White Paper

Import of Low Value Goods into New Zealand: The Introduction of Goods and Services Tax (GST) from December 2019

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Introduction

From 1 December 2019, low value goods costing NZD 1,000 or less supplied by overseas businesses to New Zealand consumers will be treated as supplied in New Zealand and subject to New Zealand Goods and Services Tax (GST).

The new rules are primarily designed to restore a level playing field for New Zealand retailers, whilst at the same time both simplifying border processes and reducing the growing gap in New Zealand's GST revenue base.

The new legislation will have a major impact on businesses as:

- it applies to overseas suppliers irrespective of whether they have any people, premises or tax presence in New Zealand;
- it applies to low value goods, including those that were previously below the customs threshold; and,
- it will have an impact on pricing and profit margins.

The new rules will require overseas suppliers, redeliverers and online marketplaces such as Amazon and eBay, whose total taxable supplies to New Zealand consumers exceed NZD 60,000 in a 12-month period, to register for and charge GST on sales of low value goods to consumers in New Zealand at the time of sale.

Businesses that meet the NZD 60,000 registration threshold will need to:

- register for GST;
- charge GST on relevant sales;
- report GST information to Customs; and,
- remit the GST to the New Zealand Inland Revenue by filing online returns.

The consequences of non-compliance with the new rules can be serious, with significant penalties potentially being imposed by the New Zealand Inland Revenue.

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

- the background to the changes;
- the scope of the new rules;
- special rules for marketplaces and redeliverers;
- preventing double taxation;
- GST registration requirements; and,
- the steps businesses affected by the changes should be taking now.

A Whitepaper by Elizabeth Wilson

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Background to the Changes

Currently GST is not collected on imported goods below the customs threshold of NZD 60 of duty owing, which typically equates to an imported good with a value of NZD 400 (if GST is the only applicable duty).

Historically GST has not been collected on imported low value goods as online shopping did not exist when GST was introduced in New Zealand in 1986, and few New Zealand consumers purchased goods from overseas suppliers. In addition, the cost of collecting GST at the border would have made it impractical to do so.

However, the rapid growth of e-commerce has resulted in the value of lost GST revenue from imported goods becoming increasingly significant. In addition, advances in technology mean that collecting GST at the point of sale is now more efficient.

Under the current rules, New Zealand retailers, whose sales of low value goods are subject to GST, are placed at a competitive disadvantage relative to overseas suppliers.

The new rules will create a level playing field between these New Zealand retailers and overseas suppliers. The effect will be to reduce the extent to which differences in GST treatment distort consumers' purchasing decisions.

The changes are broadly similar to those introduced by Australia in July 2018 and are an extension of New Zealand's application of GST to imported services and digital products in 2016.

Scope of the New Rules

From 1 December 2019, GST will apply to a wide range of "distantly taxable goods" consistent with New Zealand's broad-based GST system.

"Distantly taxable" goods are generally defined as goods that:

- individually have a customs value of NZD 1,000 or less;
- are outside New Zealand at the time of supply;
- are supplied by a non-resident; and,
- are delivered to New Zealand.

Examples of distantly taxable goods include books, shoes, clothing and small electronic items with a customs value of NZD 1,000 or less.

The customs value is the price at which the goods are sold excluding GST, less any amount included for transport and insurance from the place of export to New Zealand.

Supplies of goods that are already exempt from GST (such as supplies of fine metal) or zero-rated under a specific rule, would retain that treatment under the new rules.

The definition of distantly taxable goods also includes goods treated as being supplied by a marketplace operator or redeliverer, regardless of the residency of the marketplace operator or redeliverer.

Only business-to-consumer (B2C) sales to New Zealand end consumers are impacted by the new rules. Business-to-business (B2B) sales to GST registered businesses are generally excluded. Overseas suppliers will therefore not be required to charge GST on supplies to New Zealand GST-registered businesses, nor will they be required to provide tax invoices.

Overseas suppliers are required to presume that a New Zealand customer is not a GST-registered business unless the customer has provided their GST registration number or New Zealand Business Number, or otherwise notified the supplier of their status as a GST-registered business.

Under the new law, if the total supplies of goods and services from an overseas business to New Zealand consumers exceed, or are expected to exceed, NZD 60,000 in a 12-month period, an obligation to charge GST may arise for:

- the overseas business that sells the goods;
- an operator of an electronic marketplace through which the goods are sold; or,
- a re-deliverer that helps to bring the goods into New Zealand.

Once a business is registered it will need to:

- charge GST on distantly taxable goods (unless they are GST-free) at the point of sale;
- report GST information to Customs, to prevent GST being collected again at the border; and,
- file regular GST returns with the New Zealand Inland Revenue.

