



Submission to the Economics Legislation Committee

Treasury Laws Amendment (GST Low Value Goods) Bill 2017

10 April 2017



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Abbreviations and Acronyms

ABN	Australian Business Number
ATO	Australian Tax Office
BEPS	Base Erosion and Profit Shifting
CBSA	Canada Border Services Agency
COAG	Council of Australian Governments
Commissioner	Commissioner of Taxation
DIBP	Department of Immigration and Border Protection
EDP	Electronic Distribution Platform
EFT	Electronic Funds Transfer
EM	Explanatory Memorandum
EU	European Union
FID	Full Import Declaration
FMIS	Financial Management Information System
GST	Goods and Services Tax
GST Act	A New Tax System (Goods and Services Tax) Act 1999
HMRC	Her Majesty's Revenue and Customs
ICS	Integrated Cargo System
Intangibles	Things other than goods or real property
ITC	Input Tax Credit
ITZ	Indirect Tax Zone (broadly, Australia, excluding those geographic areas where GST does not apply, such as the external Territories)
Low Value Goods	Goods with a customs value equal to or less than the prescribed amount of \$1,000
LVIG	Low Value Imported Goods
LVT	Low Value Threshold
MOSS	Mini One Stop Shop
MP	Member of Parliament
OECD	Organization for Economic Cooperation and Development
OSS	One Stop Shop
PC	Productivity Commission

PC Report	Productivity Commission Report into “Economic Structure and Performance of the Australian Retail Industry” (2011)
RIS	Regulation Impact Statement
SAC	Self Assessed Clearance
Taskforce	Low Value Parcel Processing Taskforce
TAPIN	Tariff and Precedents Information Network
VAT	Value Added Tax

Executive Summary

Amazon supports the reduction of the GST threshold on low value imported goods (LVIGs) to zero, subjecting imported goods to GST to level the playing field.

Amazon does not support the proposed collection model. Amazon has concerns with the proposed collection method – the hybrid Vendor Model – which is a combination of both the Vendor Model and the Intermediary Model considered by the OECD in its 2015 Report, *Addressing the Tax Challenges of the Digital Economy*.¹ The **hybrid Vendor Model** contained in the *Treasury Laws Amendment (GST Low Value Goods) 2017 Bill* (the Bill) requires that where Australian consumers purchase LVIGs through offshore suppliers, the responsibility for collecting and remitting GST will lie with the seller, the electronic distribution platform or the re-deliverer, depending on the nature of the transaction. Amazon is both a seller and an electronic distribution platform (i.e. we provide a marketplace that third-party sellers use to sell goods).

Amazon recommends that the Committee consider the Logistics Model. Amazon recommends the Committee to consider an alternative collection method – the **Logistics Model**. This would be much more effective in achieving the stated policy objectives of levelling the playing field between Australian and overseas businesses and in collecting revenue for the states and territories. The **Logistics Model** would leverage the existing capabilities of Australian-based logistics providers such as Australia Post, express carriers and freight forwarders, to collect and remit GST on LVIGs.

The Bill fails to achieve its stated policy objectives. The stated purpose of the Bill is to create a fairer tax system, support Australian small businesses, create a level playing field for all businesses and maximise GST revenue. The Bill fails to achieve these policy goals and creates additional distortions.

The Bill fails to level the playing field between Australian businesses and offshore suppliers. The Bill imposes an administrative burden on sellers and electronic distribution platforms which will create an inherent disincentive for them to comply. It is estimated that there are approximately 1,100 foreign LVIG suppliers that would have to register for GST under the Bill in any given week.² The hybrid Vendor Model does not provide for efficient mechanisms to detect failure to register by these offshore suppliers, who operate in multiple overseas jurisdictions. In addition there are significant questions around enforceability. This will inevitably result in a large proportion of vendors either failing or choosing not to register, and large volumes of LVIGs entering Australia without being subject to GST.

The Bill introduces market distortions and disincentives, ultimately harming consumers. The Bill will create rather than remove distortions in pricing due to its lack of efficient mechanisms to require registration of vendors, detect non-compliance and ensure collection of GST on goods as they enter Australia. While compliant sellers and electronic distribution platforms will charge GST, non-compliant sellers and electronic distribution platforms will be able to ship parcels to Australia at prices that appear more attractive to the consumer, with low risk of detection. This incentivises consumers to buy from less reputable overseas vendors, at increased risk.

The hybrid Vendor Model is ill considered and untested. Other jurisdictions (see **Appendix C** and **Appendix I**) have been examining how best to collect GST on LVIGs, and have taken time and care to ensure they select an appropriate model which delivers the best outcomes for consumers and for government revenue. When the Australian Government's *Low Value Parcel Processing Taskforce*

¹ OECD (2015), *Addressing the Tax Challenges of the Digital Economy, Action 1 - 2015 Final Report*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris.

² CIE (2016), *The economic impacts of changing arrangements for the importation of low value products*, February 2016 Final Report, prepared for conference of Asia Pacific Express Carriers, The Centre for International Economics, Canberra, p 22.

(the Taskforce) considered GST collection models in detail in 2012,³ it opted for the Logistics Model. This is consistent with the OECD’s 2015 test card⁴ of collection models, which identified the Logistics Model as the strongest of all the potential approaches. It is unclear why the Australian Government has now selected an untested model in spite of previous analysis indicating that the Logistics Model is the superior option.

The Bill results in significant GST leakage, which it purports to fix. Because the hybrid Vendor Model lacks effective compliance and enforcement mechanisms, it will result in substantial revenue leakage. It will be impossible to identify, track down and enforce GST payments from a multitude of sellers and electronic distribution platforms who operate in multiple overseas jurisdictions. Indeed, the Government’s own revenue estimates⁵ imply a high level of non-compliance. Modelling suggests that the compliance rate in Year 3 under the Vendor Model is as low as 27 per cent.

There is a far better alternative. A Logistics Model would be far more effective in achieving the Australian Government’s objectives. Logistics providers already have infrastructure in place to collect information on goods coming into Australia, and have well-established processes for GST collection for goods valued at more than \$1,000 (see **Appendix B**). The Taskforce recommended the Logistics Model in its 2012 Final Report⁶ and the OECD’s 2015 Report⁷ rated the Logistics Model more highly than any of the other collection models it considered. Indeed, on the basis of six key criteria the OECD rated the Logistics Model above the hybrid Vendor Model, as depicted in Figure 1.

Amazon recommends that the Bill is not passed and that the Senate considers, as an alternative approach, the Logistics Model as recommended by the Australian Government in 2012, or some variation thereof.

Figure 1. Collection model comparison - derived from OECD models and their test cards⁸

	OECD Terminology	Neutrality	Efficiency	Certainty / Simplicity	Effectiveness	Fairness	Flexibility
The Bill’s hybrid Vendor Collection Model	<i>Vendor Collection Model</i>	Medium	Low	Medium	Low	Medium	Medium
	<i>Intermediary Collection Model (e-commerce)</i>	Medium	Medium	Medium	Medium	Medium	Medium
Logistics Model	<i>Intermediary Collection Model (express carrier)</i>	Medium	Medium	High	High	Medium	Medium

³ Treasury (2012), *Low Value Parcel Processing Taskforce Final Report 2012*, Commonwealth of Australia, Canberra.

⁴ See OECD (2015), above n 1, Annex C.A, *Test cards for the Analysis of the VAT/GST collection models*.

⁵ *Treasury Laws Amendment (GST Low Value Goods) Bill 2017 – Explanatory Memorandum*, p 3.

⁶ Treasury (2012), above n 3.

⁷ OECD (2015), above n 1, Annex C, *The collection of VAT/GST on imports of low value goods*.

⁸ See OECD (2015), above n 4.

1. Collecting GST on LVIGs

Support for an LVIG threshold of zero

Amazon supports the reduction of the GST threshold on LVIGs to zero, so that goods imported into Australia are subject to GST. Implemented effectively, this would assist to level the playing field for all businesses selling to Australian consumers

Types of models for collecting GST on LVIGs

There are a number of alternative models for collecting GST on LVIGs. The OECD has undertaken detailed analysis of the design features of four collection models:⁹

- *Traditional Collection Model*: Where Customs' existing responsibility to collect GST on goods above \$1,000 is extended to cover LVIGs.
- *Purchaser Collection Model*: Where the customer is required to self-assess and pay GST through a variety of mechanisms, such as purchaser pre-registration.
- *Vendor Collection Model*: Where the obligation to collect and remit GST is placed on non-resident sellers that collect GST at the point of sale and include GST in the purchase price.
- *Intermediary Collection Model*: Where the liability to remit GST on the imported goods, in the jurisdiction of importation, is transferred from the non-resident vendor onto intermediaries, such as:
 - postal operators;
 - express carriers;
 - e-commerce platforms; and
 - financial intermediaries.

The *Explanatory Memorandum* to the Bill describes the chosen model as a Vendor Model. However, the Bill actually provides for a model referred to here as the hybrid Vendor Model, which is a combination of elements from the OECD's *Vendor Collection Model* and the e-commerce platform option included in its *Intermediary Collection Model*. The hybrid Vendor Model also has the added complexity of requiring re-deliverers of goods to collect and remit GST in certain circumstances.

The express carrier option included in the *Intermediary Collection Model* aligns with the Logistics Model we discuss. This Logistics Model was considered by the OECD to be the strongest of the models it examined (see table in **Appendix I**) as express carriers and freight forwarders already have '*electronic data collection and transmission systems in place*',¹⁰ to enable the collection and remittance of GST. As seen in Figure 2, these systems provide express carriers and freight forwarders with better access to information than any of the other stakeholders in the LVIG supply chain.

⁹ OECD (2015), above n 7.

¹⁰ *Ibid.*, par 118.

Figure 2. OECD - Minimum information available to each stakeholder in the LVIG supply chain¹¹

Stakeholder	Nature of the goods	Value	Country of destination	Time of import/delivery	Transportation data	Taxes and duties (incl. thresholds)
Purchaser	Yes	Yes	Yes	Yes	Maybe	Maybe
Vendor	Yes	Yes	Yes	Maybe	Yes	Maybe
Transparent e-commerce platform	Some	Yes	Maybe	Maybe	Maybe	Some/Maybe
Express carrier	Yes	Yes	Yes	Yes	Yes	Yes
Postal operator	Maybe	Maybe	Yes	Yes	Yes	Yes
Financial intermediary	No	Yes	Maybe	No	No	No

Australian Government consideration of various models

Three different Australian Governments have considered the application of GST to LVIGs (see **Appendix A**).

Gillard Government

On 3 February 2011, the then Assistant Treasurer, the Hon Bill Shorten, MP, requested that the PC conduct an inquiry into the economic structure and performance of the Australian retail industry. One of the inquiry's terms of reference was to consider:

*"The sustainability and appropriateness of the current indirect tax arrangements in this environment, including the impact on Commonwealth and State and Territory budgets, and the extent to which technology could reduce the administrative costs of collecting indirect taxes and duty on imported goods."*¹²

The PC submitted its final report on 4 November 2011 (see **Appendix E**). On the issue of whether to apply GST to LVIGs, the PC recommended that:

- The \$1,000 threshold not be lowered (at that time), on the basis that collection costs would far outweigh the extra revenue collected; and
- A taskforce be established to investigate new approaches to the processing of LVIGs and recommend a new process that would deliver significant improvements and efficiencies in handling.

