliance costs and deliver direct benefits to NZ consumers.

- Amazon recommends that Inland Revenue and the NZ Customs Service provide clear and simplified guidance as early as practicable on how GST status should be reflected in manifest and entry declaration data to avoid duplicative taxation at the border.
- Amazon recommends that the NZ Government harmonise the bases for assessing customs value and GST value to create a simplified assessment basis. Having different valuation bases for customs duties and GST adds confusion and complexity in administration for all suppliers, particularly small and medium sized enterprises.

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16 July 2018

GST on low-value imported goods: An offshore supplier registration system

c/- Cath Atkins,
Deputy Commissioner Policy and Strategy
Inland Revenue Department
PO Box 2198
WELLINGTON 6140

Sent via email: policy.webmaster@ird.govt.nz

Dear Cath

GST on low-value imported goods: An offshore supplier registration system

Introduction

Deloitte is writing to provide comment on the discussion document *GST on low-value imported goods: An offshore supplier registration system* ("the discussion document"). Deloitte welcomes the opportunity to submit on the proposed design of an offshore supplier registration system to collect GST on low-value goods supplied to New Zealand customers and appreciates the numerous discussions with officials that we have had as part of this submission process.

We acknowledge that due to the changing nature of the way New Zealand consumers are purchasing goods, the Government has made the decision to amend the GST legislation to increase the number of suppliers who are subject to New Zealand GST.

Following the consideration of three different options for collecting GST on low value imported goods, the Government has decided to seek public comment on a model that collects GST at the point of sale ("offshore supplier registration").

Summary of submissions

Our submission points will cover the following issues:

1. We support the proposed change from a 'de minimis' threshold applied by the New Zealand Customs Service ("Customs") to a consignment value.
2. We submit that offshore suppliers applying the \$400 value threshold should test the threshold using the 'customs' value.
3. We encourage Officials to consider the rationale for changing the taxing point to the point of sale in light of the nature and range of legal relationships existing at the point of sale - GST liability generally should follow legal ownership unless there are very strong reasons to change this.

4. We support the implementation of an exception similar to the 'reasonable belief' exception in Australia, as described in paragraphs [3.20] and [3.21] of the discussion paper.
5. Reducing legislative complexity by not excluding supplies made to businesses could significantly reduce offshore suppliers' compliance costs and should be considered.
6. We recommend a two-tiered approach where Inland Revenue allows 'Approved Marketplaces' to only provide information on suppliers and supplies made into New Zealand, with no liability to collect GST. This rebuttable presumption model would push the GST liability to the underlying legal supplier of the goods, unless that underlying supplier fails to comply with the New Zealand GST rules, in which case the responsibility for the GST on future sales would fall back on the marketplace following notification by Inland Revenue.
7. We support the proposed concession to allow Marketplaces' to act 'as agent' for underlying suppliers upon mutual agreement.
8. A lower registration threshold (i.e. \$30,000) for offshore suppliers may counter-balance any concerns that putting liability on the underlying supplier will result in a lower level of compliance.
9. While not a revenue issue, we note that the paper does not contain detailed guidance on how, in practice, Customs processing of goods will occur to minimise delays.
10. We recommend that Officials review the proposed application date with Marketplaces and offshore suppliers to confirm that it will provide sufficient time for the development of required business systems and operating procedures required by the proposed changes.
11. We recommend that Officials seek further information and data from Marketplaces to support the policy rationale with clear evidence-based thinking.

We have set out our submissions in more detail below.

