

Tax Working Group Public Submissions Information Release

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30 April 2018

Tax Working Group Secretariat
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Trade Me Submission on the Future of Tax in New Zealand

Thank you for the opportunity to submit on the future of tax in New Zealand.

This submission is made on behalf of Trade Me. We are New Zealand's largest online auction and classified listing platform. We are an NZX and ASX listed company. We facilitate millions of transactions each year between our 4 million members, and employ approximately 600 people (primarily in Wellington, Auckland and Christchurch).

Given the breadth of our operations, we have a broad and general interest in the future of tax in New Zealand. However, we focus mainly on our support for a fair regime for the collection of GST on imported low-value goods.

We have structured our submission in line with the chapters in your Submissions Background Paper.

Chapter 2: The future environment

We agree that a number of the themes discussed in this chapter will impact on the tax system. We would like to add that:

- In the gig economy, there is likely to be a growth in independent contractor workers, which may put pressure on the PAYE system. To ensure compliance remains high and the cost of complying low it will be important that workers are provided with automated and easy to use tools to assist with their tax obligations (e.g. some independent contractors will struggle to budget for provisional tax cycles and others levies, such as ACC levies).
- It is important that New Zealand continue with its programme to address base erosion and profit shifting of large multinationals. This is necessary to ensure that New Zealand based companies subject to tax obligations can continue to compete against global giants. We must have a tax system that meets our revenue needs

while not unduly restricting our ability to engage with the rest of the world and which ensures New Zealand remains an attractive place to do business.

We would support New Zealand's tax rate trending towards the OECD average, but are aware that given our broad based tax regime a comparison of the income tax rate alone would not necessarily be an apples with apples comparison. Any change in the company tax rate would need to consider the differential between the company tax rate and other rates (such as the personal and trust income tax rates) in order to avoid tax sheltering and to ensure New Zealand's imputation regime remains appropriate.

Chapter 3: Purposes and principles of a good tax system

We agree that the ultimate purpose of taxes should be to improve the wellbeing and living standards of New Zealanders and agree with the established criteria used in past tax reviews (domestically and internationally).

The tax policy consultation process is also an important part of our tax system. In addition to IRD providing a formal window to consult, we think it is important for IRD to proactively seek out relevant stakeholder groups and engage with those stakeholders. It is becoming increasingly difficult for a business to stay across every public sector consultation paper that is relevant to its operations. If the IRD proactively identifies stakeholders that are likely to be materially affected by changes and proactively engages with those stakeholders, then policy outcomes will be more robust. For example, Trade Me can offer a unique perspective in relation to the design of any proposed regime for the collection of GST on low value imported goods and we would welcome IRD proactively contacting us at key stages in the development of any such policy to ensure that our market knowledge is appropriately captured (e.g. to ensure that proposed definitions will work in practice).

Chapter 4: The current New Zealand tax system

Trade Me supports the current broad-based, low-rate tax system that applies in New Zealand. We would not support taxes common in other OECD countries (such as payroll taxes). We support the previous elimination of taxes such as excess retention tax, land tax, estate duty, stamp duty and cheque duty, and would not support the reintroduction of these taxes.

It is an anomaly that GST is not levied on low-value imported goods we support the development of a fair regime to collect GST on these goods. We have provided additional information on this in our response to Chapter 5.

Chapter 5: The results of the current tax system

In general terms, Trade Me agrees that the current system strikes an appropriate balance between the competing interests.

Trade Me does not support the concept of a progressive corporate income tax regime. We believe large and small companies should have the same tax rate to ensure that there is a level playing field. If Government wishes to encourage growth of certain small companies this should be achieved through a targeted and transparent grant regime (rather than a lower tax rate). However, we do support progressive individual income tax rates to address inequality.

This part of our submission particularly relates to the following two paragraphs in the Submissions Background paper:

“Due to the growth of online shopping there is an increasing volume of imported goods on which GST is not collected. This is because the GST (and other duties owing on these goods is below an administrative de minimis. The rationale for the de minimis is to achieve a balance between the administrative costs of collecting the GST at the border and the revenue collecting the GST at the border and the revenue collected, as well as to facilitate the clearance of goods at the border. The Group has been asked for advice on this by the Minister of Finance and has already provided that separately.

Recent developments suggest there may be cost-effective options for collecting GST on low value imported goods. In particular, from 1 July 2018 Australia will become the first country to require offshore suppliers to that sell more than AU\$75,000 per year of goods valued below AU\$1,000 to Australian consumers to register for and charge GST on these sales. This follows on from the fact that many countries, including New Zealand, have required offshore suppliers of digital services to domestic residents to register for and collect GST.”

Given our interest in the collection of GST on low value imported goods, we are wondering if the advice already provided by the Tax Working Group to the Minister of Finance will be published?

We support, in principle, the collection of GST on these goods. In particular, and as expanded below, we support:

- A fair regime to collect GST on imported goods;
- Further exploration of the options for collecting GST on imported goods, including how the different options could influence compliance;
- Careful drafting of any definitions, to ensure the regime does not negatively impact on competition in the online shopping and advertising markets; and
- An appropriate transition period that allows businesses to comply.