On 9 December 2011, the Gillard Government established the Taskforce to consider the PC's recommendations. The Taskforce produced an Interim Report in March 2012¹³ and a Final Report in July 2012.¹⁴ As detailed in **Appendix F**, the Final Report recommended a Logistics Model:

*"Requiring Australia Post, express carriers and other freight forwarders to be responsible for collecting and remitting the revenue liability."*¹⁵

¹¹ OECD (2015), above n 7, p 193.

¹² Productivity Commission (2011), *Economic Structure and Performance of the Australian Retail Industry - Productivity Commission Inquiry Report*, Commonwealth of Australia, p IV.

¹³ Treasury (2012a), *Low Value Parcel Processing Taskforce Interim Report March 2012*, Commonwealth of Australia, Canberra.

¹⁴ Treasury (2012), above n 3.

¹⁵ *Ibid.*, p 15.

In December 2012, the Gillard Government released an Interim Response,¹⁶ agreed in principle to the Taskforce's recommendation and proposed to conduct further business-case analysis. Appropriate committee arrangements were to be established in order to progress this analysis (see **Appendix G**). The Gillard Government also produced a comprehensive technical *Regulation Impact Statement*,¹⁷ setting out all the necessary steps to implement a Logistics Model (see **Appendix H**).

Abbott Government

Under the Abbott Government, elected in September 2013, the Federal Government and the state and territory governments could not agree amongst themselves on the Logistics Model, or any other alternative collection model.¹⁸ Some time before August 2015, the Federal Government and the state and territory governments abandoned the Logistics Model and adopted the hybrid Vendor Model. The rationale for this decision is unclear, particularly given the rigour that went into developing and analysing the Logistics Model, and the inherent flaws in the hybrid Vendor Model.

At the Council on Federal Relations in August 2015, the states and territories finally reached unanimous agreement with the Federal Government on the hybrid Vendor Model.¹⁹ On the eve of announcing that this agreement had been reached, a Treasurer's spokesperson confirmed that Treasury had conducted no modelling on the economic impact of the proposed hybrid Vendor Model.²⁰

Turnbull Government

In the May 2016 Federal Budget, the Turnbull Government announced that a Vendor Model would apply from 1 July 2017 as described in the current Bill. The Treasurer's media statement releasing the exposure draft legislation confirmed that the in-principle decision to move to a Vendor Model was made by the Council on Federal Financial Relations on 21 August 2015.²¹ Amazon has not been able to locate any new analysis of the relative merits of the various models that led to this decision. It was not until late 2016, as described in the Bill, became known.

Amazon requests that the analysis supporting the decision to abandon the Logistics Model and adopt the hybrid Vendor Model be made publicly available so that the rationale for such a major change in policy direction can be understood. This analysis could then be reviewed against the *Regulation Impact Statement*²² to enable proper assessment of the relative risks and benefits of each model. The absence of such data to support the proposed hybrid Vendor Model is concerning.

¹⁶ Australian Government (2012a), *Interim Response to Low Value Parcel Processing Taskforce's Recommendations*, Commonwealth of Australia, Canberra.

¹⁷ Australian Government (2012), *Interim Response to the Low Value Parcel Processing Taskforce Report – Regulation Impact Statement – Treasury*, Commonwealth of Australia, Canberra.

¹⁸ Treasury (2013), *Restoring integrity in the Australian tax system*, Media Release, Commonwealth of Australia, Canberra, <http://jbh.ministers.treasury.gov.au/media-release/017-2013/>, (accessed 3 April 2017).

¹⁹ Treasury (2015), *Statement: Council on Federal Financial Relations Tax Reform Workshop*, 21 August 2015, <http://jbh.ministers.treasury.gov.au/media-release/075-2015/>, (accessed 8 April 2017).

²⁰ Chung, F., (2015), *Treasury flying blind on online shopping tax*, <http://www.news.com.au/finance/money/costs/treasury-flying-blind-on-online-shopping-tax/news-story/ebb8fd74c5a4aef9b6c5390d8ada15b5>, (accessed 21 March 2017).

²¹ Treasury (2016), *Exposure Draft: GST on low value imported goods*, Media Release, Commonwealth of Australia, <http://treasury.gov.au/ConsultationsandReviews/Consultations/2016/Applying-GST-to-low-value-goods-imported-by-consumers>, (accessed 3 April 2017).

²² Australian Government (2012), above n 17.

2. Deficiencies in the hybrid Vendor Model

The hybrid Vendor Model contained in the Bill requires that, where Australian consumers purchase LVIGs through offshore suppliers, the responsibility for collecting and remitting GST will lie with the seller, the electronic distribution platform or the re-deliverer, depending on the nature of the transaction.

The stated objective of the LVIG legislation is to “level the playing field for Australian businesses selling goods that cost \$1,000 or less that compete against overseas businesses.”²³

The Explanatory Memorandum to the Bill also states that:

*“... in the years since the introduction of the GST, it has become increasingly common for Australian consumers to purchase goods located overseas and arrange for shipping of the goods into the ITZ (i.e. the “indirect tax zone”) with the assistance of the supplier. In this context, the fact that neither the supply nor the importation of such low value goods is subject to GST represents a significant risk to the integrity of the GST system. It also places Australian based suppliers at a growing competitive disadvantage”.*²⁴

Effectively, the Government has indicated that, in introducing the LVIG legislation, its goal is to create a fairer tax system, supporting small businesses, creating a level playing field for all Australian businesses and maximising revenue from GST.

The Bill fails on all four counts. It:

- Fails to level the playing field for Australian businesses and offshore suppliers;
- Fails to collect anywhere near the revenue that could be achieved;
- Introduces a complex, untested model without adequate lead time; and
- Introduces market distortions and disincentives, ultimately harming consumers.

Failure to level the playing field for Australian businesses

Under the hybrid Vendor Model, sellers of LVIGs will have a 10 per cent cost incentive to move off marketplaces and other electronic distribution platforms and create their own websites or platforms. This will make it easier for them to sell and ship their goods to Australian consumers without paying GST, giving them an advantage over Australian retailers as well as sellers and electronic distribution platforms that comply with the proposed law.

Introduces a complex, untested model without adequate lead time

Various jurisdictions around the world have examined whether and how to extend value added tax (VAT), or GST, to low value goods (see **Appendix C**). Reviews have been conducted by both the OECD and the European Union (EU), which have noted that the issues are complex and not easily resolved in a way that ensures minimal market distortion and that creates the best outcomes for consumers.

The hybrid Vendor Model does not address some of the key issues raised by the OECD report, including risks associated with double taxation and complexity associated with compliance. It also assumes that ecommerce platforms have access to necessary information that may in fact not be available to them.

²³ Treasury (2016), above n 21.

²⁴ *Treasury Laws Amendment (GST Low Value Goods) Bill 2017 – Explanatory Memorandum*, above n 5, pars. 1.14-1.15.

In 2014 the EU released its *Report on Taxation of the Digital Economy*,²⁵ looking at the equivalent of applying GST to LVIGs and digital services. Subsequently, the EU announced a complex new intermediary model, but has delayed the effective start date until 2021 to roll out the new system²⁶ (as described in **Appendix J**). This extended lead time reflects the considerable complexity of this model and its impact on affected parties. The proposed lead time for implementing the hybrid Vendor Model seems inadequate in comparison to the timelines being followed by the EU.

In Australia, imposing GST on LVIGs was examined by the PC and an independent Taskforce informing the decision of a former Federal Government to adopt the Logistics Model in preference to the hybrid Vendor Model. It is unclear why the Government has now selected an untested model, with such a short lead time, in spite of previous analysis showing that the Logistics Model is a better option.

It is acknowledged that the Bill seeks to build on the recently enacted measures for imposing GST on inbound intangible consumer supplies. Those measures also transfer the liability for GST from the supplier onto the operator of an electronic distribution platform. However, those measures are relatively simple. Issues associated with the classification of the supply for GST purposes, and the interaction with the GST on goods taxed at importation, are not present. At a practical level, the online market place is involved in the delivery of inbound intangible consumer supplies as it facilitates the download, unlike in the case of goods, where the operator may simply introduce the buyers to sellers and has no further role in the delivery or authorising payment.

Introduces market distortions and disincentives, ultimately harming consumers

The introduction of GST on LVIGs is an opportunity for the Australian Government to assist small business and to remove perceived advantages of foreign businesses that are currently able to sell LVIGs to Australian consumers without GST.²⁷ The Bill proposes a model for GST collection that fails to make the most of this opportunity.

When the OECD reviewed the various potential models, it concluded that enforcement was going to be problematic under the e-commerce platform option included in its *Intermediary Collection Model*.²⁸ In any week, there are over a thousand LVIG suppliers that would be required to be registered for GST under the Bill,²⁹ many of which would have little or no incentive to charge their customers GST. Where they do not comply, they benefit from being able to undercut the competition and attract consumers onto their websites.

Adding to this incentive not to comply, the Bill will require these offshore entities to develop bespoke systems to calculate, collect and remit GST. This means compliant sellers and electronic distribution platforms, which invest heavily in their customer service and value their strong reputations, are at a disadvantage relative to non-compliant competitors. The market distortions this creates will put customers at risk, as they will be motivated to move to non-compliant sellers and electronic distribution platforms that are less likely to be reputable and reliable or look after them post-transaction.

²⁵ European Commission (2014), Commission Expert Group on Taxation of the Digital Economy, Taxation and Customs Union, Brussels.

²⁶ European Commission (2016c), Modernising VAT for e-commerce: Questions and Answers, Fact Sheet, MEMO/16/3746, European Commission, Brussels.

²⁷ McCormack, Michael (2017), Levelling the playing field for Aussie small businesses online, Media statement, <http://mfmm.inisters.treasury.gov.au/media-release/015-2017/>, (accessed 8 April 2017).

²⁸ OECD (2015), above n 7, par 102.

²⁹ CIE (2016), above n 2.

Enforcement of an Australian tax judgment against an overseas entity

If the Government were to obtain an Australian judgment against an overseas entity for failure to remit GST under the new law, it would need to take steps under the laws of the jurisdiction where the overseas entity is located to have the Australian judgment recognised and enforced. This process can be complex and costly. Given the number of entities that would fall within the scope of the hybrid Vendor Model, and the number of jurisdictions in which they may operate, costs would be considerable.

It is not clear whether courts in foreign jurisdictions would recognise and enforce an Australian judgment for failure to remit GST under the new law. We outline below the likely approach to enforcement of Australian judgments for the United States and China, two jurisdictions that Australians buy the most imported goods from.

- **US courts** - would likely apply what is known as the “revenue rule” in considering whether to enforce an Australian court judgment for a tax liability. Under the revenue rule US courts typically decline to evaluate the revenue laws of other countries and to enforce foreign tax judgments. In addition, the relevant legislation for the enforcement of foreign judgments in most US states does not apply to foreign court judgments for taxes if the relevant US state does not have reciprocity arrangements with Australia. Using Washington State as an example, we are not aware of any reciprocity arrangements that would enable enforcement in Washington of an Australian judgment for failure to remit GST under the new law.
- **Chinese courts** - neither Australia nor China are parties to the Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters. Also, there is no bilateral treaty between Australia and China for the mutual recognition and enforcement of court judgments. Accordingly, the only basis for Chinese courts to recognise judgments from Australia against a Chinese based entity for failure to remit GST under the new law would be based on the principle of reciprocity under the Chinese Civil Procedure Law. To date, we are not aware of any judgment of the Australian courts that has been enforced in China or any judgment of the Chinese courts has been enforced in Australia, so the requirement of the Chinese courts for reciprocity is unlikely to be satisfied and Australian judgments are unlikely to be enforced in China.