Yours sincerely

Allan Bullot
Partner
for Deloitte Limited (*as trustee for the Deloitte Trading Trust*)

If you have any queries about this submission, or for more information, please contact Allan Bullot at
s9(2)(a)

The scope of the proposed offshore supplier registration rules

Definition of 'low-value goods'¹

1. We support the proposed change from a 'de minimis' threshold applied by the New Zealand Customs Service ("Customs") to a consignment value. This will treat all parcels of the same value in the same way regardless of the contents of the parcel.²
2. We submit that offshore suppliers applying the \$400 value threshold should test the threshold using the 'customs' value instead of the 'total amount paid by the consumer less GST' - i.e. that the cost of freight should not factor into whether a good is considered 'low value'.
 - 2.1. This approach is the most simple and will therefore be the easiest to implement with offshore suppliers. It is also more consistent with the underlying principles of the proposed changes – i.e. to balance additional tax revenue against the compliance cost borne by taxpayers and government agencies.
 - 2.2. We note that this approach is also consistent with the existing definitions used by Customs and therefore may make implementation more efficient.
 - 2.3. To the extent that "value substitution" between the value of the low value good and the transportation charges is seen to occur, we submit that the anti-avoidance provisions could apply, but we would expect that such situations are unlikely to occur in practice with any great frequency.

Taxing at point of sale

3. We understand the policy rationale behind changing the taxing point to the point of sale.
4. We encourage Officials to consider this policy rationale in light of the nature and range of legal relationships existing at the point of sale, recognising that there is a diversity of transaction-types that result in goods being imported and consumed in New Zealand. We consider that GST liability should generally follow legal ownership, but we acknowledge Officials may consider some situations exist where this cannot apply.

¹ See paragraphs [3.3] and [3.6] in the discussion document.

² Currently, when goods are imported, Customs collects GST. Customs applies a 'de minimis' threshold of \$60 (GST and tariff duty) in order to balance collection costs with potential tax revenue collected. Due to the 'de minimis' threshold including tariff duty (which applies at different rates to different goods), parcels of equal value may have differing GST treatment depending on whether the goods are subject to tariff duty.

Supplies of multiple low-value goods³

5. We understand the policy rationale behind Officials' proposed treatment of supplies of multiple low-value goods.
6. We support a mechanism to enable Customs to verify GST paid or partially paid on a consignment of multiple low-value goods, or a mixed consignment, in order to prevent double taxation.⁴
7. We also support the implementation of an exception similar to the 'reasonable belief' exception in Australia, as described in paragraphs [3.20] and [3.21] of the discussion paper.
 - 7.1. A 'reasonable belief' exception will minimise instances of double taxation as all consignments / packages entering New Zealand worth greater than \$400 will be taxed by Customs, unless the offshore supplier attaches a notice of the GST already collected at the point of sale.
 - 7.2. This pragmatic approach will simplify the compliance burden on offshore suppliers as there will be a clear line in the sand – i.e. offshore suppliers are responsible for collecting GST on any transactions where the good, or the total package of goods consigned, is less than \$400 based on 'customs value'.
 - 7.3. This approach will also simplify the test of whether offshore suppliers must register under the proposed rules.
8. We understand consideration is being given to increasing the low value amount from \$400 to \$1,000. We support this review and note that a review of the data is likely to indicate that increasing the low value amount to \$1,000 is likely to remove many of the practical issues associated with multiple supplies and consignments for most sales to New Zealand consumers.

Consumers versus GST-registered businesses

9. We understand the underlying policy rationale for making an exception for offshore supplies to GST-registered businesses in New Zealand. We have been advised by a number of non-resident suppliers that they would actually prefer to not have to make any distinction by excluding supplies made to businesses, as they consider that this could significantly reduce offshore suppliers' compliance costs.
10. We note we do not consider the potential missing trader fraud risk is as significant an issue for low value goods when compared to the remote services situations. By the very nature of the goods in question being "low value" the fiscal risk is reduced compared to remote services that could be for any value.

³ See paragraphs [3.2] to [3.19] in the discussion document.

⁴ See paragraphs [3.16] to [3.18].

11. If offshore suppliers are allowed to charge GST on supplies to businesses, there would need to be a process of issuing GST Tax Invoices to allow for recovery by the New Zealand GST registered customers.