Scope of the New Rules

Tariffs and border cost recovery charges will no longer be charged on imported goods valued at or below NZD 1,000 which are subject to the new GST rules.

There is no change to the process for goods valued above NZD 1,000 and consignments with a combined value exceeding NZD 1,000. The GST will continue to be collected by Customs at the border, along with any tariff duty, an import entry transaction fee (IETF) and a biosecurity system entry levy (BSEL).

There is also no change to the process for alcohol, tobacco and tobacco products which, regardless of value, are subject to excise taxes and GST at the border.

Transitional Rule for Sales Before 1 December 2019

GST will generally apply to sales of goods where the invoice is issued on or after 1 December 2019. However, a transitional provision will be made for fixed-term contracts where:

- the contract was entered into prior to 1 December 2019;
  and
- the consideration for the supply is set or reviewed for periods of 396 days or less during the term of the agreement.

The provision allows suppliers to treat periodic payments under the contract as not being successive supplies and therefore payments made after 1 December 2019 are not subject to GST.

This transitional rule only applies for the term of the agreement, or up to 396 days from the date the contract was entered into, whichever is earlier.

The GST Calculation

The GST rate applicable to distantly taxable goods supplied to New Zealand consumers will be 15% of the **value of the supply**. Transport and insurance charges typically form part of the value of the supply when calculating the GST to be charged.

For goods that are priced inclusive of GST, the amount of GST will therefore be 3/23 of the price paid by the consumer.

It should be noted that the NZD 1,000 threshold is based on the **customs value** of the goods, therefore transport and insurance costs should be excluded when determining whether GST needs to be charged.

Examples:

GST Treatment		
Purchase	**Current**	**Proposed**
T-shirt NZD 50	Total cost of consignment: NZD 50. No current charges at the border.	Total cost of consignment: NZD 57.50. NZD 50 t-shirt + NZD 7.50 GST collected by the offshore supplier.
Jacket NZD 300	Total cost of consignment: NZD 432.17. NZD 300 jacket + NZD 30 tariff (10% × NZD 300) + NZD 49.50 GST (15% × NZD 330) + NZD 52.67 border processing fee.	Total cost of consignment: NZD 345. NZD 300 jacket + NZD 45 GST collected by the offshore supplier.
Phone NZD 600	Total cost of consignment: NZD 742.67. NZD 600 phone + NZD 90 GST (15% × NZD 600) + NZD 52.67 border processing fee.	Total cost of consignment: NZD 690. NZD 600 phone + NZD 90 GST collected by the offshore supplier.

Special Rules for Marketplaces and Redeliverers

Electronic marketplaces

The new law includes special rules for electronic marketplaces. These rules would apply where a supplier sells distantly taxable goods to a New Zealand consumer through a marketplace such as Amazon or eBay.

In this situation, the operator of the electronic marketplace, rather than the non-resident supplier of the goods, would be required to register for and charge GST on sales made through the marketplace's platform.

A marketplace would only not be liable for collecting GST on the sales made on their platform if they do not:

- authorise the payment;
- authorise the delivery; or,
- directly or indirectly set any of the terms or conditions of the supply.

An "electronic marketplace" is a marketplace operated by electronic means through which a person (the underlying supplier) makes a supply of remote services by electronic means, or a supply of distantly taxable goods, through another person (the operator of the marketplace) to a third person (the recipient).

Non-electronic marketplaces

Operators of 'non-electronic marketplaces' may also register for and charge GST on behalf of their offshore suppliers of distantly taxable goods to New Zealand consumers, however this requires advance agreement with New Zealand's Commissioner of Inland Revenue.

Redeliverers

Special rules are also in place for redeliverers. Redeliverers may sometimes be used by consumers to deliver, or assist in the delivery of, goods to New Zealand when the supplier or marketplace does not offer shipping to New Zealand. The good is shipped to an overseas 'hub' or mailbox, from where it is then shipped to New Zealand.

Under the rules, a redeliverer would be required to register for and charge GST when, under an arrangement with the recipient, the redeliverer does one or more of the following:

- purchases the goods outside New Zealand as an agent of the recipient;
- arranges or assists the purchase of the goods outside New Zealand;
- provides the use of an address outside New Zealand to which the goods are delivered;
- arranges or assists the use of an address outside New Zealand to which the goods are delivered.

Preventing Double Taxation

Measures will be implemented to prevent double taxation of distantly taxable goods imported into New Zealand in a consignment with a customs value over NZD 1,000 i.e. to avoid GST being charged at the point of sale and Customs collecting it again at the border.