There seems limited benefit to Australia implementing a new law that applies to entities operating overseas, if the law cannot be enforced in the jurisdictions in which those entities operate.

Failure to collect anywhere near the revenue that could be achieved

Under the hybrid Vendor Model, there is little motivation for offshore sellers and electronic distribution platforms to collect and remit GST to the Australian Government. This is further exacerbated if sellers move off the major electronic distribution platforms to evade GST and customs duties.

Treasury’s most recent publicly available estimate of “revenue foregone” from the low value threshold (which should provide an indication of the GST available under full compliance if the threshold were removed) was \$400 million in 2017-18.³⁰

The revenue collection estimates in the *Explanatory Memorandum* to the Bill imply a very low level of expected compliance and tax collection under the hybrid Vendor Model. These revenue estimates are:³¹

- \$70 million in 2017-18;

³⁰ Treasury (2016a), Tax expenditures statement 2015, Commonwealth of Australia, Canberra.

³¹ *Treasury Laws Amendment (GST Low Value Goods) Bill 2017 – Explanatory Memorandum*, above n 5, p 3.

- \$100 million in 2018-19; and
- \$130 million in 2019-20.

While the assumptions behind both low value threshold revenue foregone estimates and the hybrid Vendor Model revenue collection estimates are not clearly articulated, assuming the two sets of Treasury estimates are consistent, this implies a collection rate of only 27 per cent under the hybrid Vendor Model.

A detailed study by the Productivity Commission in 2011 indicated that moving to a zero threshold could have raised around \$480 million in GST in that year.³² This aligned with the Treasury's estimate in that same year of GST "revenue foregone" from the low value threshold of \$460 million.³³

A similar methodology was applied by the Productivity Commission in 2011 to develop updated estimates of the full LVIG base that could attract GST. If GST could be collected on this full LVIG base, this could be worth approximately \$930 million in additional GST revenue in 2019-20 (see **Appendix D**).

While this full base includes all non-business goods transported into Australia by international mail and air consignments, some of these would not attract GST even after the low value threshold was removed (for example GST-free items and gifts). Additional GST revenue was identified that could accrue to the states with a collection rate of 27 per cent as implied in the hybrid Vendor Model. This was compared to the additional GST revenue that could accrue to the states with a collection rate of 70 per cent under the Logistics Model. The 70 per cent estimate is considered conservative.

³² Productivity Commission (2011), above n 12, p XIV.

³³ Treasury (2011), Tax expenditures statement 2010, Commonwealth of Australia, Canberra.

3. There is a far better alternative – the Logistics Model

The Taskforce undertook a comprehensive investigation of Australia’s low value import processing in 2012. In its final report released in July 2012, the Taskforce outlined its findings, recommendations and a reform pathway for the handling and administration of LVIGs, the collection of revenue, and specific changes to the international mail (post) stream.

The Taskforce recommended that changes to the existing LVIG threshold be made on an “as simple a basis as possible” to enable the faster clearance of goods through the Department of Immigration and Border Protection (DIBP) and Australia Post for mail importations.

With respect to the collection of GST on low value goods, the Taskforce examined numerous potential solutions that could form part of a new approach for handling and administering LVIGs (see Appendix F).

The Taskforce determined that the most feasible model was a Logistics Model, whereby:

- Australia Post, express carriers and freight forwarders would be responsible for identifying low value imports (a role they perform under current procedures);
- Whether through the Integrated Cargo System (ICS) or another system, DIBP would continue to remain responsible for calculating GST liability on importations;
- Australia Post, express carriers and freight forwarders would remain responsible for the collection and remittance of GST liability;
- GST liability would be remitted to either the DIBP or the ATO periodically.

This model allows for the collection of GST on low value goods by leveraging existing IT infrastructure and business practices in the express carrier, freight forwarder and international mail environments.

Broadly, the Logistics Model contemplated by the Taskforce includes features where:

- Pre-arrival data is used to facilitate the identification and assessment of GST liabilities;
- Express carriers and freight forwarders leverage existing business systems to cater for GST collection and remittance obligations;
- Australia Post systems for pre-arrival data are reconfigured to enable data capture through the same reporting and clearance processes used in the cargo environment through the DIBP’s ICS (see **Appendix B**);
- Goods are able to be released by Australia Post, express couriers and freight forwarders prior to the payment of GST in order to reduce cargo backlog and storage costs;
- Existing GST exemptions on certain goods remain in place; and
- Importers could recover GST paid where incorrectly collected.

The Taskforce noted that this model would establish more consistent and streamlined reporting mechanisms for goods imported through the Australia Post system.

Regardless of the model ultimately adopted for implementation, IT infrastructure changes will be required. However, given systems are already in place for the processing of goods above \$1,000, the changes required to implement the Logistics Model are likely to be less burdensome overall.

In December 2012, the Gillard Government released an Interim Response, agreed in principle to the Taskforce’s recommendation and proposed to conduct further business-case analysis. The Gillard Government also produced a comprehensive technical *Regulation Impact Statement*, setting out all

the necessary steps to implement a Logistics Model (see **Appendix H**). We are not aware of a similar *Regulation Impact Statement* having been completed in respect of the hybrid Vendor Model.

Recommendation

Amazon recommends that the Bill is not passed and that the Senate considers, as an alternative approach, the Logistics Model as recommended by the Australian Government in 2012, or some variation thereof.

Appendix A – Chronology

Key dates in chronology of development of the Vendor Model of collecting GST on low value goods

2000 1 July	GST at a rate of 10 per cent implemented by the Coalition Government. Existing thresholds exempting LVIGs from entry requirements, duties, sales taxes and processing charges retained for GST (\$1,000 for postal items and \$250 for non-postal items).
2005	The threshold value of non-postal LVIGs harmonised from \$250 to \$1,000 (postal).
2007	ALP elected to government
2010 February	<i>Board of Taxation</i> : concludes that it is not administratively feasible to bring non-resident suppliers of LVIG's (and services) into the GST system. (Response to a request from Assistant Treasurer Chris Bowen (the current Shadow Treasurer) to review GST on cross-border transactions).
18 December	PC commissioned to enquire into the economic structure and performance of the Australian retail industry. Includes: to examine the <i>"sustainability and appropriateness of the current indirect tax arrangements in this environment, including the impact on Commonwealth and state and territory budgets, and the extent to which technology could reduce the administrative costs of collecting indirect taxes and duty on imported goods."</i> (Terms of Reference from Assistant Treasurer, Bill Shorten (current Opposition Leader))
2011 4 November	<i>GST Distribution Review Panel</i> established to conduct a review of distribution of GST to the states. PC Report: In-principle grounds for significant reductions in the LVIG threshold, but recommended against an LVIG reduction unless it could be demonstrated to be cost effective to do so. Efficiency gains from reducing the non-neutrality needed to outweigh the added costs of collection. PC recommended establishing a Taskforce to investigate new approaches to processing LVIG parcels.
9 December	Taskforce established, alongside the establishment of the <i>Retail Council of Australia</i> to advise the Government (Assistant Treasurer Shorten made the announcement).
2012 3 January	Government announces separation of the LVG threshold for customs duty and GST purposes.
Late January	<i>Evans Report</i> : Michael Evans (commissioned by Treasury) releases preliminary report for the <i>GST Distribution Review Panel</i> on options to bring LVGs within GST. Evans explored four options. The preferred option was to impose liability for GST on the offshore supplier.
30 March	Taskforce released its <i>Interim Report</i> undertaking to conduct further research and consultations, and the assessment of potential solutions, including costings.
prior to July	<i>Interdepartmental Advisory Committee</i> established. Treasury was reviewing the Taskforce's progress and potential conclusions. Treasury considered 13 possible models (each not mutually exclusive). Taskforce Option 1: Logistics Model (Australia Post and couriers would be responsible for the payment and collection of taxes from importers, with the ability to charge a fee to recover costs). Treasury supported this Option. Treasury noted that <i>"... any reform of import processing will likely take years, rather than months to implement"</i> and suggested <i>"... that a staged approach to any reduction in the threshold would be preferable in order to keep the volumes manageable and limit any consumer backlash."</i>
6 September	<i>Taskforce Final report</i> : recommended the Logistics Model , in line with Treasury's view.
3 December	ALP Government's Response: recommended the Logistics Model (Rec 4.1(b)) and Established a Steering Committee to oversee preparation of the business cases for changes (Assistant Treasurer David Bradbury).
December	<i>Treasurers' Standing Council</i> : the Advisory Committee to report by end 2013 on finalised business cases and consult with the Standing Council on any decision on the business case.
Jan-July	<i>Interdepartmental Advisory Committee</i> : No current visibility of what progress the Advisory Committee made on the business case for the Logistics Model.

August	<i>Caretaker period:</i> prior to election – no work undertaken by Advisory Committee.
2013 7 September	Coalition wins 2013 election
Sept/October	<i>Treasurer Hockey</i> approved work to continue on the business case and consultations. Treasury Working Group established to examine options.
10 October	<i>National Retailers Association (NRA):</i> lobbied the new Government for a vendor model. Cites that the states support a vendor model.
6 November	<i>Treasurer Hockey:</i> released decisions on un-enacted ALP tax measures; will not be proceeding with the proposed changes to set the LVG threshold by regulation; not yet considered LVG business case.
November	<i>NRA:</i> Submission to the <i>National Commission of Audit</i> calling for a vendor model.
27 November	<i>Treasurers’ Standing Council:</i> LVG business case required refinement and close examination of costs.
2014 March	<i>Treasurers’ Standing Council:</i> Commonwealth agreed to a request from the states to further explore options for lowering the LVG threshold.
19 September	<i>Treasurers’ Standing Council:</i> states had not agreed on a preferred workable approach on LVG issue.
2015 22 July	COAG: PM and Premiers agree in-principle to LVG threshold reduction (Treasurers to design).
21 August	<i>Treasurers’ Standing Council:</i> Joe Hockey Treasurer: states unanimously agreed to a reduction in the threshold to zero, and a “vendor registration model”.
Sept	<i>PM Turnbull replaces PM Abbott (Scott Morrison appointed Treasurer)</i>
2016 Feb	<i>CIE</i> paper presented to AsPac Carriers Conference, modelling shows any new GST on LVGs is not justifiable.
May	<i>Budget:</i> Federal Government announces vendor model to apply from 1 July 2017, with revenue estimates over the Forward Estimates (four years - as agreed by Joe Hockey with the states).
July	<i>Coalition wins 2016 Election.</i>
4 November	Treasurer Morrison, releases an exposure draft of the <i>Treasury Laws Amendment (GST Low Value Goods) Bill 2017</i> , related explanatory memorandum and Q&A document.
1 Dec	<i>Tax Institute:</i> identifies structural and drafting concerns with consultation draft of Bill; compliance/enforcement challenges; limited implementation period.
2 Dec	<i>CHOICE:</i> Opposes Bill – no published Treasury modelling; unclear compliance/enforcement costs.
2017 16 February	Bill was introduced into the Parliament - House of Representatives (Lower House).

