



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

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***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]

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