

New tax obligations for offshore supplies of low value goods

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In brief

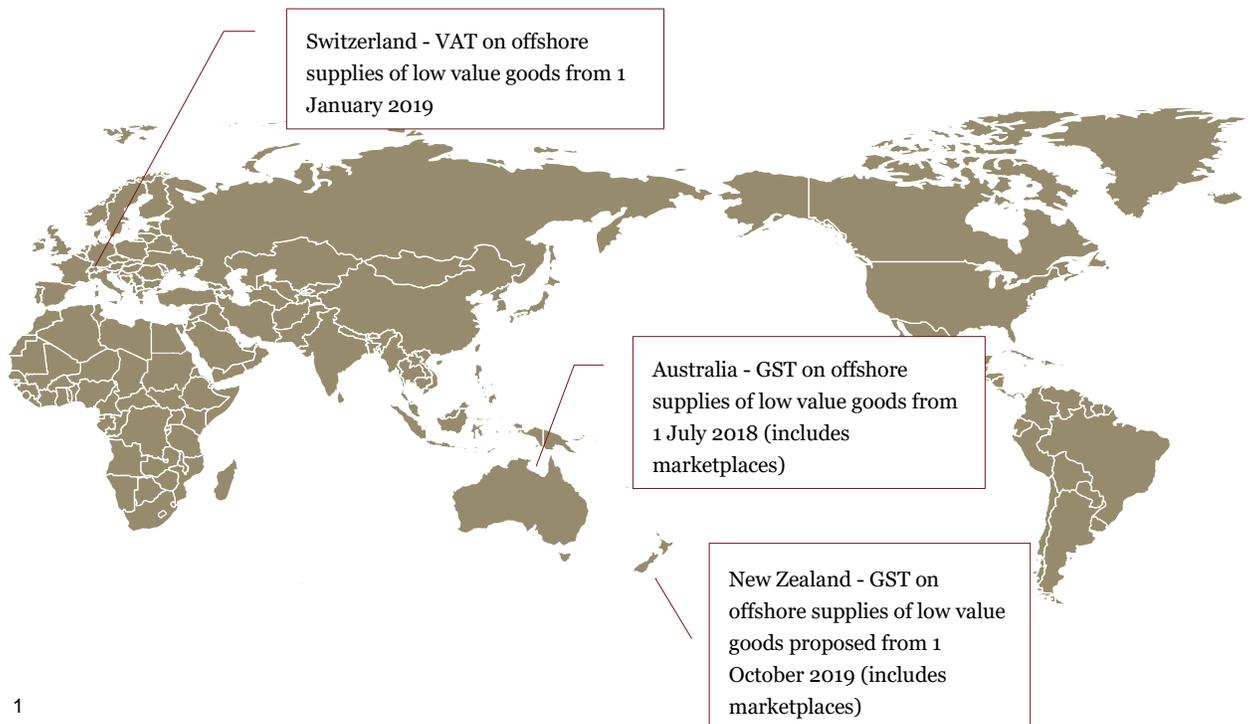
Australia, as well as many other jurisdictions including New Zealand and Switzerland, are implementing new rules regarding the application of the goods and services tax (GST) or value added tax (VAT) to the supply of low value goods to consumers.

Retailers and marketplaces that sell to consumers in these jurisdictions need to be aware of these changes and take steps to ensure they are compliant with the new rules. Through extensive market research, the Australian Taxation Office (ATO) expects there could be as many as 4000 entities that are required to be registered under these measures.

As the measures have been in place since July 2018 in Australia, the ATO is now taking compliance action with all available enforcement powers. Increased media attention regarding potential non-compliance may also increase ATO scrutiny.

Under the Australian measures and the proposed New Zealand measures where the sale of low value goods to consumers are made through marketplaces, the marketplace will be the responsible entity. However, in Switzerland, the underlying seller is responsible. Therefore, retailers with different varying selling channels will need to ensure that their systems are set up to deal with these differences.

It is likely that other jurisdictions will also introduce similar measures in the future.



In detail

Australia: GST rules for low value goods – 1 July 2018

Australia's new low value goods rules have been in place since 1 July 2018. These rules apply to any business that makes sales of offshore low value goods to Australian consumers, exceeding the GST registration threshold of AUD75,000. Where sellers exceed the registration threshold, they must register and remit GST of 10 per cent on the sale of low value goods. Low value goods are goods that have a customs value of less than AUD1,000. For further information on the application of the GST to imported low value goods in Australia, refer to this [TaxTalk Alert](#), published on 29 March 2018.

