

Import of Low Value Goods into Australia: The Introduction of Goods and Services Tax (GST) from July 2018

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Introduction

From 1 July 2018, low value goods costing AUD 1,000 or less supplied by overseas retailers to Australian consumers will be subject to Australian Goods and Services Tax (GST). This change is designed to restore a level playing field for Australian retailers.

Using a vendor collection model, the new law will require overseas suppliers and online marketplaces, such as Amazon and eBay, with an Australian GST turnover of AUD 75,000 or more, to charge GST on sales of low value goods to consumers in Australia at the time of sale.

Businesses that meet the AUD 75,000 registration threshold will need to:

- register for GST;
- charge GST on relevant sales; and,
- remit the GST to the Australian Taxation Office by lodging returns.

Serious consequences such as interest, penalties and potential prosecution can apply where businesses do not meet their GST obligations.

In this white paper we take a look at the details, including:

- How low value imports are currently treated;
- What the new rules will be from 1 July 2018;
- Who is responsible for charging GST;
- The GST registration requirements and options;
- The consequences of non-compliance; and
- The steps businesses affected by the changes should be taking now.

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Currently an overseas retailer selling goods into Australia (low value or otherwise) is only liable for GST if the sale has a **connection with Australia**.

Generally, that connection is missing for goods sold to Australian consumers from outside Australia and so they are deemed exempt from GST.

Sales from overseas that exceed AUD 1,000 require the Australian consumer to pay GST at the border to clear the imported goods through Customs.

Therefore, the current position for offshore sales of low value goods (AUD 1,000 or less) is that they do not give rise to a GST liability either for the foreign seller (on the sale) or the Australian consumer (on the importation).

Australian retailers, whose sales **are** subject to GST, have been lobbying the government for years against the commercial advantage this gives foreign retailers.



In a move designed to create a level playing field with Australian retailers, and in response to the Organisation for Economic Co-operation and Development's (OECD) aim to standardise cross-border taxation, the Australian government has now passed legislation to bring low value goods imported into Australia into the GST net.

Low value goods are goods (except for tobacco products or alcoholic beverages) that have a customs value of AUD 1,000 or less.

The customs value is the price at which the goods are sold, minus any amount included for shipping and insurance from the place of export to Australia.

From 1 July 2018 a sale of low value goods by a foreign business to a consumer in Australia will be deemed to be **connected with Australia** where the seller arranges or facilitates the delivery of the goods.

Since the low value good transaction will have the required connection with Australia it will fall within the regular GST regime and give rise to a potential GST liability.

Under the new law, an obligation to register for, and charge, GST may arise for:

- the business who sells the goods;
- an operator of an electronic distribution platform (EDP), such as an online marketplace through which the goods are sold; or,
- a re-deliverer that helps to bring the goods into Australia.

A business will be required to register for GST if the value of all of its sales that are connected with Australia, including low value goods transactions, meets or exceeds the GST registration threshold of AUD 75,000 in a 12-month period (or AUD 150,000 for a non-profit body).

Once a business is registered it will need to:

- charge GST on sales of low value imported goods (unless they are GST-free); and,
- lodge regular GST returns with the Australian Tax Office.

The new rules will also apply to Australian retailers that have implemented a drop shipping model (i.e. where goods are shipped from overseas to Australian consumers) in order to benefit from GST-free sales of low value goods that overseas businesses have enjoyed under the current rules.

GST will generally apply to sales of goods where the invoice is issued or payment is received on or after 1 July 2018.

It will not apply to sales made earlier (unless GST applies under existing rules) even if the goods do not reach Australia until after 1 July 2018.



The GST rate applicable to taxable low value goods will be 10%. The GST on the sale will therefore be $\frac{1}{11}$ of the price paid by the consumer.

Shipping and insurance charges will typically form part of the price of the goods when calculating the GST.



Transactions on which GST is not Chargeable by the Seller

Foreign suppliers will need to determine whether their customers are Australian **consumers** and, therefore, whether the low value goods are subject to GST.

A purchaser is a consumer if they are either:

- not registered for Australian GST; or,
- are registered for Australian GST but have not purchased the low value imported goods for use in their business in Australia.

If the foreign supplier can obtain the customer's **Australian Business Number (ABN)** and a statement (or other information from them) that they are registered for GST, then GST will not be chargeable by the supplier and no consideration will need to be given as to whether the customer is purchasing the goods for use in their business in Australia.

GST should not be charged at the time of sales on goods that are not low value goods (such as an item with a customs value over AUD 1,000, tobacco products or alcoholic beverages), as GST will continue to apply at the border when they are imported.



The *Exception Rule* for Multiple Low Value Goods

If multiple low value goods are purchased in one transaction with a total customs value of over AUD 1,000 they should usually be individually treated as low value goods with GST being charged at the time of sale.

