Tax Tips Alert

New Zealand GST goes global

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GST on low-value imported goods

The Government has released a discussion document on GST and low-value imported goods. The discussion document, *GST on low-value imported goods: An offshore supplier registration system*, outlines the details of the Government's proposed offshore supplier registration (OSR) system. The Government is seeking submissions on the design aspects of this proposal with submissions closing on **29 June 2018**.

Following consultation, the draft law is expected to be tabled in Parliament by November 2018. If enacted, the new rules for offshore sellers of low value goods (LVG) – below the $400 threshold – will apply from **1 October 2019**.

The Tax Working Group (TWG) also called for submissions on the same issue and those submissions will be redirected to Inland Revenue, given that the TWG has now reported back to the Government and recommended it to consult on the design of an OSR system, while also acknowledging the need to review other options to collect GST between the point of sale and delivery.

This is an issue which has been discussed by the OECD, governments and regulators around the world. If enacted as currently proposed, the new LVG rules will be consistent with the introduction of the remote services rules (implemented in October 2016).

We support the policy behind extending GST to the consumption of all goods in New Zealand. However, careful thought needs to be given to whether the OSR system is the best approach. Importantly, the Government has welcomed consultation on this and this consultation will be vital to ensure the most appropriate model is implemented.

While the aim of taxing both goods and services is important there will be more complexity with cross border flows of goods. The design features will need to be carefully considered. Other potential models that could work independently or in tandem with the OSR model must be considered. The final model must be easy to comply with. New Zealand's GST is widely regarded as the simplest and most pure goods and services (or value added) tax on the planet and it's important that the design and implementation of these new rules maintain that.

The new rules for imported goods:

a. will ensure that consumption of goods in New Zealand by private consumers is subject to GST (offshore sellers will be liable to pay the GST, if the current model is implemented)

b. address matters of fairness and equity raised by New Zealand retailers

c. are conservatively estimated to add at least **NZ$80 million per annum** to the Government's GST take (this is a very conservative figure and the actual numbers could be at least double that amount and will continue to grow)

d. the policy behind the need to apply GST to consumption in New Zealand is appropriate and will also bring New Zealand in line with emerging international trends – Australia is introducing similar rules from 1 July 2018 and the EU is moving towards a comprehensive OSR model for goods by 2021. However, in order to be effective, the precise implementation model will need to be carefully considered and issues such as complexity and the cost of compliance are critical part of the measure's success (as has been part of the debate in Australia).

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Some interesting features

As expected the new rules will only apply to business-to-consumer (B2C) transactions and not business-to-business (B2B) transactions if the annual GST threshold of $60,000 is exceeded. If the offshore seller does not exceed the annual GST registration threshold, NZ Customs will be able to charge GST at the border on goods over $400.

The Government considered various other collection models, such as the intermediary model (couriers or NZ Post pay) and the recipients model (individuals assess and pay) but these were not regarded as the most efficient and cost effective.

Existing import tariffs (duty) and cost recovery/ border processing fees will not apply on LVGs once the new LVG rules are enacted. This will keep matters simple.

Interested parties, offshore sellers, and marketplaces will need to assess the impact of the proposals and consider making submissions by 29 June 2018.

The new rules will not apply to shipments of tobacco and alcohol – the current excise rules will apply here.

Special rules are proposed for a consignment of LVGs that in total exceeds $400 but arises under a 'single transaction'.

In the future, a joint GST registration system with Australia could be considered – this is a novel approach that has some merit. Joint registration GST/VAT systems are common in Europe. Data matching programmes between the tax authorities in each country could also be considered, which would involve sharing a list of registered sellers.

The OSR rules, if implemented as proposed, will be broad in their reach. Offshore sellers, as well as electronic marketplaces and re-deliverers, will have obligations to collect GST under the OSR rules. Working through the current experiences in Australia will be an important part of the design process. There are likely to be thousands of offshore sellers of goods (compared with several hundred remote services sellers) so it is important to make sure that registration and compliance is made as easy as possible. The OECD has also recommended that countries could consider flexible features such as using the vendor model in combination with an intermediary model (such as the transporter model for small to medium sellers) and using fast track processing and/or the bulk-shipper scheme.

More details about the OSR system

The discussion document is comprehensive and contains a practical discussion of various design aspects intended to make GST compliance as smooth as possible. A more detailed summary of the rules is set out below and draws on the summary in the discussion document.

What happens next?

Interested parties, offshore sellers, and marketplaces will need to assess the impact of the proposals and consider making submissions by **29 June 2018**. Following consultation and tabling of the draft law in the second half of the year, impacted parties will have about 10 months to make the necessary business systems and contract changes for the start date of 1 October 2019.

More detailed summary of the LVG rules

Scope of the rules

- Offshore suppliers will be required to register, collect, and return GST on supplies of goods to New Zealand consumers if the value of the goods is $400 or less. Tariffs and cost recovery charges will no longer be collected on goods valued at or below this value.
- Goods supplied to GST-registered businesses will be excluded unless the offshore supplier decided to zero-rate the supply (this will allow offshore suppliers to claim costs associated with business-to-business supplies).
- Offshore suppliers will be required to charge GST unless the recipient identified themselves as a GST-registered business or provided their GST registration number or New Zealand Business Number.
- A reverse charge (that is, when the recipient of the goods accounts for the GST) will apply to GST-registered recipients that use goods for non-taxable purposes (such as private purposes).

Registration requirements and return filing

- Offshore suppliers will be required to register if their total supplies of goods and services to New Zealand exceed $60,000 a year (the registration threshold).
- Offshore marketplaces and re-deliverers will be required to register and return GST if they meet the registration threshold.
- A simplified "pay only" registration system is proposed to minimise compliance costs for offshore suppliers.
- Quarterly GST filing is proposed for offshore suppliers of low-value goods.

Enforcement, compliance, and penalties

- New Zealand has international agreements with a number of jurisdictions (including our major trading partners) that include 'Assistance in Collection' provisions. This means that if a non-resident supplier fails to comply with their New Zealand tax obligations, New Zealand can ask the relevant foreign tax authority to use its enforcement powers to help collect the GST on New Zealand's behalf.
- The existing penalties and use-of-money interest rules will apply to offshore suppliers as they do to domestic suppliers. In addition, existing penalties will apply to consumers that falsely represent themselves as a business to avoid GST.
- For the worst offenders, the rules will provide Inland Revenue with discretion to require a consumer to register and pay the GST that should have been returned.
- Further measures to bolster compliance will be explored e.g. a possible joint registration system with other countries (such as Australia) or data matching programmes between tax jurisdictions or government agencies. This might include the sharing of information about registrations with Australia. Another possibility is the sharing of additional information with Customs.

Maintaining effective border risk-management

- Changes to the GST settings for low-value imported goods need to take into account implications for the way that risks to New Zealand are managed at the border.
- Importers will still be required to provide information to Customs and the Ministry for Primary Industries to support effective risk and biosecurity assessment on low-value imported goods.

Let’s talk

Please get in touch to discuss how these changes may affect your business.

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