These include:

- reporting certain tax information to Customs; and,
- issuing receipts to consumers when GST has been charged on a sale of a low imported good.

Import documentation

Suppliers will be required to report certain tax information to Customs on import documents in order to identify goods on which GST has already been charged.

The following information should be included on import documents to avoid double taxation:

- the name and registration number of the supplier;
- the goods in the consignment on which GST has already been charged; and,
- the goods in the consignment on which GST has not been charged.

Receipts issued to consumers

In addition, suppliers will be required to provide a receipt to consumers where they have charged the consumer GST on some or all of the goods in the transaction, whether or not the value of the consignment exceeds NZD 1,000 . One reason for this is that goods sold in a foreign currency could have a value of NZD 1,000 or less at the time of supply (so the supplier charges GST) and a value above NZD 1,000 at the time the goods are imported, due to exchange rate movements.

The receipt can be used as evidence to Customs that GST has already been charged on the goods.

The receipt must include:

- the name of the supplier;
- the registration number of the supplier;
- the date of the supply;
- the date of issue of the receipt (if different);
- a description of the goods supplied;
- the consideration for the supply and the GST amount included;
- information that identifies the goods on which GST has been charged; and,
- information that identifies any goods for which the amount of GST charged was zero.

If distantly taxable goods are taxed at the point of sale and again at the border, the consumer will need to seek a GST refund from the supplier that charged the GST.

Overseas suppliers of distantly taxable goods will be able to choose from a range of exchange rates when converting foreign currency amounts to New Zealand dollars.

Currency conversion to determine whether GST applies to a supply of goods

To determine whether goods are individually valued at or below NZD 1,000 (and, therefore, whether GST should be charged at the point of sale), a supplier can use any ONE of the following exchange rates:

- the rate published by the New Zealand Customs Service;
- the Reserve Bank of New Zealand rate, or a reference rate published by another central bank;
- an exchange rate provided by a foreign exchange organisation or foreign exchange data vendor.

There are no restrictions on the specific type of exchange rate that a supplier can use when converting foreign currency amounts to establish whether GST applies or when calculating the amount of GST payable. This means that suppliers can choose:

- a sell NZD rate;
- a buy NZD rate; or,
- a midpoint rate.

However, the supplier's chosen exchange rate must be used consistently.

Currency conversion when determining the amount of GST payable

When converting to New Zealand dollars for determining the amount of GST payable, the supplier can use the conversion rate at:

- the time of supply;
- the end of each taxable period;
- the time of filing the return (or at the due date for filing, if the return is filed past the due date); or,
- another time as agreed with the Commissioner.

Once the supplier chooses a method other than expressing amounts in New Zealand currency at the time of supply, they may not change their method for a period of 24 months, unless they agree otherwise with the Commissioner of the Inland Revenue.

GST Registration

The new rules will require overseas suppliers to register and remit GST on distantly taxable goods supplied to consumers if these supplies (together with other relevant supplies liable to New Zealand GST) exceed, or are expected to exceed, NZD 60,000 in a 12-month period.

The total value of supplies in New Zealand by a non-resident that count towards the registration threshold following the introduction of these rules will include the following:

- the total value of supplies of distantly taxable goods to consumers, including amounts charged for services such as delivery and insurance;

- the total value of supplies to consumers of goods that are located in New Zealand at the time of supply (not including any distantly taxable goods);

- the total value of supplies to consumers of services physically performed in New Zealand;

  and,

- the total value of remote services supplied to consumers (not including any services physically performed in New Zealand).

Goods and services supplied by a non-resident to a New Zealand GST-registered business are generally treated as not being supplied in New Zealand (and therefore not subject to GST), these supplies will not count towards the registration threshold.

Overseas suppliers can apply to be registered from 1 September 2019, with the registration coming into force on 1 December 2019.

If a supplier is already registered for GST because they make taxable supplies under existing GST rules, they do not need to register separately for any distantly taxable goods they supply. Instead, these suppliers should continue to file their usual GST returns and include their supplies of distantly taxable goods.

A simplified form of GST registration is available to foreign businesses caught by the new rules who will only remit GST (and not claim expenses), which will reduce the compliance burden.

Simplified "pay only" registration

Businesses who indicate on the registration form that they will only remit GST and not claim expenses will file a simplified "pay only" GST return.

The simplified return would only include fields relevant to remitting GST, such as the amount of supplies to New Zealand customers and the amount of GST to be remitted.