Appendix B – Current Custom Systems

DIBP is the Federal Government department responsible for the management of transactions relating to import into and export from Australia. The DIBP uses information reported to it to assess and collect customs duty, import GST and processing charges payable on imported goods that arrive by air or sea cargo and international mail (post). The information reported to the DIBP is also used to monitor and control the physical movement of goods into, and out of, Australia.

There are a number of reports that are made to the DIBP electronically for customs clearance and entry purposes via the Integrated Cargo System (ICS). The ICS is the DIBP's single software application system for the mandatory, electronic reporting of international cargo movements imported into or exported from Australia.

Integrated Cargo System – An overview

The ICS accepts information on cargo movement and clearance by registered users, such as transport and logistic service providers, freight forwarders, customs brokers and importers. Importers that wish to communicate electronically with the DIBP via the ICS must register as a user and purchase a digital certificate, which is used as a unique identifier.³⁴

The multiple reports made in the ICS for the same vessel, voyage and container details are referenced as cascade reports and are linked by the ICS for the purpose of identifying the ultimate consignee (i.e. Owner) for customs purposes. When a report is entered into the ICS, the system applies checks and balances to ensure that all mandatory information has been entered. Where evidence of non-compliance with the relevant legislation is identified, potential penalties and/or prosecution may apply.

The ICS calculates the applicable customs duty, excise-equivalent customs duty (if applicable), import GST, import processing charge and other taxes based on the information entered in an import declaration. In calculating the applicable customs duty, the ICS draws upon the DIBP's Tariff and Precedents Information Network (TAPIN) to determine the rate of customs duty payable against the entered tariff classification.

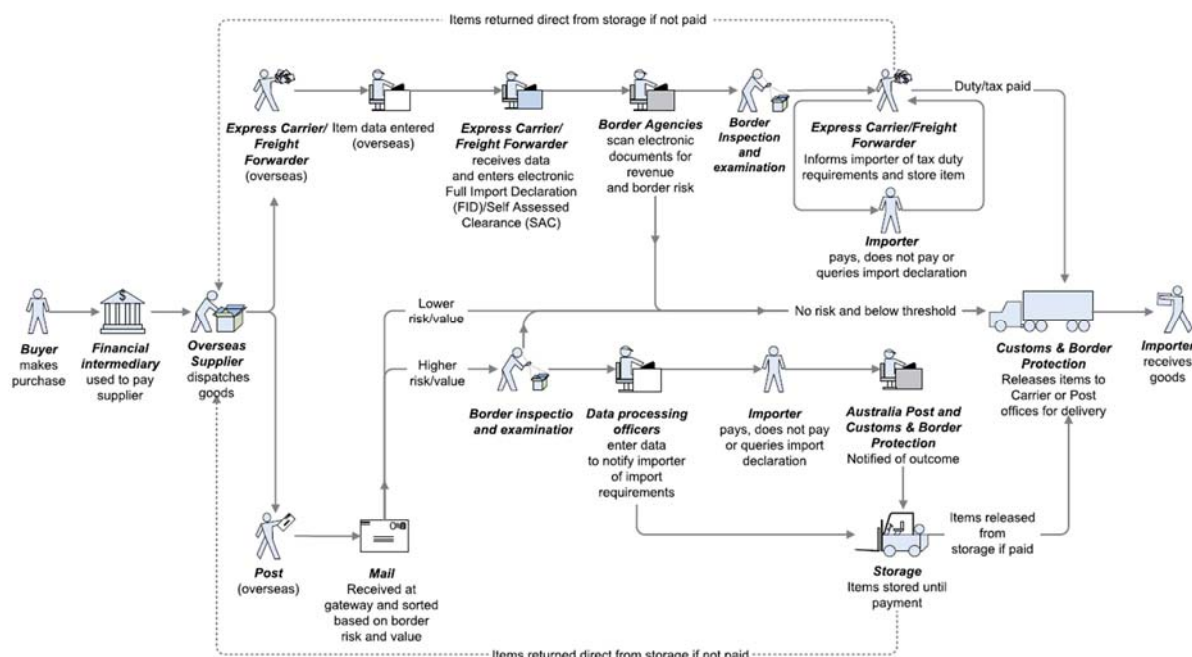
The ICS also provides for the electronic settlement of customs duties, import GST and other charges and taxes as an Electronic Funds Transfer (EFT) payment.

Importation of low value goods – The process

The low value goods threshold applies to single consignments arriving by air or sea cargo and by post, that have a total customs value at or below \$1,000. Whilst the DIBP is the overarching authority for all importations entering into Australia, the import documentation process for air and sea cargo is unique from items brought in via post due to the DIBP's interaction with Australia Post. See graphic extract from *LVPP Taskforce Final Report*, p. 28.

³⁴ Department of Immigration and Border Protection, *About Digital Certificates*, Australian Government, <https://www.border.gov.au/Busi/Carg/Inte/About-digital-certificates>, (accessed 3 April 2017).

Figure – Importation of low value goods into Australia – an overview



Air and sea cargo import documentation reporting – The process

Cargo reporting

At a first level, the DIBP requires the air or sea carrier to submit a cargo report into the ICS outlining full details of cargo for which they are directly responsible. The cargo report is a high-level manifest report which contains full details of the cargo for which the carrier is responsible and also includes details of cargo that the carrier is carrying on behalf of another cargo reporter (i.e. express carrier / freight forwarder). The ICS facilitates this information by means of a ‘freight forwarder’ indicator.

Where a freight forwarder has been indicated in a cargo report, the documentary liability cascades next to the freight forwarder or logistic provider to produce a sub-manifest report. This report identifies the individual organisations and/or individuals to whom the goods are being delivered. It is at this point in time, that the requirement to lodge a Self-Assessed Clearance (SAC) or Full Import Declaration (FID) arises. The total value of the imported goods in the single consignment will drive the determination for lodging a SAC or a FID in the ICS.

Import declarations

Full Import Declaration (FID)

A FID will be required for the clearance of goods that have a customs value exceeding \$1,000. The intended recipient of the imported goods (i.e. the Owner) is required to electronically lodge a FID with the DIBP via the ICS (this is usually done on an owner’s behalf by a licensed customs broker), or by lodgement of a completed import declaration form (B650) at an applicable DIBP counter (in-person).

There are a number of types of FIDs that can be entered into the ICS,³⁵ specific to whether or not the imported goods will be entered into the domestic market and/or customs controlled warehousing.

³⁵Customs Act 1901 (Cth), s 71A

The documentary requirements in the ICS for a FID are exhaustive and require a wide range of information to be entered.³⁶

Once an import declaration has been submitted and approved for payment, the ICS automatically generates an Outstanding Payment Advice identifying all amounts payable to the DIBP.³⁷ The ICS then creates an electronic funds transfer (EFT) transaction for processing by the DIBP's Financial Management Information System (FMIS).³⁸ For non-EFT transactions, registered users can remit payment in-person at one of the DIBP's counters (where cashier facilities are available), or via the DIBP's payment facilities provided over the internet.³⁹

Self-Assessed Clearance (SAC) declarations

A SAC will be required for the clearance of goods that have a customs value at or below \$1,000 that arrive in Australia by air or sea. A SAC is not required for goods arriving through the post that qualify for the low value goods threshold. A SAC declaration can occur in three formats: a Cargo Reported SAC, a Full Format SAC or a Short Format SAC. The type of SAC declaration will depend on the nature of the goods being imported. All SAC declarations must be electronically lodged through the ICS.

Cargo Reported SAC: A Cargo Reported SAC is communicated to the DIBP via the ICS by the cargo reporter on behalf of the importer. The ICS requires detailed information to be provided in a Cargo Reported SAC, and must not be utilised where the goods are subject to import restrictions or prohibitions.

Short Format SAC: A Short Format SAC is communicated to the DIBP via the ICS by the importer or anyone acting on the importer's behalf where a digital certificate and ICS registration is held.⁴⁰ This type of declaration is limited to identifying the importer, the goods and the cargo report details for the consignment. In the event the ICS identifies that the goods are excise-equivalent (i.e. alcohol and/or tobacco products), the Short Format SAC must also identify the tariff classification, quantity, value and transport and insurance costs to enable the calculation of customs duties, excise-equivalent customs duties and import GST.⁴¹ Therefore, there is an ability to calculate and collect import GST on a Short Format SAC.

Full Format SAC: A Full Format SAC is communicated to the DIBP via the ICS by the importer or a licensed customs broker. The ICS requires detailed information to be provided in a Full Format SAC. Once processed in the ICS and approved for payment, the payment of customs duty, import GST and other taxes can be made directly in the ICS via EFT payment.⁴²

International mail (post) import documentation reporting – The process

All goods that enter Australia through the international mail stream are subject to the same risk assessment procedures and import documentation requirements that apply to air and sea cargo.

³⁶Australian Customs and Border Protection Service (2013), *Documentary Import Declaration Comprehensive Guide*, Australian Government, Canberra.

³⁷ Ibid., p 5.

³⁸ Australian Customs Service (2007b), *Messaging*, Customs Exports Manual - V1.1 27/08/2007, Commonwealth of Australia, Canberra, p 10.

³⁹ Ibid.

⁴⁰ Australian Customs Service (2007d), *Self Assessed Clearance Declarations*, Industry Imports Manual - V1.1 27/08/2007, Commonwealth of Australia, Canberra, p 3.

⁴¹ Ibid., p 4.

⁴² Ibid.

The handling of mail imports is undertaken by Australia Post, which operates within the Universal Postal Union framework.

Where import consignments have a customs value at or below \$1,000, and are not excise-equivalent goods, no SAC declaration is required. In determining whether a consignment is correctly valued at or under \$1,000, the relevant DIBP duty assessor will undertake an assessment in the DutyCalc system⁴³ using the information available. Where it is determined that imported goods exceed \$1,000 a FID is required to be lodged.

Current process for goods with a value in excess of \$1,000

In the international mail environment, a physical inspection of the CN22⁴⁴ (parcel international express form) and CN23⁴⁵ (letter or document international express form) customs declarations attached to packages is undertaken by the DIBP to identify if goods have a customs value in excess of \$1,000. This is the first step in the determination of value for revenue assessment, in addition to the requirement to lodge a SAC or FID.

Where the DIBP believes the customs value is in excess of \$1,000, a notification is forwarded to Australia Post to hold the goods until a formal postal import declaration (Form B374) is completed and submitted by the recipient to the DIBP via fax, email, in-person or by regular mail.

In reviewing the completed Form B374, the DIBP will conduct a review to confirm that accurate reporting has been undertaken, and whether the sender and recipient are existing clients in the ICS. If the import declaration is correct, the DIBP will enter the details into the ICS by completing an electronic postal import declaration.

Once the ICS processes the import declaration, an Accounts Receivable invoice is generated in the DIBP's Financial Management System (QSP). The DIBP's Postal Imports team provides a copy of this invoice to the relevant importer (via email or mail) for electronic or manual payment. Once payment is received by the DIBP, the import declaration is finalised and the goods will be cleared for entry.

The postal clearance process commences after the goods have arrived in Australia. Therefore, until the declaration is processed and the applicable customs duty, import GST and other taxes are paid to the DIBP, the goods are required to be held in storage at the applicable international mail gateway.

