

Tax Tips Alert December 2018

New Zealand's new GST collection model for
low value imported goods



New Zealand's new GST collection model for low value imported goods

The proposed law in context

On 5 December 2018, the Government introduced into Parliament the [*Taxation \(Annual Rates for 2019-20, GST Offshore Supplier Registration and Remedial Matters\) Bill*](#). The Bill proposes legislation that will require offshore sellers, from 1 October 2019, to register and account for GST at 15% on supplies of low value imported goods (LVIGs) if sales to New Zealand private consumers in a 12-month period exceed NZ\$60,000. The \$60,000 threshold is the same GST registration threshold that applies to domestic businesses and offshore suppliers of cross-border remote services.

Under current law, non-resident suppliers are not required to charge GST on supplies of goods to consumers in New Zealand unless the goods are in New Zealand at the time of supply. The New Zealand Customs Service (NZCS) is responsible for collecting import GST and duties/tariffs on imported goods above the low value threshold (currently ranging between \$225 - \$400, as GST applies on the duty-inclusive value of goods and some goods don't attract duty).

In May 2018, the goods value threshold was signalled to be \$400 but the Bill has increased the LVIG threshold to \$1,000. This aligns with the same rules in Australia that have, since 1 July 2018, operated with a threshold of AU\$1,000. Switzerland will shortly introduce their version of the LVIG rules from 1 January 2019. The EU's new rules are expected to commence in 2021.

The GST rules in the Bill are the product of significant debate on this issue over the years and are consistent with the recommendations made by the Tax Working Group.

New Zealand has a broad-based GST model with limited exceptions, and the proposed LVIG rules maintain this policy. Similar to the remote services rules, which came into effect on 1 October 2016, the LVIG rules will ensure that GST applies to offshore sellers where the consumption of goods is in New Zealand.

The general opinion is that the remote services rules have been very successful from the perspective of policy design, ease of compliance, and revenue collection. The remote services rules have generated GST in excess of NZ\$130 million for the year ended 31 March 2018. While it is hard to accurately measure the GST currently not collected from sales of LVIGs, the Government's expectation is that approximately NZ\$70 million of GST will be collected in 2019/20, growing to NZ\$100 million in 2020/21 and NZ\$112 million in 2021/22 (these forecasts are conservative as e-commerce is growing at a blistering pace).

What the changes mean for you

	Imported goods valued at or below \$1,000	Imported consignments valued above \$1,000
New Zealand consumer	GST charged on your purchase at the point of sale.	GST collected on your purchase at the border by Customs (unless GST was charged at the point of sale).
New Zealand GST-registered business	No GST charged on your purchase.	GST collected on your purchase at the border by Customs. Any GST incurred can be claimed back.
Offshore suppliers, online marketplaces, and redeliverers that reach the registration threshold	GST must be charged, collected and remitted to Inland Revenue on supplies made to New Zealand consumers. GST will not be charged on supplies made to GST-registered businesses (although an exception to this will apply to supplies made through New Zealand resident online marketplaces).	Customs will collect GST as the goods cross the border (unless GST was charged at the point of sale).

Key features

Distantly taxable goods

The Bill introduces a novel concept of “distantly taxable goods” into the Goods and Services Tax Act 1985. This is defined as an item of goods that is moveable personal property (excluding alcohol and tobacco), outside of New Zealand at the time of the supply, supplied by a non-resident, which is then delivered to New Zealand.

Entry value threshold and GST base

The goods must be at or below the “entry value threshold” of \$1,000 for the LVIG regime to apply. The “entry value” is the price paid for the goods reduced by:

- the cost of transport and insurance,
- GST charged on the item, and
- any duty payable under the Customs and Excise Act 2018.

The supplier can determine the entry value on a “reasonable estimate” basis based on the information available. If goods are valued at \$1,000 or less, the offshore supplier will be responsible for collecting GST. If goods are valued at more than \$1,000 or if goods are valued at \$1,000 or less and NZCS has insufficient evidence that GST has already been paid, the current processes for collecting GST (and duty, if any) operated by NZCS will continue. As part of the reform, the Government will remove tariffs and border recovery charges on goods valued at or below \$1,000. A positive and more compliance-friendly feature of the reform is that the focus will be on the value of the goods (\$1,000) rather than the current requirement to focus on minimum taxes/duties (\$60).