However, a business may elect to have GST charged at the border instead if it is clear that the goods will be sent to Australia in one consignment.

Example:

Jewellery Co, A UK company that is registered for GST, sells jewellery to consumers in Australia.

Kylie buys two necklaces for AUD 750 each, including AUD 50 for shipping to Australia and insurance. Each necklace is a low value good.

However, under Jewellery Co's standard business processes, it is clear that the necklaces will be shipped in the same package to Australia. Therefore, the necklaces will be shipped in one consignment with a customs value over AUD 1,000.

Jewellery Co does not charge GST on the sale to Kylie because it applies the exception.

If Jewellery Co was unsure whether the necklaces would be shipped in one consignment, it would have charged GST on the sale to Kylie.

Preventing GST from being Charged Twice

Measures will be implemented to prevent double taxation of low value goods that are imported in a consignment with a customs value over AUD 1,000 i.e. to avoid charging GST both at the point of sale and again at the border.

It will be important for sellers of low value imported goods to provide the required information on customs documents to avoid double taxation; for example, the self-assessed clearance or import declaration.

An import declaration is required if goods have a customs value of over AUD 1,000 when they are imported. If the following information is provided on the import declaration to show that GST was correctly applied to the sale of low value goods, then GST will not apply at the border:

- the GST registration number of the seller; and,
- the fact that GST was charged on the sale of the goods.

The consumer should also be provided with a receipt to prove to their customs broker that GST has been charged on the sale.

If this information is not provided on the import declaration, GST will be charged at the border.



When GST is charged on a sale of low value imported goods a receipt must be issued to the customer.

The receipt should include the following information:

- Name of the seller;
- Date of issue;
- Amount of GST paid;
- Information that identifies what goods GST was charged on:
 - If GST was charged on all the goods, either the GST-inclusive price can be shown together with a statement that the price includes GST, or alternatively the GST for each item can be separately identified;
 - If GST was not charged on some of the goods, the receipt must show which goods were subject to GST.
- GST registration number of the seller i.e. their ATO Reference Number (ARN) or Australian Business Number (ABN);
- Description of what has been supplied, including the quantity (if applicable) and the price;
- Name of the customer where the total price of the transaction is over AUD 1,000 i.e. where multiple low value goods are sold, but the exception for multiple goods totalling over AUD 1,000 has not been applied.

There is no requirement for suppliers of low value goods to issue tax invoices or credit notes to customers.

Depending on the supply chain model, the obligation to charge GST on low value imported goods may be shifted from the seller of the goods to:

- an Electronic Distribution Platform (EDP), i.e. an online marketplace such as Amazon or eBay; or,
- a re-deliverer (service providers that assist in bringing goods to Australia).

Only one entity is required to charge GST on a sale. The order of priority is as follows:

1. If an EDP operator is responsible for GST on a sale, the seller will not be responsible for GST;
2. If an EDP operator or the seller is responsible for GST on a sale, a re-deliverer will not be responsible for GST.

Seller

The seller of the goods is responsible for any GST that applies to a sale (unless an EDP operator is responsible for GST), if it:

- sells low value goods that are imported by a consumer; and,
- assists in getting the goods to Australia (for example, either by sending them directly or by arranging for someone else to deliver them).

Selling through an Electronic Distribution Platform (EDP)

If low value imported goods are sold to consumers through an EDP, the EDP operator instead of the seller will usually be responsible for the GST payable on the sales. If the EDP operator is responsible for GST, these sales do not count towards the GST registration threshold of the seller.

When an EDP operator is responsible for GST, they will need to ensure that certain tax information, such as their GST registration number, is included on the customs documents when the goods are imported.

If GST already applies to a seller's sales under existing rules, for example, because the goods are sourced from within Australia, the seller will continue to be responsible for GST on these sales, instead of the EDP operator.

Re-deliverers

A re-deliverer generally provides access to goods that overseas sellers do not normally ship to Australia. They collect, accept delivery of, or purchase overseas goods on behalf of consumers based in Australia.

A re-deliverer assists customers in getting goods to Australia if it provides:

- an offshore mailbox service i.e. it provides or assists in providing the use of an address outside Australia to which goods are delivered; or,
- a shopping service, where it purchases or assists in purchasing goods outside Australia as the agent of a recipient.

However, if the seller or an EDP operator also assists in getting the goods to Australia, they will be responsible for GST instead of the re-deliverer.

When a re-deliverer is responsible for GST on a sale there are special rules for calculating the GST due.

The GST charged by a re-deliverer will be calculated as follows:

- 10% of the amount paid by the customer for the goods; and,
- $\frac{1}{11}$ of the amount the customer pays for the re-deliverer's services to get the goods to Australia. GST applies to all of the re-deliverer's services, including international transport services and insurance for the transport of the goods.