Registration requirements and returns filing

Non-resident digital marketplaces – approved marketplace options

12. Under the proposed changes non-resident digital marketplaces will be deemed to be the supplier of goods, and, if the registration criteria are met, be required to collect and return GST on the aggregated supplies made via the digital marketplace (by all suppliers).
13. We suggest strong consideration is given to a model of taxing non-resident suppliers (and deemed suppliers) of low value goods with a two stage process. This could involve a rebuttable presumption that the operator of a digital marketplace is required to collect GST on all their suppliers of low value goods to New Zealand. The presumption could be rebutted provided that the operator of the digital marketplace satisfied certain tests and obligations, primarily around the supply of information on the level of sales of low value goods to New Zealand by the underlying legal supplier of the goods. In that case the obligation (if any) to collect and remit the GST on low value goods sales would fall upon the underlying legal supplier.
14. To the extent that an approved digital marketplace is subsequently notified by Inland Revenue that one of their suppliers of low value goods to New Zealand is not correctly meeting their New Zealand GST obligations, we suggest that the following options would exist;
 - 14.1. The digital marketplace could use commercial pressure to encourage the non-resident supplier to comply with the New Zealand GST rules within a set time frame, if this did not occur then,
 - 14.2. The digital marketplace could either refuse to sell that non-resident supplier's low value goods to New Zealand customers, or
 - 14.3. have the rebuttable GST collection presumption reinstated on the digital marketplace in respect of that supplier; i.e. the digital marketplace would need to collect GST on the sales of that non-compliant non-resident supplier's sales of low value goods through the digital marketplace to New Zealand customers for all future sales.
15. We submit that this rebuttable presumption approach, while increasing the overall complexity of the regime somewhat, would be a better approach in the long run to obtain a balance between collecting the appropriate amount of GST on low value goods in a difficult environment while preserving the principled basis of the New Zealand GST system.
16. We accept that Inland Revenue would potentially be required to create a greater number of GST registrations for non-resident suppliers under this rebuttable presumption approach. However our discussions with various parties have indicated that the number of underlying suppliers of goods may not be unmanageable. We understand that the "80/20" rule may apply here. The work Inland Revenue is doing

to check this issue with various marketplaces is to be commended and should continue.

17. This rebuttable presumption approach (allowing sales through Approved Marketplaces to initially look to the underlying legal supplier of the goods) will be technologically independent to method of selling the goods through the digital marketplace. When the GST taxing point is on the underlying legal supplier, then the method in which they make the sale of the low value goods via digital channels to the New Zealand customers is irrelevant. If the explosive growth of online sales of goods has taught us anything, it is that we cannot predict all the ways that goods will be sold to consumers. New and innovated distribution methods for low value goods are being developed all the time and there is a real risk that any legislative regime that is created in reference to a particular model of distribution runs the risk of becoming out of date very quickly. We do however always know that regardless of the distribution method being used, there will always be an entity that is the legal supplier of the low value good to the New Zealand customer, hence our preference on the underlying legal supplier of the goods.
18. Due to the selling technology indifference, the rebuttable presumption model will also not create any commercial pressures for digital marketplaces to adopt any particular method of operating such that they fall on one side or the other of any GST dividing line. We submit that it is desirable for tax legislation to have as little impact on the design of commercial operations as possible.
19. If the rebuttable presumption model was adopted, we consider it would be open to Inland Revenue to draft the definition of a "marketplace" in a broad manner.
20. We consider that the initial proposal for a "one size fits all" approach is problematic because digital marketplaces for goods display some unique characteristics, which require consideration in contrast to remote services.
 - 20.1. Goods Marketplaces are less aggregated than similar platforms for offshore services. The disaggregation means that there are multiple business models being employed by goods Marketplaces which will be affected differently by the proposed changes – no 'one-size-fits-all' approach will work for Marketplaces.
 - 20.2. In our experience, digital marketplaces for services tend to be more direct with fewer distinct operating / business models applied. In contrast, there are a variety of business models currently employed by offshore suppliers selling goods for New Zealand consumption. For example, we are aware of Marketplaces that use the following models:
 - 20.2.1. Direct selling / Out and out – i.e. selling as the principal, where legal ownership is with owner of the Marketplace;
 - 20.2.2. Selling on behalf – where the Marketplace takes on some level of risk for the goods, advertises and facilitates payment;
 - 20.2.3. Advertising and payment services;