These changes also apply to electronic distribution platform operators (EDPs) or marketplaces and re-deliverers. This means that EDPs are responsible for registering and remitting the GST on sales to Australia of low value goods that are made through their platform.

The ATO has set out its approach to compliance and stated that if taxpayers decide to not register and pay the GST when there is an obligation to do so, penalties of 75 per cent of the GST will be imposed (in addition to the underlying GST), and these penalties could be more where the entity is a Significant Global Entity. The ATO uses a number of information sources to find non-compliant businesses, including financial data tracking (to follow the flow of funds from purchasers to suppliers overseas), customs data giving details of imports into Australia, information from other countries and information from individuals or businesses which report non-compliance.

New Zealand: GST rules for low-value imported goods – proposed from 1 October 2019

The New Zealand Government has proposed new GST rules in relation to low-value imported goods. On 1 May 2018, the Government released a discussion document proposing to apply the GST to sales of low-value goods (under NZD1,000) to New Zealand private consumers. Businesses that sell more than NZD60,000 of taxable supplies to New Zealand in a 12-month period will be required to register for New Zealand GST, and remit GST of 15 per cent on the sale of low-value goods. Supplies to GST-registered New Zealand businesses will be excluded from the rules.

The proposals are broad and will apply to suppliers, electronic marketplaces (EMPs) and re-deliverers. This means that EMPs will be responsible for registering and remitting GST on sales to New Zealand of low value goods that are made through their platform. Some safe harbour rules are currently being designed to make it easier for EMPs. Under the proposals, re-deliverers would also be required to register and return GST in respect of goods delivered to a New Zealand address.

Following the submission process, final policy decisions have been made by the Government and tax policy officials are currently drafting the new legislation.

Switzerland: VAT changes for imports of low-value goods from 1 January 2019

From 1 January 2019, non-established sellers of low-value goods into Switzerland will be obliged to register for the VAT if they generate more than CHF100,000 (approximately USD100,000) of sales of low-value goods per year.

Low-value goods are defined as imports where the VAT charge does not exceed CHF5. At the currently applicable Swiss VAT rates these are shipments of CHF65 at the standard VAT rate of 7.7 per cent or CHF200 at the reduced VAT rate of 2.5 per cent. Import VAT and customs duties are not levied upon the importation of goods if the amount of import VAT does not exceed CHF5.

As of 1 January 2019, sellers of such goods must register for Swiss VAT purposes if their turnover from the sales of low value goods into Switzerland exceeds CHF100,000 in the previous 12 month period. The legislative changes also require the place of supply to shift from abroad to Switzerland. This means that the VAT-registered foreign sellers must issue an invoice to the Swiss customers applying the appropriate VAT rates. (The de minimis threshold of CHF5 remains in place and import VAT will not be collected if it

does not exceed CHF5, but the subsequent sale to Swiss customers will be subject to VAT if the seller obliged to register for VAT purposes.)

The takeaway

Australia

Australia's low value goods rules have been in force for almost five months now. This means that if taxpayers are caught by the rules, they should have already lodged the first return with the ATO and paid the GST.

Any retailer or marketplace that is caught by the rules and has not yet registered should take swift action to ensure compliance and remit any GST owing from 1 July 2018.

New Zealand

A Taxation Bill is expected to be introduced to the New Zealand Parliament around late November 2018, with the new rules intended to be effective from 1 October 2019. There is still time to influence the design of the proposed rules mainly through public submissions at Parliament's Finance and Expenditure Select Committee early in 2019.

Before enactment of the new law, offshore sellers will need to consider the impact on business systems (e.g. tracking B2B vs B2C customers), pricing and contracts.

Once enacted, non-resident suppliers will be required to file GST returns on a quarterly basis. However, during the first six months of the rules, offshore suppliers will be able to choose to have a six-month taxable period (from 1 October 2019 to 31 March 2020).

Switzerland

In order to comply with the new Swiss rules, you must monitor the value of low value sales to Swiss customers to establish if you have a VAT registration obligation. In the event that you have already reached this threshold based on your sales in 2018, you need to register as of 1 January 2019, must be able to issue invoices with Swiss VAT and file periodical Swiss VAT returns.

Let's talk

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

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