In addition, we would support Customs and IRD looking at changes at the border that could incentivise compliance. For example, perhaps for marketplaces or suppliers that collect GST there could be a trusted trader process which fast-tracks the movement of goods at the border. We believe practical changes would help encourage overseas suppliers to comply voluntarily, which would help to reduce the costs of enforcement.

A fair regime to collect GST on imported low value goods

We think it's important that businesses operating in New Zealand pay their fair share of tax. That's why, when the previous Government introduced GST on intangible goods, we supported the intent of using electronic marketplaces to capture taxable activities where the underlying supplier and consumer did not interact.

Consistent with this, 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.

However, care needs to be taken in the design, drafting and implementation of any regime for the collection of GST on low value imported goods. Otherwise, a different set of distortions would be created (which would advantage some types of online platforms, over others, and lead to adverse consumer outcomes).

We believe our experience of providing a platform for domestic and international sellers will be highly relevant to IRD and Customs when considering how to develop a regime for the collection of GST on low value imported goods.

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; and
- consistent online and offline.

Further exploration of the options for collecting GST on imported goods, including how the different options could influence compliance

As noted in your paper a "good tax system is one where the tax due is actually collected" and the cost of compliance needs to be materially lower than the revenue collected.

An important consideration for GST on low value imported goods is the collection mechanism. We have had the opportunity to review a copy of a draft IRD and Customs consultation paper released under the OIA. That paper mentioned three possible avenues:

- The supplier or 'marketplace';
- The carrier or freight forwarding organisation; and
- The consumer at Customs.

However, the draft consultation paper did not show whether these options were robustly considered, or whether other options (e.g. placing the collection obligation on the credit card schemes) were considered.

The draft consultation paper proposed that New Zealand take a similar approach to Australia. Yet even in a market the size of Australia, the ATO is anticipating a number of suppliers and marketplaces will not comply with the new obligations in respect of low value imported goods. We understand that the ATO has indicated that it expects the maximum level of compliance of offshore suppliers may be as low as 50%. Given the differences in the size and market dynamics between Australia and New Zealand, we believe the compliance rate may be even lower in New Zealand.

Accordingly, we believe more consideration needs to be given to placing the GST collection obligation on carriers in New Zealand, who have a presence in New Zealand (which will improve compliance), particularly since carriers will already have processes in place for the carriage of high-value imported goods. An alternative, may be placing the obligation on the credit card schemes.

In our view if the obligation was placed on entities with a local presence (such as a carrier or card scheme), then conscientious offshore suppliers and marketplaces who want to 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).

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.

Careful drafting of any definitions, to ensure the regime does not negatively impact on competition in the online shopping and advertising markets

The way the definitions are crafted may have significant consequences for compliance and collection, and the potential to affect the level of competition in the online shopping and advertising markets.

Any new regulations need to be future-proofed, or 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.

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 the 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 them with a 15% competitive advantage on price, which would distort activity across different business models.

If the policy does favour using online marketplaces or suppliers to collect GST, all platforms, both onshore and offshore, including social media should be captured by the relevant definitions.

In addition to the GST collection benefits, we believe this would have consumer protection benefits. Providing a trusted and safe platform for buyers and sellers to transact is extremely important to us (e.g. we provide support to our sellers to help ensure they comply with their obligations under the Consumer Guarantees Act and Fair Trading Act). Our concern is 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.

An appropriate transition period that allows businesses to comply.

There will be compliance costs if the GST regime is changed. It will take considerable resource on our part to collect GST on behalf of our offshore sellers. This will include site changes and also re-negotiating of key contracts with overseas sellers (some of which may decide to pull their products from the site and New Zealand rather than incur the additional GST costs).

Our experience in making changes to our site to comply with the new Australian model is that it has been more operationally challenging than expected. For example, historically we had not collected records regarding whether sellers are separately GST registered, and we also need to implement different product approaches for low value and high value goods. We would be happy to provide additional information on this to IRD to assist with their policy development process, to ensure that the transitional period and arrangements are fair.

Chapter 6: Thinking outside the current system

Trade Me supports the current broad-based tax approach. We do not consider that New Zealand should introduce material transaction or turnover taxes or additional payroll taxes. We believe further analysis is required to consider whether New Zealand should adopt an equalisation tax as an interim measure for non-resident online retail.

Chapter 7: Specific challenges

As noted above, Trade Me does not support a progressive company tax rate. Rather we support small and large businesses having a level playing field in terms of their taxation obligations.

We support a broad GST regime with few exceptions. We are aware of recent suggestions that the GST threshold should be changed on sugary drinks to promote healthy eating. These sort of varying rates are difficult to implement in practice. We see a huge range of goods traded over our site, and have experience interpreting standards and product requirements in respect of these goods. There is often considerable grey. We believe it is important that the taxation laws are clear, as this helps to reduce compliance and enforcement costs.

Through our operation of Trade Me Property and Holiday Houses we are generally interested in any proposed capital gains tax or any other proposed taxes that could impact on property ownership, rentals and short term accommodation. We will watch the development of any proposed policy with interest, and the regime should ensure that any changes do not create unnecessary pain points in the real estate or accommodation markets. If a capital gains tax was introduced, we would strongly support payment of any such capital gains tax only on realisation (i.e. not on an accrual basis).

Thank you for considering our submission. We would also welcome the opportunity to discuss our submission in person with the Tax Working Group.

Sincerely,

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Jon Macdonald
Chief Executive Officer