- 20.2.4. Advertising-only services – i.e. no facilitation of payment, akin to the 'classifieds' section of a local newspaper; and
 - 20.2.5. Offering a mixture of two or more of the above.
 - 20.2.6. We also acknowledge that the future will result in a range of new and, possibly, unexpected business models we cannot currently conceive. We suggest that any new rules for GST on low value goods should be as independent as possible of the actual manner of selling the low value goods to allow for the future (currently unknown) developments in this area that are likely to occur.
- 20.3. We note further that within each of the above general categories are a spectrum of systems that will be affected differently by the proposed changes. For instance, while some platforms control the payment process and handle the flow of funds between consumer and underlying supplier, other platforms may facilitate payment without actually receiving or controlling any funds. It is particularly problematic to impose collection obligations on Marketplaces that do not have a part in the actual main cash flows from transactions.
- 20.4. Further, and perhaps most fundamentally, many Marketplaces do not take legal title over the goods sold through their platforms. To de-couple tax obligations from legal ownership of the goods is to separate the compliance burden from the recipient of (or creator of) value of the actual goods. Therefore we think low value goods are an appropriate situation, where provided certain conditions are satisfied, to allow the burden of GST compliance to remain the underlying legal supplier of the low value goods.
21. Taking these issues together, we recommend a two-tiered approach rebuttable presumption approach, where Inland Revenue requires 'Approved Marketplaces' to only provide information on suppliers and supplies made into New Zealand, with no liability to collect GST. In other words, all Marketplaces that meet the approval criteria are not required to collect GST on behalf of the underlying suppliers, but are required to provide the information necessary for Officials to be certain that offshore suppliers are correctly returning GST on imported low-value goods; and to enable Officials to identify and contact taxpayers with supplies that will exceed \$60,000 [or such lower amount as is determined to be appropriate].
- 21.1. We imagine that 'Approved Marketplaces' would have to satisfy Officials' that they are able to report accurately on low-value imports through their platform to New Zealand with sufficient detail to simplify compliance procedures by Officials, and Officials would have to be comfortable in outsourcing this data-driven aspect of compliance.
 - 21.2. Creating an 'Approved Marketplaces' exemption would ensure that different business models operate in a similar competitive environment, and would ensure that liability for GST sits with the entity that has legal title of the goods at the point of sale, i.e. that the one receiving the funds for transferring legal title is the one collecting GST.

- 21.3. 'Approved Marketplaces' would still be required to register for GST if its direct sales into New Zealand breach the registration threshold.
- 21.4. To the extent that the 'Approved Marketplace' has a supplier that does not comply with their New Zealand GST obligations, then following notification by Inland Revenue of the defaults, any future sales of low value goods to New Zealand customers via the 'Approved Marketplace' would require the 'Approved Marketplace' to collect GST as if they were legally sales of the marketplace.
22. We consider that this approach will be more effective because:
- 22.1. It balances the needs of Inland Revenue to collect GST on low value goods in a cost effective manner against the need to only impose GST on parties that are not the underlying legal suppliers of goods if absolutely necessary.
- 22.2. The reporting by 'Approved Marketplaces' will strongly incentivise underlying supplier compliance;
- 22.3. This lower burden on Marketplaces, provided they meet the criteria, will ensure that Marketplaces continue to find it easy to do business in / with New Zealand;
- 22.4. It removes GST considerations from decision-making on the best business model, recognising that digital industry depends on the certainty and simplicity of the regulatory environment;
- 22.5. It will balance the overall compliance cost of administering the system versus the potential tax revenues collected. As we understand the vast amount of GST is going to come from a relatively small number of larger offshore suppliers of the legal title to the low value goods; and
- 22.6. Recognises that digital marketplaces are a complex and dynamic environment that requires a flexible policy approach to future-proof the GST Act.
23. We also support the proposed concession to allow Marketplaces' to act 'as agent' for underlying suppliers upon mutual agreement.