⁴³ Treasury (2012), above n 3, p 108.

⁴⁴ Australia Post, *Customs forms and regulations*, <https://auspost.com.au/parcels-mail/sending-overseas/customs-forms-regulations> (accessed 3 April 2017).

⁴⁵ Ibid.

Appendix C – International experience with LVIGs

Unlike the hybrid Vendor Model (which is an untested model), aspects of the Logistics Model have already been successfully implemented in countries around the world such as Canada and New Zealand. The UK has also been using a Logistics Model.

Canada

In Canada, with a tax threshold of \$20CAD, all international mail items are presented on arrival by Canada Post to the Canada Border Services Agency (CBSA). Unless specifically exempted, a five per cent GST must be paid on items imported into Canada by mail. However, this general rule does not apply to certain products including alcohol, cigars, cigarettes, manufactured tobacco, and publications where the supplier is required to register under the *Excise Tax Act*. Also, this may not be combined with other exemptions.

Duty and taxes payable are determined by CBSA and, if no further border action is required, the goods are released to Canada Post for delivery and collection of the revenue owed. All amounts must be paid at the time of delivery, and Canada Post charges the recipient a processing charge. Canada Post is responsible for remitting the revenue collected to the CBSA.

Similar arrangements operate in the low value cargo environment. Canada operates the Courier Low Value Shipment (LVS) Program to streamline processing of low value shipments through customs and to provide the courier industry with expedited release. When the goods are of no further border interest to the CBSA, they are released to the courier operator.

A customs broker representing the importer estimates the duty and taxes to be paid. The broker remits the amounts owing to the CBSA at the end of each month and recovers these costs from the importer.

New Zealand

In New Zealand, GST on imported goods is collected by Customs at the border. However, GST is not collected if the total duty value (including GST, tariffs and other duties) is less than \$60. This is known as the “de minimis” threshold. Customs does not collect duty and GST where the total amount payable (duty and GST combined) on a single import is less than \$60.

GST is charged at 15 per cent on all imported goods, including mail order and internet purchases, and is calculated on the Customs value of the item, plus any duty, plus any freight and insurance costs. This does not apply to alcohol or tobacco products.

Currently, New Zealand Post is responsible for the initial identification of mail items which may be of interest. For private importations identified as exceeding the de minimis, a Customs officer creates a Personal Import Declaration in the Customs’ goods processing system, and Customs contacts the importer to arrange payment of the duty and a processing fee. For commercial postal consignments, New Zealand Post or the importer’s broker clear the parcels as commercial importations which attract a NZ\$29.26 import entry transaction fee and a NZ\$19.98 biosecurity levy collected by Customs on behalf of the Ministry for Primary Industries.⁴⁶

When the goods arrive in New Zealand, the recipient will be contacted by the freighting company to arrange clearance. For postal items, the recipient will receive either an assessment notice advising

⁴⁶ New Zealand Customs Service (2016), Duty and GST on Imported Goods, Factsheet No 28, New Zealand Customs Service, Wellington.

the amount payable, or a letter requesting that the recipient arrange clearance or produce further information. Where an assessment notice has been issued, goods will be released as soon as the charges are paid.⁴⁷

Some New Zealand businesses have requested that the Government reduce the current level of the de minimis threshold to reduce the competitive distortions it creates. As a result, Customs has been asked to look at options for simplifying and changing the level of the threshold, with a report to Ministers later in the year. This is anticipated to be followed by public consultation.⁴⁸

⁴⁷ Ibid.

⁴⁸ New Zealand Government Inland Revenue (2015), *Tax Policy*, <http://taxpolicy.ird.govt.nz/publications/2015-dd-gst-cross-border/chapter-3>, (accessed 1 April 2017).

Appendix D –KPMG Economic Modelling Report

Please see separate KPMG Economic Modelling Report overleaf.



Estimating the direct GST revenues from alternative collection models

10 April 2017

kpmg.com.au

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Inherent Limitations

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No warranty of completeness, accuracy or reliability is given in relation to the statements and representations made by, and the information and documentation provided by the Amazon consulted as part of the process.

KPMG has indicated within this report the sources of the information provided. We have not sought to independently verify those sources unless otherwise noted within this report.

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The findings in this report have been formed on the above basis.

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Introduction

To better understand the government revenue implications under alternative low value import collection models, KPMG has undertaken a preliminary analysis of the potential GST revenues that could be available with the removal of the current \$1,000 GST-free “Low Value Threshold” (LVT) on imports.

These preliminary estimates are designed purely to understand the potential differences in gross GST revenue collections under two alternative collection models – a “hybrid Vendor Model” and a “Logistics Model” applied to the abolition of the current \$1,000 LVT. These models are explained in the following sections.

This section does not assess the full costs and benefits associated with the abolition of the LVT itself, or alternative collection methods.

To start with, this report estimates the total revenue that would be foregone if the GST-free LVT continued to apply (Step 1). It then examines other studies to understand the potential implications for compliance under the two alternative low value imports GST collection models (Step 2). Finally, the report provides an indication of the total GST revenues that could be collected under alternative levels of compliance, and how this might affect the different State and Territory budgets (Step 3).

KPMG modelling suggests that adopting the hybrid Vendor Model rather than the Logistics Model could cost the states and territories around \$400 million per annum in foregone GST revenue.

Step 1: Maximum additional GST available from abolishing the threshold

In November 2011, the Productivity Commission (PC) released a report on the retail industry in Australia (PC 2011). In this report, the PC undertook an assessment of the potential impact of the current LVT on GST collections. The PC found that the additional GST revenue that could be collected if the threshold was abolished (and customs duty applied), before taking account of collection costs, was around \$480 million in 2010-11. The table below shows KPMG's analysis of the 2011 PC estimates.

Table 1: Low value consignments and mail items, 2010-11

Value range (\$)	Consignment value (% share) ^a		Volumes (millions)		Average value ^d (\$)	Value (\$ million)		GST applicable ^g (\$ million)
	Business/ other	Individual	International mail ^b	Air cargo ^c		International mail ^e	Air cargo ^f	
0-100	33.2	66.8	34.9	7.2	23.8	765	153	92
101-200	29.7	70.3	6.3	1.4	144.7	836	187	102
201-300	35.7	64.3	2.7	0.6	245.4	602	133	74
301-400	41.4	58.6	1.5	0.4	347.7	481	99	58
401-500	45.8	54.2	1.0	0.3	449.9	398	86	48
501-600	50.0	50.0	0.6	0.2	548.4	288	72	36
601-700	53.2	46.8	0.4	0.2	649.2	258	63	32
701-800	58.2	41.8	0.1	0.1	750.2	62	56	12
801-900	55.5	44.5	0.1	0.1	853.2	55	65	12
901-1000	59.5	40.5	0.1	0.1	946.9	61	54	11
			47.5	10.6		3,806	969	477

Sources/ assumptions:

(a) PC (2011), Table 7.2 -> original source: CAPEC (sub. 90, attachment 1, pp. 13-15).

(b) PC (2011), Table 7.3

(c) PC (2011), Table 7.4 -> original source: Customs (2011)

(d) PC (2011), Table 7.4 -> original source: Customs (2011)

(e) volume x value x 90% household share (PC 2011 assumption) + 2.5% customs duty

(f) volume x value x individual share (from a) + 30% parcel value for freight costs (PC 2011 assumption) + 2.5% customs duty

(g) 10% GST x [(e) + (f)]

The \$480 million PC estimate of potential GST revenue under a \$0 threshold is similar to the Treasury estimate of around \$460 million GST "revenue foregone" in 2010-11, as provided in its 2010 Tax Expenditures Statement (published January 2011).

Since the time of the analysis by the PC and Treasury in 2011, there has been a large increase in online retail sales and low value goods being imported into Australia. A report by the Australian Customs and Border Protection Service and the Department of Agriculture (2014) indicates that the volume of low value goods imported into Australia requiring a self-assessed clearance (those imported as air and sea cargo) had grown by around 35 per cent per year between 2011-12 and 2013-14 to a total of more than 27 million parcels. It appears that growth has slowed somewhat since then, with the National Australia Bank's latest *Online Retail Sales Index* (NAB 2016) indicating that year-on-year online retail sales growth had slowed to 10 per cent (compared to, for example, December 2011 year-on-year growth of 27 per cent).

The Centre for International Economics prepared a report in February 2016 (CIE 2016) that provided more up-to-date estimates of the average value and share of low value air cargo goods across the value ranges. Using this more up-to-date data and similar methodology/assumptions as in the PC 2011 analysis, KPMG has estimated the potential impact of the LVT on 2019-20 revenue collections.

Table 2: Low value consignments and mail items, 2019-20

Value range (\$)	Consignment value (% share) ^a		Volumes (millions)		Average value ^d (\$)	Value (\$ million)		GST applicable ^g (\$ million)
	Business/ other	Individual	International mail ^b	Air cargo ^c		International mail ^e	Air cargo ^f	
0-100	22.2	77.8	34.9	28.4	45.2	1,417	1,298	271
101-200	28.6	71.4	6.3	5.4	143.1	806	722	153
201-300	33.3	66.7	2.7	2.5	244.4	585	529	111
301-400	30.0	70.0	1.5	1.4	347.0	468	456	92
401-500	33.3	66.7	1.0	1.0	446.8	386	406	79
501-600	33.3	66.7	0.6	0.8	548.2	281	369	65
601-700	44.4	55.6	0.4	0.6	648.5	251	285	54
701-800	44.4	55.6	0.1	0.5	749.4	61	288	35
801-900	44.4	55.6	0.1	0.5	848.4	53	311	36
901-1000	50.0	50.0	0.1	0.4	943.8	59	255	31
			47.5	41.7		4,368	4,919	929

Sources/ assumptions:

(a) CIE (2016), p21

(b) PC (2011), Table 7.3

(c) ACBSPS & Dep't Ag (2014) estimate of "over 27 million" annual SAC parcels in 2013-14, grown by a conservative 7.5% over the following six years to 2019-20.

(d) CIE (2016), p21

(e) volume x value x 90% household share (PC 2011 assumption)

(f) volume x value x individual share (from a) + 30% parcel value for freight costs (PC 2011 assumption)

(g) 10% GST x [(e) + (f)]

It is estimated that non-business sales of low value imports (delivered through international mail and air cargo) will be around \$9.3 billion in 2019-20, up from around \$4.8 billion in 2010-11.

If full GST were collected on all non-business sales, this would be equivalent to around \$930 million additional GST in 2019-20.¹ This should be thought of as the maximum potential additional gross GST revenue available under a policy that removes the current \$1,000 import GST threshold.

The \$930 million estimate is of *all* potential GST revenue on low value imports in 2019-20. In line with the PC (2011) methodology, this estimate of \$930 million potential GST for all non-business parcels assumes that "no parcels contain goods exempt from GST or are addressed to exempt entities."^{2,3}

¹ This is almost double the 2011 PC estimate as a result of an estimated quadrupling in the number of air cargo parcels over the past eight years (extrapolated from growth to 2013-14 estimated by ACBPS & Dept Ag.) and a doubling in the average price in the \$0-\$100 category (as estimated by CIE 2016).

² PC (2011) Table 7.3, p181.

³ In calculating the final potential GST revenue from low value imports under alternative collection models (in the following sections), the collection rate applied includes an adjustment for any potential GST exemptions.