For the period from 1 December 2019 to 31 March 2020, overseas suppliers of distantly taxable goods that become liable to be registered between 1 December and 31 December 2019 will have a taxable period of four months. After this transitional period, these suppliers will have mandatory quarterly taxable periods beginning on 1 April 2020.

Payment and filing dates under the simplified "pay only" registration	
Quarter	**Filing and payment date**
1 Dec 19 to 31 Mar 20	28 Apr 20
1 Apr 20 to 30 Jun 20	28 Jul 20
1 Jul 20 to 30 Sep 20	28 Oct 20
1 Oct 20 to 31 Dec 20	28 Jan 21

Full registration

Businesses who indicate that they intend to remit GST and claim GST may be asked to provide further information about their business during the registration process. These applicants will be required to file a full GST return.

myIR filing system

Both types of GST return can be filed using Inland Revenue's "myIR" online service.

For GST payments, myIR displays payment options available to registrants, and provides links and instructions on how to make payments.

Information on how to file returns online, as well as make GST payments, will be available to overseas suppliers when they apply to register for New Zealand GST.

GST Charged Incorrectly to a GST Registered Customer

When a GST registered recipient is inadvertently charged GST, they will have to seek a refund from the overseas supplier.

The supplier can make an adjustment in their GST return when it is apparent that a mistake has been made.

Alternatively, if the value of the supply (excluding GST) is NZD 1,000 or less, a supplier will have the option to provide a tax invoice to the purchaser to allow them to claim a deduction, rather than refunding the GST charged and making an adjustment in their GST return.

Extension of Reverse Charge

The reverse charge has been extended to ensure that supplies of distantly taxable goods acquired by GST-registered businesses for a purpose other than making taxable supplies are taxed.

The reverse charge requires the GST-registered business to remit the GST to the New Zealand Inland Revenue if the percentage intended or actual taxable use of the goods, is less than 95% of the total use.

Optional Rules Aimed at Reducing Costs for Suppliers

Option to charge GST on low value supplies to GST-registered businesses

If certain conditions are met, a non-resident supplier can choose to charge GST on a supply of distantly taxable goods to a GST-registered business but must also issue the recipient with a tax invoice.

This applies when:

- the value of the supply (excluding GST) is NZD 1,000 or less; and,
- the supplier reasonably expects that in the 12 months after the supply is made, more than 50 % of their supplies to customers in New Zealand will be to persons that are not registered for GST.

If a non-resident supplier opts to charge GST on a supply to a GST-registered business, they can issue a single document that qualifies both as a full tax invoice and as a receipt that the recipient may provide to Customs to prevent any double taxation.

Option to charge GST on high value goods

Suppliers of distantly taxable goods may elect to charge GST on goods valued above NZD 1,000 if those goods are supplied to consumers in New Zealand.

This option is available if at least 75% of the total value of goods that they supply to customers in New Zealand in the 12-month period starting on the date the election is intended to be effective for are individually valued at NZD 1,000 or less.

Alternatively, a supplier will be able to charge GST on its supplies of high-value goods to consumers if the Commissioner considers that allowing the supplier to do so will not result in a risk to the integrity of the tax system.

What Businesses Need to be Doing Now

Overseas suppliers, marketplaces and re-deliverers are impacted by this law, irrespective of whether they have any people, premises or tax presence in New Zealand.

It is essential that suppliers of distantly taxable goods to New Zealand consumers act now to ensure that they are fully compliant with the new rules and avoid punitive consequences.

Businesses affected by the change in law need to consider the following:

- reviewing pricing to take into account the charging of GST
- communicating to customers that GST is chargeable on relevant supplies from 1 December 2019
- updating terms and conditions and website information to include clauses to allow for the charging of GST.
- ensuring that billing and accounting systems can incorporate the GST element of a sale.
- ensuring systems can separately identify supplies made to consumers from those made to businesses
- ensuring systems can identify customers that are New Zealand consumers
- deciding which foreign currency exchange rates to use for their GST reporting and payments
- registering for either the standard or the simplified "pay only" GST system by 1 December 2019 if applicable.

Please get in touch with rbcVAT Limited if you require further guidance on the new rules or would like assistance in registering for New Zealand GST.

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

http://www.rbcvat.com/ • +44 (0) 118 321 6823

References and Resources

1. http://taxpolicy.ird.govt.nz/sites/default/files/2019-sr-gst-low-value-imported-goods.pdf

2. https://www.classic.ird.govt.nz/resources/9/c/9cbba65d-16d1-44b1-bc4e-747245732f03/tib-vol31-no8.pdf

3. http://taxpolicy.ird.govt.nz/sites/default/files/2018-other-gst-low-value-imported-goods-q-a.pdf

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