
GST Update: Import of Low Value Goods into Australia & Sales of inbound intangibles to Australian consumers

16 February 2017

In brief

On 16 February 2017, the Australian Government introduced the Treasury Laws Amendment (GST Low Value Goods) Bill 2017 (**Low Value Goods Bill**) into Parliament. The Bill intends to apply the goods and services tax (GST) on **the sale of low value goods** into Australia from **1 July 2017**. This Bill is expected to be passed by Parliament imminently and will require non-resident retailers and platforms to register and account for GST on sales of goods under a “vendor registration model”.

In addition, Australia is joining a number of jurisdictions to apply GST on the sale of inbound intangibles to consumers from 1 July 2017.

With less than five months until the commencement of both of these measures, many taxpayers are busy identifying their obligations under the new laws and making the necessary changes to systems and processes. This is particularly the case for online sellers of goods, who are having to act quickly to work out:

1. How the rules impact them (i.e. is the seller, marketplace, “redeliverer” or the importer liable?).
2. What changes to Terms & Conditions are needed with customers and carriers?
3. Whether and how pricing needs to change in the online store and at check-out to reflect the GST payable.
4. Whether and how best to register for GST (the simplified process will be up and running from 1 April 2017).

This update provides an overview of the Low Value Goods Bill and the latest practical and administrative guidance from Australian Treasury and the Australian Taxation Office (**ATO**) to assist those affected make the necessary changes to be compliant from 1 July 2017.

In detail – Low Value Goods Bill

The key features of the proposed new GST rules for low value goods are as follows:

- Low value goods (AUD 1,000 and under) supplied by overseas retailers to Australian consumers will become taxable supplies from 1 July 2017. These measures will also apply to Australian retailers that use a drop shipment model, i.e. direct shipping to Australia from outside of Australia.
- A ‘consumer’ generally means a recipient of a supply that is not registered for GST in Australia.
- Supplies that become connected with Australia as a result of the new Bill will generally be included in the supplier’s GST turnover and if the entity’s GST turnover exceeds the registration turnover threshold of \$75,000, it will be required to register for GST in Australia.
- GST will continue to be payable at the border for sales over \$1,000 upon importation of the goods into Australia (ie “taxable importation”).
- The supply of a number of low value goods in one order will be individually treated as low value goods even if they would in total be over \$1,000.
- In certain cases, the GST liability on sales of low value goods will shift to marketplaces or platforms (in a similar manner to the GST digital law changes to commence on 1 July 2017), or to “redeliverers”. The marketplace may still be liable even if the supplier arranges for the transport of the goods.
- The GST treatment of international transport may no longer be GST-free if it is provided by an entity in relation to the taxable supply of low value goods and the entity is a “redeliverer”.
- Overseas retailers and platforms can elect to take a limited simplified GST registration but will not be able to claim GST credits under the limited registration model.
- A reverse charge may apply to certain offshore supplies of low value goods where entities that are registered or required to be registered for GST and acquire low value goods where the acquisition would not be fully creditable.
- No tax invoices will be required to be issued by suppliers of low value goods.
- To ensure compliance the Commissioner of Taxation requires additional information when low value goods are being brought into Australia. As a result, the registered (or required to be registered) entity making an offshore supply of low value goods must ensure that their GST registration number (i.e. Australian Business Number (ABN)), the recipient’s ABN and the extent the supply is a taxable supply is included on the relevant customs documentation.
- There are provisions to ensure that the supply of goods is not subject to double taxation (i.e. where GST is charged at point of sale and again at the border).

Key takeaways on the low value goods GST rules

One of the key issues associated with these changes, which is particularly relevant given the short implementation timeframe, is the extent of systems change required by taxpayers to become compliant with the new laws. For example, depending on the supply chain model, value of sales and customer delivery preferences, one of up to four participants in the supply chain will be liable for the GST – seller, platform, goods redeliverer or customer. Determining who is liable for the GST will therefore be very challenging and will rely on strong systems, processes and clear communication amongst all parties in the supply chain.

Online billing systems will also need to be flexible enough to identify and calculate GST on sales based not only on customer status and location but also on the value of goods sold individually and in total at checkout.

Despite all of these complexities, the commencement date remains 1 July 2017. So affected taxpayers will need to move fast to work out how the rules impact them, what changes to customer terms and conditions are required with customers and carriers, and how GST will impact pricing and invoicing in online stores and marketplaces.

Another issue raised by stakeholders is enforcement, especially given that many of the suppliers will not have any type of presence in Australia. Many have raised how the ATO will practically enforce these measures.

The ATO has advised that it will engage in a global communication to try to assist stakeholders to understand what this measure means. The Government to some extent, is relying on some larger suppliers who do not want to risk to be seen as non-compliant with this measure. Treasury has confirmed there is no proposal to block goods at the border if there is non-compliance by the vendor. However, it is intended that the Australian Border Force will be collecting information at the border in relation to compliance (e.g. GST registration details of sellers) and will share this with the ATO.

Additionally, as an enforcement measure, entities that are required to be registered but do not register for GST in Australia will be subject to compulsory registration upon identification and may have a range of administrative penalties imposed under existing GST law.

ATO Guidance – 1 July 2017 sales of inbound intangibles to Australian Consumers

In addition to the new low value goods rules, the ATO has also been busy over the Christmas and New Year period releasing a number of practical guidance documents to assist taxpayers with their implementation of the GST inbound intangibles measures enacted in 2016 and due to take effect on 1 July 2017.

A summary of the key ATO materials released follows below.

Meaning of Australian Consumer

The ATO has issued a draft ruling on determining whether a recipient of a supply is an Australian consumer.

Many impacted taxpayers will be pleased to see the ATO taking a pragmatic approach to the evidence required to support whether a customer is an Australian consumer. The draft GST ruling confirms that the ATO will accept that this requirement is met if you satisfy the evidence requirements for jurisdictions with comparable residency tests, currently EU, NZ and Norway. This will be very helpful for those looking to standardise the data points for establishing customer location in global and regional billing systems.

There is some guidance in the draft GST ruling on ABN collection and verifying if a customer is a consumer or a GST-registered business. However, this is still relatively light on detail and will continue to be an area of particular practical difficulty for offshore suppliers to navigate.

GST determination on foreign currency conversion

The ATO has issued draft GST Foreign Currency Conversion Determination [FOREX 2016/D1](#).

The draft determination provides additional conversion day options for non-residents that are making inbound intangible supplies. This is again a welcome practical measure from the ATO, allowing offshore digital suppliers and platforms to perform one single foreign exchange conversion at the end of the tax period for all sales made in foreign currency during the period for the purposes of the new rules. This should help simplify the billing and accounting processes for regional and global suppliers impacted by the new rules.

Discussion paper on issues concerning electronic distribution platforms (EDPs)

The ATO has released a [discussion paper](#) on issues concerning EDPs and the recent amendments to impose GST on digital supplies and services that apply from 1 July 2017. Broadly, the new rules ensure

that the operator of an EDP is treated as having made supplies of digital products and services that are made through the EDP. The ATO is seeking input on a range of issues so it can provide relevant advice and guidance products to assist taxpayers in complying with the new law.

Next steps

As can be seen from the above, it is a busy time in Australia for overseas sellers of digital content and low value goods and many taxpayers are already in the midst of implementation projects to be ready for 1 July 2017.

Let's talk

For a deeper discussion of how these issues might affect your business, please contact:

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