Step 2: GST import compliance

In the 2016-17 Budget, the Treasury estimated an additional \$130 million in 2019-20 associated with the abolition of the current \$1,000 GST import threshold. This assumed a model where the GST would be collected and remitted by a non-resident platform, redeliverer or supplier with a turnover of greater than A\$75,000 in Australia (a **“hybrid Vendor Model”**).

Around the same time, Treasury also estimated in its 2015 Tax Expenditures Statement (released January 2016⁴) that the foregone GST revenue in 2018-19 with a continued importation threshold of \$1,000 would be around \$480 million (with a Treasury classification of “Low” estimate reliability).

While these two estimates were provided in separate documents and it is not clear as to the exact assumptions applied by Treasury to estimate the additional GST revenue under the hybrid Vendor Model, it does appear that the Treasury is envisaging a relatively low collection rate compared to the base (for example, the rate implied by combining these Budget and Tax Expenditures figures is $130/480 = 27$ per cent).

The assumption of a relatively low collection rate for this type of model does not appear unrealistic. As a start, this model is designed to capture sales that pass through electronic distribution platforms, redeliverers and from non-resident vendors with a turnover in Australia of greater than A\$75,000. This means that any imported goods that are sent directly from small vendors will be excluded – immediately reducing the potential GST revenues.

In contrast, a model where the logistics companies collect GST on all parcels that they deliver means that it is these companies that are responsible for the collection and remittance of the GST (a **“Logistics Model”** as described by the Low Value Parcel Processing Taskforce in 2012). This is a model more aligned to that currently applied to large-value imports. That is, it moves to a model where the collection of GST is with those responsible for (and able to physically monitor) the movement of goods.

This is likely to lead to relatively higher compliance, closer to that currently observed by the Department of Immigration and Border Protection (with the current \$1,000 threshold in place). Customs and Border Protection (2011) undertook an audit of LVT compliance, where its officers randomly checked 33,000 mail items and 32,000 air and sea cargo items. They found that non-compliance was low – at 0.1 per cent in mail and 2 per cent in air and sea cargo.

While the Logistics Model relies on third parties (rather than the Department of Immigration and Border Protection) to collect and remit the GST, and on those people sending parcels to correctly represent the value of the parcel, it is unlikely that the actual collection rate under a Logistics Model would be as high (98-99.9 per cent compliance) as found in the Customs and Border Protection audit. However, a Logistics Model does benefit from some similar and important features: a physical and observed movement of goods and a base that includes all imported goods regardless of who is sending them.

Thus it is very likely that the collection rate under a Logistics Model will be higher than under a hybrid Vendor Model.

⁴ The 2015 Tax Expenditures Statement is the last one that provides an estimate for future revenue foregone from this threshold (for 2018-19).

Step 3: Potential revenue collections

The final gross GST collected from removal of the LVT on imports will depend on the collection or compliance rate achieved.

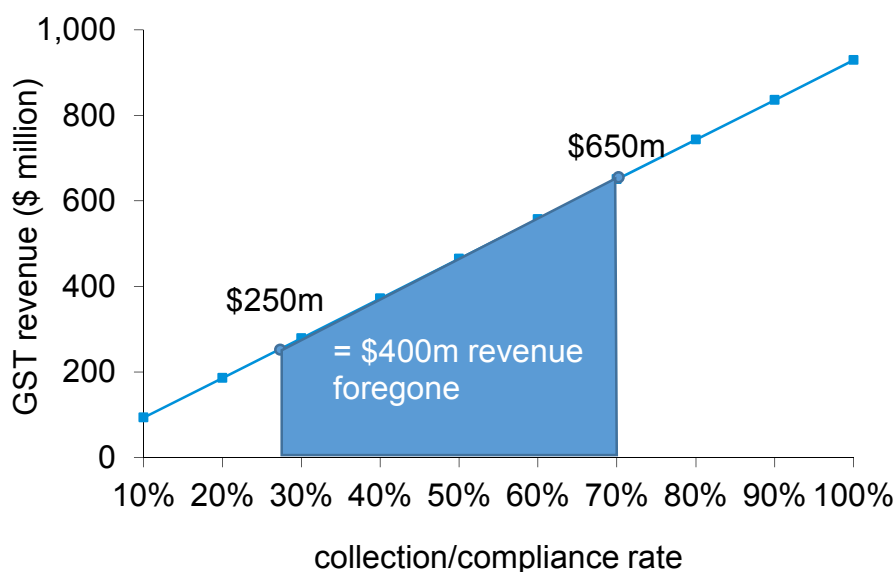
The chart below shows the different levels of revenue under alternative collection rates. As indicated on the chart, a collection rate of 27 per cent under a hybrid Vendor Model would give around \$250 million in additional gross GST revenue.

In contrast, a model that delivers a higher collection rate of, say, 70 per cent would lead to additional gross GST revenues of around \$650 million. Two points should be made to explain this estimate.

- The GST base calculated in Step 1 includes all non-business international mail and air consignments that enter Australia and there are likely some that would not attract GST (such as GST-free items) under the Logistics Model (this is consistent with other models, including the hybrid Vendor Model).
- Further, the compliance rate of 98-99.9 per cent for low value imports under the existing system was estimated by the Department of Immigration and Border Protection with the current threshold in place. Removing the current \$1,000 threshold and converting to a Logistics Model may lead to slightly lower compliance.

Taking these two factors into account has meant that we have applied a conservative 70 per cent collection rate under a Logistics Model. However, it should be noted that, at a collection rate above 70 per cent, the estimated revenue foregone from adopting the hybrid Vendor Model instead of the Logistics Model would be even greater than the figures discussed below.

Chart 1: Potential GST revenue under alternative collection rates, 2019-20



It is estimated that the achievement of a 70 per cent collection rate under the Logistics Model compared to 27 per cent collection rate under a hybrid Vendor Model could lead to large improvements in GST revenues for all states and territories.

Table 3: Potential GST revenue by State and Territory under alternative compliance rates, 2019-20

Collection rate	NSW	VIC	QLD	WA	SA	TAS	ACT	NT	Total
27 per cent	\$73m	\$58m	\$59m	\$8m	\$25m	\$9m	\$5m	\$13m	\$251m
70 per cent	\$189m	\$150m	\$153m	\$22m	\$65m	\$25m	\$12m	\$34m	\$650m
difference	\$116m	\$92m	\$94m	\$13m	\$40m	\$15m	\$8m	\$21m	

It is estimated that by moving from a hybrid Vendor Model to a Logistics Model and an associated increase in the collection rate from 27 per cent to 70 per cent could yield additional GST revenues to the states and territories of [\$650m - \$250m =] \$400 million per annum in 2019-20 prices.

Thus, even based on a conservative collection rate of 70 per cent, adopting the Logistics Model could result in an additional \$116 million in GST revenues for New South Wales, an extra \$92 million for Victoria and \$94 million for Queensland, and an additional \$40 million for South Australia, \$21 million for the Northern Territory, \$15 million for Tasmania, \$13 million for Western Australia and \$8 million for the Australian Capital Territory.

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Appendix E – Productivity Commission recommendations

The issue of whether to apply GST to LVIGs has been examined by a number of reviews in Australia.

The PC completed an extensive inquiry into the Australian retail industry and provided its report in November 2011 (the PC Report). This included a chapter on GST arrangements and their impact on Australian retailers.⁴⁹ Chapter 7 of the PC Report specifically addressed the “Appropriateness of current indirect tax arrangements” and made the following salient points.⁵⁰

- Because most imports are below the low value threshold (LVT) of \$1000, this distorts consumer choices in favour of overseas online retailers. However, the PC found that this was not the main factor affecting the international competitiveness of Australian retailers.
- Since GST is a broad-based consumption tax, the PC felt that the LVT should, in principle, be reduced to a low level to ensure tax neutrality. However, the costs of collecting additional revenues should be balanced against the gains from removing the distortion.
- Based on available data, the PC estimated that with parcel volumes and processing costs at that stage, removal of the LVT would have generated revenue of around \$480 million at a cost of well over \$2 billion, borne by businesses, consumers and government. Significant reductions in collection costs per parcel would have been required to generate positive outcomes.
- The PC pointed out that other jurisdictions, with lower thresholds, had put more effort into streamlining revenue collection and the collection of taxes at point of sale by some overseas online retailers. However, there was very limited published material describing the policy framework used in setting those thresholds, and little information about those jurisdictions’ assessment of the costs and benefits of different threshold levels.
- The PC suggested that the Government should establish a taskforce to develop a new approach, based on international best practice, to process parcels with the objectives of:
 - minimising delays in the delivery of parcels to businesses and consumers;
 - collecting taxes efficiently and passing on the collection costs to the consumer; and
 - accommodating the expected growth in the number of international parcels.
- The PC recommended that the costs and benefits of implementing new arrangements should be assessed.
- The PC indicated that the LVT should only be lowered if it could be demonstrated that it was cost-effective to do so, i.e. the costs of raising this additional revenue should be at least broadly comparable to the costs of raising other taxes.

Contained as part of its main “Recommendations”⁵¹, the PC made the following specific

⁴⁹ Productivity Commission (2011), above n 12, p 169.

⁵⁰ Ibid.

⁵¹ Ibid., p XL – XLIII.

recommendations relating to the “Appropriateness of current indirect tax arrangements”:

Recommendation 7.1⁵²

“There are strong in-principle grounds for the low value threshold (LVT) exemption for GST and duty on imported goods to be lowered significantly, to promote tax neutrality with domestic sales. However, the Government should not proceed to lower the LVT unless it can be demonstrated that it is cost effective to do so. The cost of raising the additional revenue should be at least broadly comparable to the cost of raising other taxes, and ideally the efficiency gains from reducing the non-neutrality should outweigh the additional costs of revenue collection.”

Recommendation 7.2⁵³

“The Government should establish a taskforce charged with investigating new approaches to the processing of low value imported parcels, particularly those in the international mail stream, and recommending a new process which would deliver significant improvements and efficiencies in handling. The taskforce should comprise independent members, with the Australian Customs and Border Protection Service (Customs), the Australian Quarantine and Inspection Service (AQIS), Australia Post and the Conference of Asia Pacific Express Carriers providing advice. The terms of reference should outline the criteria that any new system must satisfy including: minimising the costs of processing and delivery delays, streamlining the assessment of Customs Duty, user pays, and without compromise to the border protection functions of Customs and AQIS. This review should report to Government in 2012 and propose an expeditious timeframe for its proposed changes.”

⁵² Ibid., p XL.

⁵³ Ibid., p XLI.

Appendix F – Summary of the Low Value Parcels Processing Taskforce Recommendations

On 9 December 2011, in response to the PC's recommendation, the Government announced the creation of a taskforce to review options in relation to the LVT.⁵⁴ The Taskforce interim report was released in March 2012 and its final report was published in July 2012.⁵⁵

The Taskforce's terms of reference specifically stated that the Taskforce should be guided by Recommendation 7.1 in the PC Report ("Economic Structure and Performance of the Australian Retail Industry") i.e. there were strong in-principle grounds to lower the LVT exemption for goods and service tax (GST) and duty on imported goods when it is cost-effective to do so⁵⁶.