A simplified form of GST registration¹ via an electronic portal is available to foreign businesses caught by the new rules which will reduce the compliance burden.

Alternatively, sellers can opt to register under the standard domestic GST registration system².

Reporting and payment of GST under both systems must be in Australian dollars. Sales in foreign currency must be converted to Australian dollars using one of the following rates consistently:

- a foreign exchange organisation rate;
- the Reserve Bank of Australia rate; or,
- the rate agreed between the seller and the customer.

Standard GST Registration

The standard GST registration system is Australia's full domestic GST system.

If a seller of low value goods chooses to register under the standard GST system it:

- receives an Australian Business Number (ABN)
- can claim input tax credits;
- is not limited to quarterly accounting periods, the due date for submitting and paying is displayed on the business activity statement (BAS); and,
- uses activity statements to report GST.

Simplified Registration

The Simplified GST system is intended to be a quick and easy way for foreign businesses to meet their GST obligations.

Sellers, EDPs and goods re-deliverers are all eligible to register under this system.

Under the Simplified GST system, a business will be able to register, lodge and pay Australian GST, manage its account details, and authorise others to securely access its account.

In the Simplified GST system, a business:

- doesn't have to prove its identity
- uses an ATO reference number (ARN) instead of an ABN
- cannot claim GST credits
- cannot issue tax invoices or credit notes
- must lodge GST returns and pay GST quarterly
- can pay electronically via SWIFT bank transfer or credit card.

Payment and lodgement dates under the Simplified GST system	
Quarter	Payment and lodgement date
1 Jul to 30 Sept	28 October
1 Oct to 31 Dec	28 February
1 Jan to 31 Mar	28 April
1 Apr to 30 Jun	28 July

Record keeping

Once registered for Australian GST a business must keep:

- accurate records of its Australian supplies; and,
- GST records for 5 years.

Australian Tax Office (ATO)

Approach to Monitoring and Non-Compliance

The ATO has identified a list of overseas businesses selling low value goods to consumers in Australia. It has been contacting these businesses directly to notify them of the new rules and that they may have an obligation to register for GST by 1 July 2018.

Monitoring

A number of information sources will be used by the ATO to track down 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 obtained under arrangements to share information;
- online investigations to identify websites and businesses involved in supplying goods to consumers in Australia;
- information from individuals or businesses who report non-compliance to the ATO; and,
- information provided by businesses when they report and pay the GST they have collected.

Data matching processes will be applied to this information to find potential situations where obligations under the law have not been met.

Any information provided anonymously to the ATO will also be considered and investigated.

Consequences of Non-Compliance

The ATO is expected to initially operate a light touch with foreign sellers who try to comply with the new rules. However, serious consequences, such as interest, penalties and potential prosecution can apply where businesses have:

- deliberately failed to register for GST when required;
- intentionally failed to report, or consistently under-report, their tax obligations;
- conspired with others to evade or avoid tax obligations; or,
- intentionally not met their obligations.

If foreign sellers choose not to comply with the law, the Commissioner of Taxation can take actions³, including:

- registering the seller for GST;
- imposing an additional 75% administrative penalty, which then becomes legally payable;
- intercepting funds from Australia that are destined for the seller;
- registering the debt in a court in the seller's country; and,
- requesting the taxation authority in the seller's country to recover the debt on behalf of the ATO.

Overseas suppliers, marketplaces and re-deliverers that supply low value goods to Australian consumers need to start planning now for the new rules and consider the following:

- How to identify and quantify the expected value of low value goods supplied to Australian consumers.
- Review pricing to take into account the charging of GST.
- Update terms and conditions and website information to include clauses to allow for the charging of GST.
- Ensure systems can separately identify supplies made to consumers from those made to businesses.
- Ensure that billing and accounting systems can deal with GST on the affected sales.
- Consider foreign currency exchange rates where applicable.
- Register for either the standard or the Simplified GST system by 1 July 2018 if applicable.
- Communicate to customers that GST will be chargeable on relevant supplies from 1 July 2018.

Please get in touch with RBC VAT Limited if you require further guidance on the new rules or would like assistance in registering for Australian GST.

For more information about how Australian GST may affect your business, please contact us on:

<http://www.rbcvat.com/> • +44 (0) 1189 885 797

References and Resources

References

1. <https://www.ato.gov.au/Business/International-tax-for-business/In-detail/Doing-business-in-Australia/Australian-GST-registration-for-non-residents/#Typesofregistration>
2. <https://www.ato.gov.au/business/gst/registering-for-gst/>
3. <https://www.ato.gov.au/Business/International-tax-for-business/GST-on-low-value-imported-goods/Making-compliance-happen/>

Resources

<https://www.ato.gov.au/Business/International-tax-for-business/GST-on-low-value-imported-goods/>

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