

In Confidence

Office of the Minister of Finance

Office of the Minister of Revenue

Office of the Minister of Customs

Chair, Cabinet Economic Development Committee

GST ON LOW-VALUE IMPORTED GOODS: APPLICATION DATE

Proposal

1. This paper seeks the agreement of the Cabinet Economic Development Committee (the Committee) to delay the application date of the proposed legislation for collecting GST on low-value imported goods by two months to 1 December 2019.
2. The Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Bill (the Bill) contains the proposed amendments for applying GST to supplies of low-value goods by offshore suppliers to New Zealand consumers. The Bill is currently expected to receive its second reading in the week beginning 10 June.

Executive Summary

3. The Bill includes a proposal to require offshore suppliers of imported goods valued at or below \$1,000 to register for and return GST on supplies of these goods to New Zealand consumers. This proposal will level the playing field between domestic retailers and offshore goods suppliers by ensuring that GST is paid on the sales of both.
4. At its introduction, the Bill included an application date of 1 October 2019 for the GST on low-value imported goods proposal. Several submissions on the Bill made to the Finance and Expenditure Committee (FEC) raised concerns about the short lead-in time between enactment of the legislation and the 1 October start date.
5. In response to submissions, the FEC has recommended that the application date be delayed by two months to 1 December 2019.
6. A two-month delay would help mitigate the risk of offshore shopping websites temporarily ceasing the shipment of goods to New Zealand and would help ensure a smooth and successful launch of the new rules (for instance, by better enabling the fast freight industry and customs brokers to make consequential software changes).
7. However, delaying the application date by two months to 1 December 2019 would have a net fiscal cost of \$9.666 million over the 2019/20 to 2022/23 forecast period. The impact will be limited to the 2019/20 fiscal year.

8. It would also delay the benefits of the proposal in terms of achieving fairness and a level playing field for New Zealand retailers.
9. On balance, we recommend that Cabinet agree to an application date of 1 December 2019, in line with the FEC's recommendation.

Background

10. The Bill proposes requiring offshore suppliers of imported goods valued at or below \$1,000 to register for and return GST on these supplies.
11. Several submissions on the Bill (including from Amazon, Alibaba and eBay) have raised concerns that there will be insufficient time after the Bill is enacted for offshore suppliers to make the systems changes necessary to start collecting GST on low-value goods supplied to New Zealand consumers from 1 October 2019.¹
12. Amazon, Alibaba and eBay have stated that they will not invest in making the necessary systems changes until the law is enacted as until that time the proposed rules are not yet finalised and may be subject to change.
13. The Bill is expected to be enacted in late June 2019. This is approximately three months before the changes are due to take effect. If for any reason the Bill does not receive its third reading by 27 June, it should be noted that the House does not sit again until 24 July, so enactment would not occur until late July – leaving only two months between enactment and 1 October 2019.
14. As GST is a real-time transactions-based tax, the affected suppliers will need their systems for charging and collecting GST to be fully operational from the start date.
15. Part of the technical challenge for large marketplaces such as Amazon, Alibaba and eBay is that their websites are complex and are designed to service a global customer base. This means the systems changes they need to make to comply with New Zealand's GST requirements will need to be carefully planned and tested to ensure they do not create errors that interfere with other parts of their systems.
16. Alibaba and eBay have noted there is a risk they may have to temporarily block their sales to New Zealand customers until they can make the necessary changes and comply with our laws. If they or other suppliers are forced to take this action, it would reduce consumer choice and lead to unhappy consumers and negative publicity.
17. Providing insufficient time for suppliers to make the systems changes could also impact on the successful launch of the new revenue collection system which is critical to the ongoing success of the rules.
18. New Zealand Post and some in the fast freight industry have also raised concerns about their ability to make necessary software changes by 1 October 2019.

¹ Alibaba and eBay, Amazon, CAPEC New Zealand, Chartered Accountants Australia and New Zealand, Deloitte and PwC all made submissions to FEC recommending a delay to the proposed application date.