The Taskforce noted that the number of low value parcels entering Australia from online shopping was growing rapidly⁵⁷ and that this growth was putting pressure on the manner in which low value imported goods were handled and administered upon entry. At the same time, there were concerns about the fairness of current revenue arrangements, i.e. because imported goods valued at or below \$1,000 were generally not charged duty or GST, unlike domestic retail goods⁵⁸. The Taskforce referred to the PC's finding in its 2011 Report, namely, that there were strong in-principle grounds for reform to promote tax neutrality.

The Taskforce examined numerous potential solutions that could form part of a new approach for handling and administering low value goods⁵⁹. For this purpose, the Taskforce investigation developed a broad set of potential solutions based on an end-to-end view of import processes. The Taskforce used the following criteria⁶⁰ to evaluate the available options, namely cost, efficiency, implementation, competitive neutrality, risk, revenue impact and legislative impact. Regard was also given to Australia's interaction with the digital economy and Australia Post's profitability.

One of the potential solutions considered by the Taskforce was the collection of duty and/or GST by overseas suppliers⁶¹. The Taskforce also mentioned that, during the consultation process, the possibility of applying GST to financial intermediaries⁶² such as credit card providers was raised.

Based on the Taskforce's initial assessments, a new approach for handling and administering low value goods, including an option for revenue collection, was developed⁶³. It encompassed, as one of its core elements, *"permitting Australia Post, express carriers and other freight forwarders to charge*

⁵⁴ Shorten, B. (Minister for Financial Services and Superannuation and Minister for Employment and Workplace Relations), S Conroy (Minister for Broadband, Communications and Digital Economy), B O'Connor (Minister for Home Affairs and Justice) and N Sherry (Minister for Small Business), [New council to advise Government on future of sector](#), media release, 9 December 2011, <http://ministers.treasury.gov.au/DisplayDocs.aspx?doc=pressreleases/2011/166.htm&min=brsa&DocType=>, (accessed 1 April 2017).

⁵⁵ Treasury (2012), *Low Value Parcel Processing Taskforce Final Report 2012*, Commonwealth of Australia.

⁵⁶ Ibid., under "Terms of reference", p v.

⁵⁷ Ibid., p 29. The LVPPT pointed out (p 36) that a "... key driver of online sales from overseas retailers has been the difference in prices available from overseas retailers compared to those from traditional bricks and mortar retailers in Australia".

⁵⁸ Ibid., p 37 and p 87.

⁵⁹ Ibid., p 123.

⁶⁰ Ibid., p 127.

⁶¹ Ibid., p 140. The LVPPT noted the following regarding off-shore suppliers: "However, there is no obligation on an offshore supplier to register and remit GST or duty if they are not the importer... Amending legislation to allow a supply from an overseas supplier to an Australian resident to be subject to GST, regardless of the commercial terms would impose a legal obligation similar to domestic suppliers. However, as the supply would be from a foreign jurisdiction, compliance with Australian legislation will likely remain unenforceable.

⁶² Ibid., p 136.

⁶³ Ibid., p 176.

a handling fee for the costs of collecting any GST revenue.” With regard to revenue collection, the Taskforce stated that this model provided a foundation for possible reform, but it involved some complexities which either add cost or require alternative resolution, including a way to address goods that are GST free, and to compensate Australia Post, express carriers or freight forwarders for handling costs.

However, the above clearly indicates that the Taskforce envisaged the GST collection mechanism to be via Australia Post, express carriers and other freight forwarders⁶⁴ (i.e. the Logistics Model).

The Taskforce stressed that a critical element of the proposed reform pathway was the need to ensure appropriate stakeholder consultation. States and territories were particularly important. If GST were to apply to a greater volume of goods, the states and territories would directly benefit financially⁶⁵.

The Taskforce ultimately made 15 recommendations.

The following Taskforce Recommendation is, however, of particular relevance in relation to the Amazon Submission:

Recommendation 4.1⁶⁶

General

That reform to the handling and administration of low value goods, incorporating a new option to collect revenue, would best be achieved through the application of simplified GST assessment arrangements for low value imported goods between a separate low value GST threshold set above \$0 and below \$1,000. This would require modifications to existing processes, including:

- a) *reconfiguring the systems to enable data capture and the simplified assessment of GST through reporting and clearance processes in the cargo environment, pre-arrival data exchanged electronically by Australia Post and Customs and Border Protection and data manually captured by Australia Post in international mail gateways;*
- b) ***requiring Australia Post, express carriers and other freight forwarders to be responsible for collecting and remitting the revenue liability;***
- c) *permitting clearance of goods from licensed depots or the international mail gateways – on an opt in basis – prior to revenue liabilities being met (subject to financial guarantees being in place from the relevant cargo or postal entities). Entities would be permitted to incorporate their collection costs into any direct or indirect charges imposed on importers; and*
- d) *making ancillary changes to cater for increased numbers of business GST deferrals, more compliance activities and processing of claims with respect to GST exemptions.* (emphasis added)

⁶⁴ Ibid., p 207. The LVPPT specifically states: “With the role for revenue collection moving from Customs and Border Protection to express carriers, other freight forwarders and Australia Post, and taking into account the increasing volumes of low value goods which will need to be processed for revenue, there will be an increase in operating costs to these entities.” (emphasis added)

⁶⁵ Ibid., p 239.

⁶⁶ Ibid., under p 208.

Appendix G – Summary of the Gillard Government’s Interim Response to the Taskforce Report

Overview

The Government agreed in principle to the recommendation of a logistics model (recommendation 4.1). In summary:

- It did not make any comment on changing the model proposed;
- It agreed that a detailed business case, implementation plan and costing model are required to be prepared and approved prior to moving forward; and
- It noted that an Advisory Committee would be established with relevant stakeholders.

Background

The former ALP Federal Government announced its interim response to the Low Value Parcel Processing Taskforce Report on Monday 3 December 2012. The work of the Taskforce followed the 2011 PC Report into the retail sector.

As part of its response to the Taskforce⁶⁷, the Government rejected calls for an immediate reduction in the LVT, but said it would begin preparing business cases and possible implementation plans for reforms to low value parcel processing. The then Assistant Treasurer, David Bradbury, said a decision could not be made regarding the possible lowering of the threshold until these business cases and possible implementation plans for reforms to low value parcel processing had been prepared, and the costs associated with any possible changes had been determined. It was furthermore acknowledged that the threshold of \$1,000 at which GST was collected on low value parcels is “very high by international standards”.⁶⁸

The Government noted that (as the Taskforce already had made clear), there were no simple or quick solutions. Without greater efficiencies in the system, the cost to taxpayers of collecting GST on low value parcels would exceed the revenue collected. There was recognition for the fact that Australian consumers enjoyed the convenience and choice provided by online shopping and any tax advantage associated with the low value import threshold for GST, but this was not necessarily a decisive factor. It was pointed out that online retail sales, both domestic and overseas, still only accounted for around six per cent of overall retail sales. Whilst there has been strong growth in online retail sales, published data indicated that the majority of sales were made with domestic retailers, with online sales by international retailers accounting for less than 1.5 per cent of total Australian retail sales revenue.

Whilst the above was not the biggest challenge confronting the Australian retail sector, the Government did recognise that, on the basis of fairness and tax neutrality, Australian retailers should not be disadvantaged by taxation arrangements favouring overseas retailers.

It was also noted that, any additional GST revenue from a future lowering of the threshold would accrue to the states and territories, not the Commonwealth. The Government was planning, therefore, to undertake consultations with state and territory governments, to ascertain what

⁶⁷ Bradbury, D. (2012), *Interim Response to Low Value Parcel Processing Taskforce Report*, The Treasury, Australian Government, Media release No 152, <http://ministers.treasury.gov.au/DisplayDocs.aspx?doc=pressreleases/2012/152.htm&min=djba&DocType=>, (accessed 2 April 2017).

⁶⁸ Ibid.

funding they were prepared to commit, in case of a future decision to proceed with reforms enabling the lowering of the threshold.

The Government announced that its final response to the Taskforce Report, outlining the outcomes of the above-mentioned processes, would be released in 2013. [Note: Due to the Federal elections and subsequent change in Government no such final report was released.]

In relation to the actual Recommendations of the Taskforce, the Government's interim response was as follows:⁶⁹

Recommendation 4.1 of the Taskforce Report provided, *inter alia*:

"That reform to the handling and administration of low value goods, incorporating a new option to collect revenue, would best be achieved through the application of simplified GST assessment arrangements for low value imported goods between a separate low value GST threshold set above \$0 and below \$1,000. This would require modifications to existing processes, including"...

b) *requiring Australia Post, express carriers and other freight forwarders to be responsible for collecting and remitting the revenue liability;"*

The Government's specific response to Recommendation 4.1 was:

Agreed in principle

"The successful implementation of simplified GST assessment arrangements for low value imported goods will be critical to reducing the costs of import processing to a level where a reduction in the low value threshold is cost effective. As the recommendation points out, the reform proposals are only a guide for the direction of policy development and detailed business cases need to be prepared and approved before a final decision regarding any possible reforms can be made.

Consistent with this, a decision cannot be made regarding the lowering of the threshold until these business cases and possible implementation plans for reforms to low value parcel processing have been prepared, and the costs associated with any possible changes have been determined.

The Government will examine these proposals further and, as appropriate, develop business cases and possible implementation plans in consultation with relevant stakeholders, including the Retail Council of Australia, Australia Post and CAPEC. Appropriate committee arrangements will be established in order to progress this work."

⁶⁹ Australian Government (2012), *Interim Response to the Low Value Parcel Processing Taskforce Report – Regulation Impact Statement – Treasury*, Commonwealth of Australia, Canberra.

Appendix H – Summary of the Gillard Government’s Regulation Impact Statement

Overview:

The stated *Regulation Impact Statement (RIS)* objective was to broadly follow Taskforce recommendations. In summary:

- The RIS makes observations on costs, changes to the mail system and customs system to allow for access to pre-arrival information.
- There are no deviations to the Logistics Model proposed. Rather, the RIS proposes that the recommendations of the Taskforce are further developed through the Advisory Committee. The Committee was to consider the technical and physical changes to the customs and mail systems and to provide a final report to Government in 2013 in order for the Government to provide its final response to the Taskforce report.

Background

The former ALP Government announced its interim response to the Taskforce Report in December 2012⁷⁰.

A Regulation Impact Statement (RIS)⁷¹ was subsequently prepared to consider the Government’s interim response to the Taskforce’s final report, which had undertaken a comprehensive investigation of low value import processing, particularly in the international stream.

The RIS stated that the purpose of the low value threshold was to reduce administrative and compliance costs for importers and Customs and Border Protection. If tax was assessed and collected on goods valued below the threshold, importers, including consumers and small businesses, would incur a significant compliance burden under current arrangements. There would also be a significant cost to Government agencies which would outweigh the revenue collected. However, the effect of the threshold was that significant revenue, particularly GST revenue, was forgone. Furthermore, Australian suppliers of goods were placed at a competitive disadvantage. It was foreseen that the anticipated gains in online shopping would exacerbate the afore-mentioned problems⁷².

The RIS mentioned that the PC in its examination of the threshold (2011, at p. 188-191) took into consideration the fundamental principle and objective of tax policy, which was to raise revenue in a manner that minimised costs to the community. One such cost was market distortion which occurred through tax being applied differently to similar transactions. At the margin, less efficient suppliers, not subject to tax, would be preferred over more efficient suppliers that were subject to tax. Applying this reasoning, the PC described the low value threshold as a reverse tariff that distorted resource allocation in favour of international retailers over domestic ones⁷³.