Unlike Australia’s rules, no special rules will exist for multiple items (both high value imported goods and LVIGs) in a single shipment or transaction. However, a special rule will allow offshore sellers to pay GST on all sales to New Zealanders if the seller supplies 95% or more of goods that are LVIGs.

Once it is determined that goods are in the regime (looking at their “entry value”), GST will apply on the total value including transport and insurance costs plus duty, if any.

Example - value for threshold and liability purposes

An offshore supplier sells a watch to a consumer in New Zealand for \$980 plus \$40 shipping (excluding GST) via its own website. Because the Customs value (\$980) is less than \$1,000, the offshore supplier charges GST at the point of sale. However, the amount of GST charged is based on the total value of \$1,020, so the amount of GST charged by the vendor is $\$1,020 \times 15\% = \153 . This means that the supplier would need to implement rules in its systems to calculate the amount of GST based on the total value, but only charge this GST if the Customs value (which is different to the value used for calculating the amount of GST) is equal to or less than \$1,000. Because the Customs value of \$980 is below the \$1,000 threshold, NZCS does not collect GST or duties at the border.

Wide coverage of sellers

The proposals are broad and will apply to underlying suppliers, electronic marketplaces (EMPs) and redeliverers. The rules will also apply to EMPs resident in New Zealand on all sales of LVIGs.

The ability for offshore sellers to appoint a New Zealand agent to account for the GST is a positive feature and consistent with the remote services rules.

EMPs will be responsible for registering and remitting GST on sales of LVIGs that are made through their platform. Certain limited safe harbour rules will apply to make it easier for EMPs. The EMP rules provide the Commissioner of Inland Revenue (Commissioner) a discretion to reach an agreement with the EMP as to when GST is required to be returned having regard to commercially relevant information available to the EMP and compliance costs. For example, if an EMP has an agreement with the Commissioner and underpays GST relying on incorrect information provided by the underlying supplier then the EMP will not be liable for the additional GST.

Redeliverers will also be required to register and return GST in respect of goods delivered to a New Zealand address. Broadly, a redeliverer is used by shoppers when the supplier does not offer shipping to New Zealand (via an offshore “hub” or mailbox). These rules will be relevant if neither the underlying supplier nor the EMP assists in bringing the goods to New Zealand. Redeliverers will need to be clear as to when time of supply is triggered by the underlying (or actual) supplier to the consumer. Redeliverers will also be able to reach an agreement with the Commissioner under the safe harbour rules in relation to determining their GST obligations. For example, it may be easier for a redeliverer to rely on the customer’s declaration of value rather than the supplier issuing a receipt.

B2B supplies are out of scope

Supplies to New Zealand businesses will not be charged with GST but offshore suppliers may still be able to claim a deduction for any New Zealand GST they may incur (applying new zero-rating rules). New Zealand business customers will be able to provide their GST number or NZ Business Number (NZBN) to suppliers in order to prove they are a business and therefore ensure no GST is charged by the offshore seller.

The supplier will be able to seek an alternative method from the Commissioner to determine B2B recipients looking at the nature of the supply, value of the supply, or the terms and conditions.

Other features

The Bill contains several rules to prevent double taxation. For example, if multiple LVIGs are sent in one consignment, the goods may be taxed at the point of sale and then again at the border. Suppliers will be able to provide tax information on Customs documents to ensure that the goods are not taxed a second time if GST has already been charged at the point of sale. If this information is not provided, the recipient of the goods may ask the supplier for a refund of the GST charged at the point of sale. There are other rules dealing with correcting GST incorrectly charged to New Zealand businesses.

Non-resident suppliers of distantly taxable goods (charged with GST at 15%) will be required to issue a receipt to consumers. The receipt will need to contain certain criteria and penalties will apply for breaching this obligation.

Reverse charge rules will apply to goods supplied to GST-registered businesses who receive non-taxable supplies of goods that are also not taxed on importation, if the recipient does not use (or intend to use) the goods to make taxable supplies. For such supplies, the recipient will be required to account for GST on their purchase and return this to Inland Revenue. This is to ensure supplies for end consumption are caught by the rules.

The voucher rules will be clarified so that they can apply to a supply of remote services and distantly taxable goods. Vouchers have received attention as countries look to settle on the best GST / VAT treatment for cross-border transactions.