Analysis

19. We consider that submitters have raised genuine concerns about offshore suppliers' and marketplaces' ability to implement the necessary systems changes within the two-to-three months between enactment and the proposed application date. As such, we recommend that the application date of 1 December 2019 in the Bill as reported back by the FEC remain.
20. The proposed two-month delay would help to mitigate the risk of offshore shopping websites temporarily ceasing the shipment of goods to New Zealand customers and would help ensure a smooth and successful launch of the new rules.
21. Delaying the application date by two months to 1 December 2019 would reduce forecast GST revenue by \$14 million over the 2019/20 to 2022/23 forecast period (the forecast would be revised downward to \$390m of additional GST revenue as opposed to the \$404m that was forecast with an October 2019 application date). However, this reduction in GST revenue would be partially offset by a reduction in funding required for Vote Customs and Vote Biosecurity of \$4.334 million.
22. Currently, the New Zealand Customs Service (Customs) collects duty (including GST), as well as cost recovery charges (its Import Entry Transaction Fee and the Ministry for Primary Industries' associated Biosecurity System Entry Levy) on all imported consignments with \$60 or more of duty owing. This threshold is equivalent to a consignment value of \$400 if GST is the only duty applying.
23. As part of the design of the proposals, Customs will no longer collect duty or the Import Entry Transaction Fee and associated Biosecurity System Entry Levy on consignments with a value of \$1,000 or less (CAB-18-MIN-0466.01 refers). If Cabinet approves the proposed delay in the application date to 1 December 2019, the Customs and Excise Amendment Regulations (No 2) 2019 (relating to the thresholds for collecting duty and the Import Entry Transaction Fee) and any required changes to the Biosecurity (System Entry Levy) Order 2010 will also need to come into force on that date.
24. Delaying the application date by two months would also delay the benefits of the proposal in terms of achieving fairness and a level playing field for New Zealand retailers. If Cabinet agrees to the change, my officials will contact submitters, including Retail NZ to explain why a short two-month delay was considered necessary.

Consultation

25. The Ministry of Business, Innovation and Employment was consulted and is supportive of the proposed delay. The Ministry of Foreign Affairs and Trade and the Ministry for Primary Industries were informed.
26. Following public submissions on the Bill, officials had discussions with Alibaba, Amazon and eBay about the 1 October application date. It was clear from these discussions that these organisations would welcome any delay in the application date, although their first preference (as stated in their written submissions) would be a start date of 1 April 2020 at the earliest.

27. The Conference of Asia-Pacific Express Carriers (CAPEC), the Customs Brokers and Freight Forwarders Federation of New Zealand Inc (CBAFF) and New Zealand Post were specifically consulted on the proposed two-month delay, as well as an alternative option of delaying application by three months to 1 January 2020.
28. These stakeholders also prefer a 1 April 2020 application date (delay of six months). A 1 December 2019 or 1 January 2020 application date would create difficulties, as it clashes with New Zealand Post's and the fast freight industry's peak period. However, if given a choice between these two dates, CAPEC and CBAFF prefer an application date of 1 January 2020, while New Zealand Post prefers an application date of 1 December 2019 over 1 January 2020.

Financial Implications

29. The proposed 1 December 2019 application date would have a net fiscal cost of \$9.666 million over the forecast period. This is due to an estimated reduction in GST revenue, offset by a reduction in the replacement funding required for Customs and the Ministry for Primary Industries.

GST Revenue

30. Changing the date of implementation will result in forgone tax revenue as current forecasts assume a 1 October 2019 implementation date. The revenue impact is limited to the 2019/20 fiscal year. The estimated revenue impact is outlined in the table below:

Vote Revenue Minister of Revenue	\$m – increase/(decrease)				
	2018/19	2019/20	2020/21	2021/22	2022/23 & Outyears
Tax Revenue: GST (1 October 2019 application date)	-	66.000	100.000	112.000	126.000
Tax Revenue: GST (1 December 2019 application)	-	52.000	100.000	112.000	126.000
Total Operating	-	(14.000)	-	-	-

31. The \$14 million forgone tax revenue would be charged as a pre-commitment against the Budget 2020 operating allowance.

