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 chose 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.