A lower registration threshold?

24. Recognising that our proposed approach requires a concessionary stance by Officials, we submit that a lower registration threshold for offshore suppliers may counter-balance any concerns that putting liability on the underlying supplier will result in a lower level of compliance.
25. We consider that an appropriate threshold may be \$30,000, though we note that this should be tested with real marketplace information from digital marketplaces to ensure that the right balance is struck between compliance costs on offshore suppliers, compliance costs for Inland Revenue and expected tax revenues.

Re-deliverers

26. We submit that it should be made clear that while re-delivers will be required to collect and return GST on the value of the goods being re-delivered to New Zealand, any actual charges by the re-delivery for their services should be GST zero rated when provided by a New Zealand resident, and outside scope when provided by a non-resident.
27. We do not consider that there is any real risk in a practical sense of any form of 'value substitution' occurring when an unrelated re-deliver is providing re-delivery services. The non-resident supplier that is delivering goods to a non-New Zealand re-deliver address will generally have no knowledge that the goods will ultimately be sent to New Zealand. Therefore there will be no ability at all for value to be transferred from the goods to the transportation costs such that GST is avoided.

Other submission points

Process for goods imported

28. While not a revenue issue, we note that the paper does not contain detailed guidance on how, in practice, Customs processing of goods will occur to minimise delays. While this is a systems issue for the New Zealand Customs Service, it is directly tied to the proposals contained in the discussion document.

Application date

29. We recommend that Officials review the proposed application date with Marketplaces and offshore suppliers to confirm that it will provide sufficient time for the development of required business systems and operating procedures required by the proposed changes.

Data-driven approach

30. We recommend that Officials seek further information and data from Marketplaces to support the policy rationale with clear evidence-based thinking. Understanding the structure of the digital market, i.e. how many suppliers supply more than \$30,000 or \$60,000 annually into New Zealand, or what types of business models Marketplaces are applying, etc., for low-value goods will clarify the policy choices.

Concluding statement

Thank you again for the opportunity to comment on these proposals and for taking the time to consider our submission. We would welcome the opportunity to discuss these further in person.

Taxamo

Peace of mind assured

Comments on extension of New Zealand Goods and Services Tax (GST) to low-value goods

1. Electronic Marketplace definition

The EMP definition can be improved. For clarity, the Electronic Marketplace (EMP) needs to have access to the information that is necessary to determine the GST treatment of a good.

In this respect the definition of an EMP should evolve to mirror a recently-released definition from the Inland Revenue Authority of Singapore (IRAS). This definition can be found here: https://www.iras.gov.sg/irashome/uploadedFiles/IRASHome/e-Tax_Guides/GST%20Taxing%20imported%20services%20by%20way%20of%20an%20overseas%20vendor%20registration%20regime.pdf

Here we replicate the Singapore definition, which states that “an electronic marketplace is defined as a medium that:

- I. allows the suppliers to make supplies available to customers; and
- II. is operated by electronic means.

This includes marketplaces operated via a website, internet portal, gateway, distribution platform or any other types of electronic interface, but excludes payment processors or internet service providers.”

The EMP with the necessary information to comply can become liable for GST based on its contract with its merchant

Therefore, we propose that the following should be added to the New Zealand definition of an EMP:

“Any intermediary with the information that is necessary to determine the GST treatment and who contractually agrees to collect the GST.”