Vote Customs/Vote Biosecurity

32. As noted in paragraph 22, Customs will not collect the Import Entry Transaction Fee and the Ministry for Primary Industries' associated Biosecurity System Entry Levy on consignments valued at \$1,000 or less.
33. Both agencies have received contingency funding in Budget 2019 to replace revenue forgone from 1 October 2019. If Cabinet agrees to delay application to 1 December 2019, then the funding required, in the 2019/20 fiscal year, will reduce from \$9.222 million to \$6.886 million for Vote Customs and \$8.991 million to \$6.993 million for Vote Biosecurity.

Legislative Implications

34. The amended application date is included in the Bill as reported back to the House by the Finance and Expenditure Committee. Reversing the change in the application date proposed by the FEC would require Cabinet and Parliamentary support for a Supplementary Order Paper (SOP) at the Committee of the whole House stage. Given that an SOP to the Bill is planned to be introduced in the week beginning 18 June, this could effectively delay the enactment of the Bill, exacerbating the concerns raised about the amount of lead-in time between enactment and application.

Impact Analysis

35. A RIA *GST on low-value imported goods* was prepared by Inland Revenue and Customs in September 2018. The information in this RIA has been updated to reflect the proposal in this Cabinet paper to delay the application date of the proposals by two months. The updated RIA is attached.
36. The quality assurance assessment remains the same as the original RIA. When the original RIA was reviewed by a panel from Treasury, Inland Revenue and Customs, the reviewers considered that the Regulatory Impact Assessment partially met the quality criteria as it could probably have been clearer and more concise.

Human Rights, Gender and Disability Implications

37. The proposal is consistent with the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993.
38. The proposal does not have gender or disability implications.

Publicity

39. The Minister of Revenue has issued a press release announcing that an extension has been included in the reported back version of the Bill, in response to submissions to the FEC. Our officials will also contact affected submitters to inform them of the change.

Proactive Release

40. We propose to proactively release this Cabinet paper, and associated RIA and minutes in whole within 30 working days of Cabinet making final decisions, subject to redactions under the Official Information Act 1982.

Recommendations

The Ministers of Finance, Revenue and Customs recommend that the Cabinet Economic Development Committee:

1. **Note** that several submitters on the Taxation (Annual Rates for 2019-20, GST Offshore Supplier Registration, and Remedial Matters) Bill, New Zealand Post and some in the fast freight industry have expressed concern that it may be difficult to implement the necessary system changes to comply with the GST on low-value imported goods proposal by 1 October 2019.

2. **Note** that in response to submissions, the Bill as reported back by the Finance and Expenditure Committee delays the application date for the GST on low-value imported goods proposal by two months to 1 December 2019.
3. **Agree** to the proposed 1 December 2019 application date of the GST on low-value imported goods changes.
4. **Note** the following changes as a result of the decision in recommendation 3 above, with a corresponding impact on the operating balance:

Vote Revenue Minister of Revenue	\$m – increase/(decrease)				
	2018/19	2019/20	2020/21	2021/22	2022/23 & Outyears
Tax Revenue: GST (1 October 2019 application date)	-	66.000	100.000	112.000	126.000
Tax Revenue: GST (1 December 2019 application)	-	52.000	100.000	112.000	126.000
Total Operating	-	(14.000)	-	-	-

5. **Agree** that the forgone revenue under recommendation 4 above be charged as a pre-commitment against the Budget 2020 operating allowance.
6. **Note** that if the application date of the GST on low-value imported goods changes are delayed to 1 December 2019:
 - 6.1 the Customs and Excise Amendment Regulations (No 2) 2019 (relating to the thresholds for collecting duty and the Import Entry Transaction Fee); and
 - 6.2 any required changes to the Biosecurity (System Entry Levy) Order 2010
 will also come into force on 1 December 2019.
7. **Note** that this Cabinet paper and the associated Cabinet minute will be proactively released on Inland Revenue's website.

Authorised for lodgement

Hon Grant Robertson
Minister of Finance

Hon Stuart Nash
Minister of Revenue

Hon Kris Faafoi
Minister of Customs