GST returns and transitional period

Once the law is enacted, suppliers impacted will be required to file GST returns on a quarterly basis. However, during the first six months of the rules, offshore suppliers (who only supply distantly taxable goods) can elect to have a six-month taxable period (from 1 October 2019 to 31 March 2020).



Once the law is enacted, suppliers impacted will be required to file GST returns on a quarterly basis.

What now?

There is still time to influence the design of the proposed rules through the public submission process at Parliament's Finance and Expenditure Select Committee (FEC) early in 2019. It is also important to start preparing as early as possible for compliance with the new regime by the start date of 1 October 2019.

There will be different considerations depending on whether the seller is an underlying supplier, an EMP, a redeliverer or a combination of these. All impacted sellers will need to assess their obligations, pricing and customer T's & C's. They will also need to assess their system's ability to track the location of customers, B2C versus B2B customers, the location of the goods and calculating the Customs value (for the \$1,000 threshold) as well as the value on which GST is paid. Systems also need to be able to handle issuing receipts, refunds, returned goods, vouchers and discounts to mention a few. Some offshore sellers of remote services will need to incorporate the sale of LVIGs into their current business and tax processes.

Underlying suppliers

- Do you currently make sales of goods to New Zealand and what is the value of each item?
- Are these goods outside of New Zealand at the time of supply?
- Do you have supplies of LVIGs fulfilled from offshore as well as from New Zealand?
- Does the total value of sales to New Zealand exceed NZ\$60,000 in a 12-month period?
- Do you supply these goods to someone who is registered for New Zealand GST or has an NZBN?
- Do you issue vouchers or accept vouchers as payment for goods?

Electronic marketplaces

Operators of EMPs will be required to account for GST on LVIGs sold on their platform to New Zealand customers, as the supply will be deemed to be between the EMP and the recipient (unless limited exceptions apply).

Offshore suppliers will need to consider if they are covered by the concept of "EMP" in the GST legislation. There are a number of intricacies that will need to be considered by EMP operators such as:

- Do you authorise the charge for goods or delivery of the goods, or set any of the terms and conditions under which the supply is made?
- Do you know if the goods supplied by your underlying suppliers are in New Zealand at the time of supply?
- Do you sell vouchers or credits on your platform?
- What kind of information do you currently receive from your underlying suppliers?
- Are your underlying suppliers registered for New Zealand GST because they make sales to New Zealand through other platforms?
- Do you solely process payments or provide other functions?

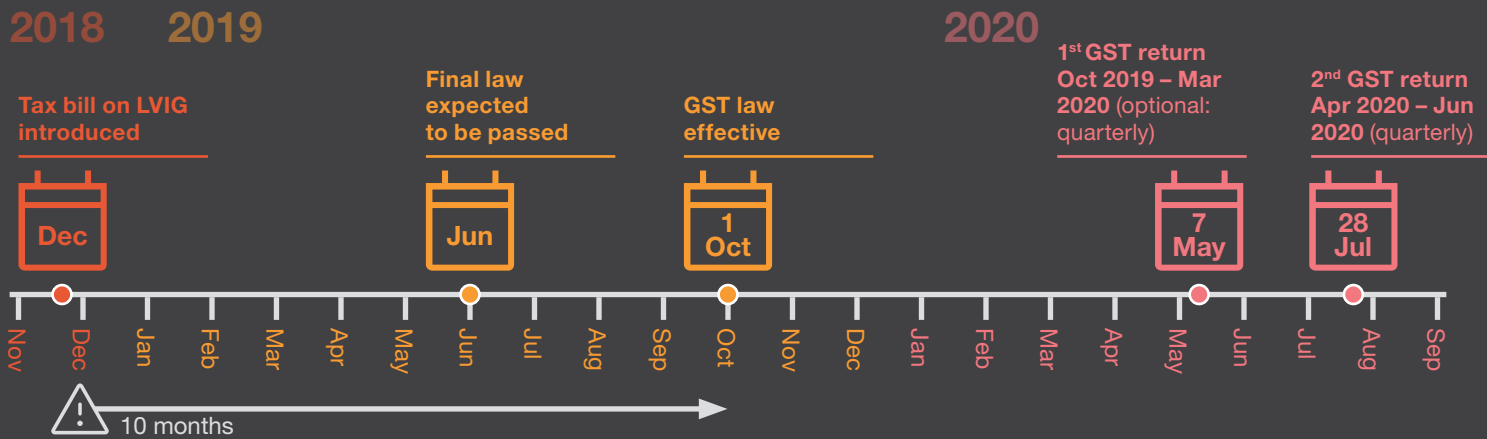
Redeliverers

A redeliverer will only be deemed to be the supplier of the goods if neither the supplier nor the EMP is responsible for GST. Redeliverers will need to consider:

- Has the underlying supplier or EMP already charged GST on the sale?
- Is there uncertainty about the time of supply?
- Are there other (multiple) redeliverers involved in a supply?

If you have answered "YES" to any of the above questions, you need to think about whether you have adequate systems and processes in place to comply. Come and talk to us about these considerations.

GST on low value imported goods - road map



2018 - To do

- Check whether you are liable (as a seller or intermediary).
- Set up a project team.
- Seek professional advice.
- Consider making a submission.

2019 - To do

- Set up systems:
 - contact software providers about changes required to systems
 - update reports in your ERP/accounting systems
 - ensure collection of evidence (e.g. customer billing address, country code of their SIM card, IP address, bank details).
- Review contracts with your business partners, including terms of sale.
- Test systems.
- Obtain confirmation of GST registration or New Zealand Business Number (NZBN) from B2B customers, or get approval from Inland Revenue that rules do not apply.
- Review pricing.
- Prepare for GST registration.
- Marketing/interaction with customers.
- Work through project team's checklist and readiness plan.

2020 - To do

- Register for GST:
 - upon reaching the \$60k threshold, or voluntarily.
- Reflect GST in prices.
- Set up GST compliance process.
- Collect evidence from B2C customers.
- Obtain confirmation of GST registration/NZBN from B2B customers, or seek concession from Inland Revenue.

LVIG issues

- Goods under NZ \$1,000.
- Goods outside NZ at time of supply.
- Multiple items (both high and low value).
- Currency conversions, transport and insurance costs.
- Electronic marketplace (including safe harbour).
- Redeliverers (including safe harbour)
- Issuing receipts.
- Refunds for double tax, incorrect tax.
- Vouchers, discounts, returned goods.
- NZ agents.

Likely timelines

- Draft law tabled in Parliament in December 2018
- FEC then has six months to report back
- Law expected to be enacted by June/July 2019
- Applies from 1 October 2019
- First GST return* (for the quarter ending 31 December 2019) due 28 Jan 2020
- Second GST return* (for the quarter ending 31 March 2020) due 7 May 2020

*You can choose a six-month taxable period for the first return (period from 1 October 2019 to 31 March 2020). The first GST return under this option is due on 7 May 2020.

We can help

- Assist with a submission to Parliament's FEC on how these proposals will affect you, so you can influence the final design of these rules.
- Assess the impact on your business – what changes will you have to make to your systems, processes, pricing, and contracts?
- Help assess specific issues such as the system's ability to handle tracking B2B vs B2C customers, valuing goods (including currency conversions), location of goods, returned goods, time of supply, and issuing receipts to customers.
- Assess the impact of concessions e.g. zero-rating and the ability to treat all sales as subject to GST under the 95% test.
- For EMPs and redeliverers, assess the impact of the safe harbour rules.
- GST registration and ongoing compliance.
- Roadmap to readiness – we can help you consider and implement any changes you need to make in order to comply with your new obligations under the proposals.

Get in touch

Eugen Trombitas

Partner

T: +64 21 493 903

E: eugen.x.trombitas@pwc.com

Sandy Lau

Director

T: +64 21 494 117

E: sandy.m.lau@pwc.com

Kazune Obata

Manager

T: +64 21 266 3287

E: kazune.s.obata@pwc.com

Jason Kim

Senior Associate

T: +64 21 258 3753

E: jason.j.kim@pwc.com

Phil Fisher

Partner

T: +64 27 462 7505

E: phil.j.fisher@pwc.com

Catherine Francis

Director

T: +64 20 406 76744

E: catherine.d.francis@pwc.com

Freda Wong

Manager

T: +64 21 897 458

E: freda.c.wong@pwc.com

Alex Lambert

Associate

T: +64 21 897 603

E: alex.g.lambert@pwc.com