2. EMP liability

The EMP should be liable no matter where the underlying merchant (inside New Zealand or outside) is located. It is too burdensome to make a distinction. It is the underlying New Zealand merchant that should find a way to prove that the GST due was paid.

The other option is to introduce exceptions. Exceptions, however, are difficult to manage and are subject to differing interpretations.

3. Foreign exchange rates

In relation to foreign exchange (FX) rates. It should be authorised that a fixed rate equivalent can be determined for the year for goods that have a price close to the threshold of NZ\$400 or less (excluding GST).

It should be clear who needs to collect the GST, the foreign supplier or customs. Otherwise, the responsibility to collect the GST may change from one shipment to the next. Here, the real value at the time of the supply needs to be reported on the return. However, it should be a fixed value and should be agreed upon so as to know who is liable for the collection of the GST, the vendor or customs.

4. Proof of GST Payment

We agree that proof of GST charged should be automatically linked to the package so that customs can check GST charged automatically without requesting proof from the customer. An automatic, and simplified, way to implement this process is necessary.

5. Refunds due to double taxation

If double taxation occurs then the refund should be made by customs with a simplified process put in place. This simplified process is required so as not to place the burden of refunds on the foreign merchant that will, in turn, also need to update their original GST return.

Foreign merchants will also have to retain the proof of the double taxation that occurred.

From: s9(2)(a)
Sent: Wednesday, 2 May 2018 08:32
To: Policy Webmaster
Subject: GST on low-value imported goods

Dear Sir/Madam

My feedback relates to the following rule:

- Offshore suppliers would be required to register, collect and return GST on supplies of goods to New Zealand consumers if the value of the goods is \$400 or less. Tariffs and cost recovery charges would no longer be collected on goods valued at or below this value.

I propose that the value of \$400 should be increased to \$1,000 and the tariff and recovery charges also not collected on any goods valued at below that amount.

The reason for this is the cost to overseas businesses in implementing these rules.

The NZ government is proposing a requirement for GST to be collected on low value goods only – this means that the cost of implementing this for the overseas business relates to low value goods they are selling and therefore the cost to benefit is high for them. Having to charge GST on a books worth only \$20 is a high price to pay to be able to supply to New Zealand consumers. In my experience most customers currently keep under that limit to ensure that GST and duties don't also apply and I believe this will continue as duties can be very costly over the \$400 value. Therefore increasing the limit will encourage and allow consumers to purchase more at once and help offset the costs the overseas business will now be incurring.

The current \$400 value has also not increased with inflation and buying power has therefore decreased when buying from offshore an increase would make up for this.

The proposal ensures fairness for our NZ businesses and creates an equal playing field but this is not quite true as it adds a complexity that the NZ business does not have to face, increasing this level will ensure that we are not simply keeping an uneven playing field but just changing the side that is affected the most.

Finally with Australia implementing a similar scheme using the same \$1,000 that they are proposing for the threshold will also reduce compliance costs for overseas businesses by keeping the schemes more aligned and leave less uncertainty over their sales.

Thank you.

s9(2)(a)
[Redacted]
[Redacted]
[Redacted]

From: s9(2)(a)
Sent: Thursday, 3 May 2018 09:09
To: Policy Webmaster
Subject: Feedback on "GST on low-value imported goods" proposals

Hi there,

IR's [fact sheet](#) indicates that...

"The rules would apply when the good is outside New Zealand at the time of supply and is delivered to a New Zealand address."

Online shoppers/overseas suppliers may circumvent the proposed rules, by getting the item delivered to an overseas address initially, before redirecting the item to a NZ address. NZ Post (and no doubt others) provide this option (see <https://www.nzpost.co.nz/tools/youshop>).

Perhaps the legislation needs to be more broadly worded, to ensure that all supplies intended to be ultimately delivered to NZ are captured?

s9(2)(a)

IN CONFIDENCE
[SEEMAIL]

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