The RIS contains a synopsis of the Taskforce Report⁷⁴. It also undertook an analysis of the size and scope of the markets⁷⁵ and stated that, at the most basic level, the threshold makes goods valued under \$1,000 imported from overseas cheaper than equivalent goods purchased domestically. This largely resulted from the lack of application of GST to goods imported by consumers and

⁷⁰ On 3 December 2012 the Australian Government announced its interim response to the LVPPT’s report.

⁷¹ Australian Government (2012), Interim Response to the Low Value Parcel Processing Taskforce Report – Regulation Impact Statement – Treasury, Commonwealth of Australia, Canberra.

⁷² Ibid., par. 4 and 5.

⁷³ Ibid., par. 8.

⁷⁴ Ibid., par. 16 – 20.

⁷⁵ Ibid., par. 21 – 24.

unregistered businesses⁷⁶. The RIS did acknowledge though, that differences in price between Australian and foreign sellers were often in excess of the difference accounted for by the threshold. Accordingly, the low value threshold was just one factor, of many, affecting price differentials. The impact of the threshold may well be outweighed by other factors⁷⁷.

It was stated that the desired objective of the RIS proposals was to ensure that low value import processing was as cost-effective as possible without increasing the border risk faced by Australia. If it was possible to make sufficient reductions to the cost of processing this might facilitate lowering the low value import threshold. The appropriate level of the threshold would be driven by the design of the border processing system and should support the design principles of Australia's tax and transfer system of equity, efficiency, simplicity, sustainability and policy consistency.⁷⁸

The RIS investigated a range of options for achieving the desired objective⁷⁹. One option was to retain the status quo⁸⁰. The RIS also undertook an extensive examination of the option to implement the Taskforce's recommendations⁸¹. In relation to the last-mentioned option, it was specifically mentioned as a benefit for business that, while not the main factor affecting the retail industry, any future lowering of the threshold would reduce the effect of the reverse tariff harming domestic retailers and, thereby, make the competitive environment more even. That would be achieved through the narrowing of price differentials between local and foreign purchased goods. Ultimately, such a change would improve the equity of Australia's tax system by ensuring a more equal tax treatment between similar goods⁸².

The RIS expressly stated that, should the Government authorise Australia Post, express carriers and other freight forwarders to collect and remit GST on imports, cost recovery arrangements to meet their administrative costs would require consideration.⁸³

The RIS concluded:⁸⁴

“Implementation of the recommendations of the Taskforce would proceed if it allowed for more cost-effective processing of low valued imports and these lower costs would enable a reduction in threshold. Whilst retaining the status quo is an acceptable way of achieving the desired objective, the alternative option would improve over the status quo by increasing the efficiency of border processing whilst better support the design principles of Australia's tax and transfers system.”

In its Conclusion and recommended option,⁸⁵ the RIS stated, *inter alia*:

“The recommended option is to implement recommendations of the Taskforce and reassess the threshold in the future. The Taskforce recommendations are for changes to be made to the way which low value imported goods are processed, including new revenue collection mechanisms. The main elements of the Taskforce's proposed reform are:

⁷⁶ Ibid., par. 25.

⁷⁷ Ibid., par. 27 and 28.

⁷⁸ Ibid., par. 32.

⁷⁹ Ibid., par. 33 – 39.

⁸⁰ Ibid., par. 40 – 60.

⁸¹ Ibid., par. 61 – 103.

⁸² Ibid., par. 69.

⁸³ Ibid., par. 84.

⁸⁴ Ibid., par. 96.

⁸⁵ Ibid., par. 118 – 133.

- *increasing the use of electronic pre-arrival data to assess revenue and border risk;*
- *separating the thresholds for GST and duty;*
- *altering the basis for the calculation of GST on low value imports;*
- *automating the process for assessing revenue liabilities and notifying the recipient;*
- *allowing Australia Post and other carriers to be responsible for revenue collection and payment, possibly charging a fee for doing so; and*
- *allowing goods to move out of the international mail gateway prior to the payment of revenue liabilities.*

These elements would be considered in detailed business cases and implementation plans developed by the Government, followed by a final response to the Taskforce's report in 2013".⁸⁶

The RIS warned that there were two main obstacles in implementing the proposed reform. These were if the business cases and implementation plans did not yield a system that allowed for a cost-effective implementation of the Taskforce's recommended system, and if the provision of electronic pre-arrival data was significantly delayed.⁸⁷

The RIS finally proposed that recommendations of the Taskforce should be further developed by an advisory committee which would develop business cases for the reforms.⁸⁸

⁸⁶ Ibid., par. 118.

⁸⁷ Ibid., par. 128.

⁸⁸ Ibid., par. 133.

Appendix I – Summary of the four models reviewed by the OECD

In September 2013 the Organisation for Economic Cooperation and Development (OECD) and G20 countries adopted a 15-point Action Plan to address base erosion and profit shifting (BEPS). Action 1 addressed the tax challenges of the digital company and when the action concluded in 2015, a Final Report⁸⁹ (the Report) was issued containing an Annex⁹⁰ with possible approaches for a more efficient process for collection of GST on LVIGs.

The OECD and G20 countries identified four broad models for collecting GST on LVIGs:

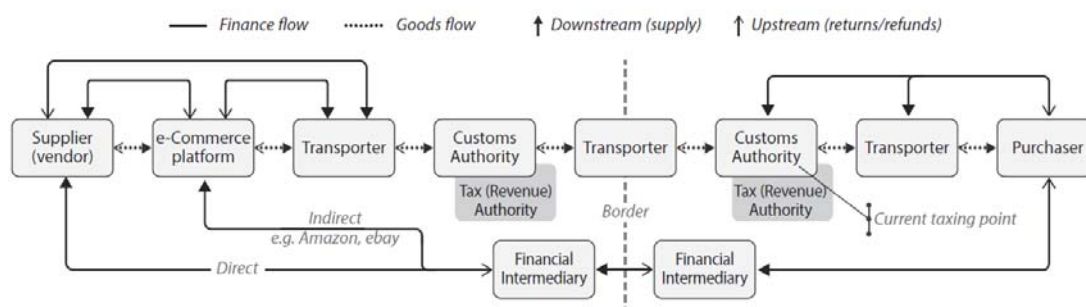
- The Traditional Collection Model;
- The Purchaser Collection Model;
- The Vendor Collection Model; and
- The Intermediary Collection Model.

The Report emphasised that national policy decisions and specific circumstances would determine which model was appropriate for each country. The Report also suggested that a combination of models might be suitable and that OECD and G20 countries should work together to ensure consistent and co-ordinated enforcement measures.⁹¹

1) The Traditional Collection Model⁹²

The Report’s Traditional Collection Model is equivalent to the current Australian model for goods with a value of over \$1,000, whereby the Department of Immigration and Border Protection (DIBP) would be responsible for collecting GST on low value goods prior to release from customs control. The OECD reasoned that new advances in technology, such as electronic pre-arrival declaration and assessment systems, could streamline the Traditional Collection Model and allow for the removal of *de minimis* thresholds. However, the Report concluded that these systems are still under development and that as result, the Traditional Collection Model was not an efficient model for collecting GST on imports of low value goods in the near term.⁹³

Figure C.2. Traditional Collection Model⁹⁴



⁸⁹ OECD (2015), *Addressing the Tax Challenges of the Digital Economy, Action 1 - 2015 Final Report*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris.

⁹⁰ *Ibid.*, Annex C.

⁹¹ *Ibid.*, p 208, par 121-124.

⁹² *Ibid.*, p 195-196, 206.

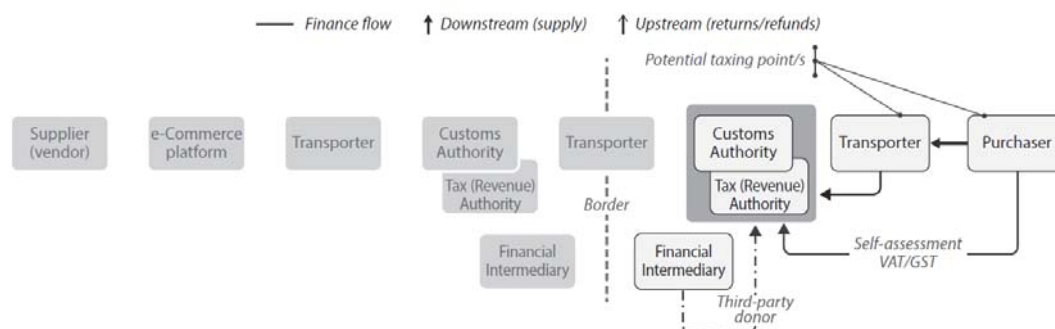
⁹³ *Ibid.*, p 195.

⁹⁴ *Ibid.*, p 206, para 111.

2) The Purchaser Collection Model⁹⁵

Under this model, the Report stipulated three possible options whereby a purchaser would be required to self-assess and pay GST on LVIGs they purchase through a purchaser pre-registration system providing real-time purchaser self-assessment on delivery or post-release purchaser self-assessment. However, the OECD concluded that any Purchaser Collection Model would be unlikely to provide a robust solution for efficient collection of GST as it would require the development and implementation of an entirely new administrative process and information technology system.⁹⁶

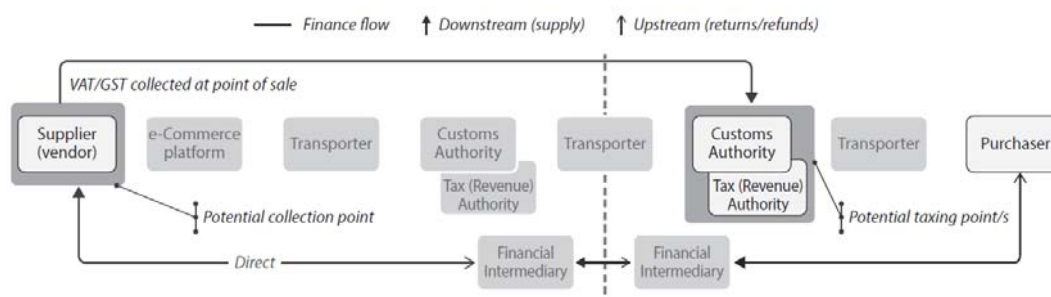
Figure C.3. Purchaser Collection Model⁹⁷



3) The Vendor Collection Model⁹⁸

The Report’s Vendor Collection Model places the obligation to collect and remit GST on non-resident vendors who would be required to collect GST at the point of sale and include GST in the purchase price. The Report recognised the compliance pressures this would place on the vendors and the difficulties in ensuring compliance by non-resident vendors. To encourage compliance by non-resident vendors the Report suggested a simplified GST registration and compliance regime with fast-track processing as well as a bulk-shipper scheme where vendors would only have to lodge one import declaration for low value consignments that were shipped together. The Report concluded that a Vendor Collection Model could improve the efficiency of GST collection on LVIGs if it were complemented by these risk assessment methods.

Figure C.4. Vendor Collection Model⁹⁹



⁹⁵ Ibid., p 196-197, 206.

⁹⁶ Ibid., p 206.

⁹⁷ Ibid., p197.

⁹⁸ Ibid., p 197-201.

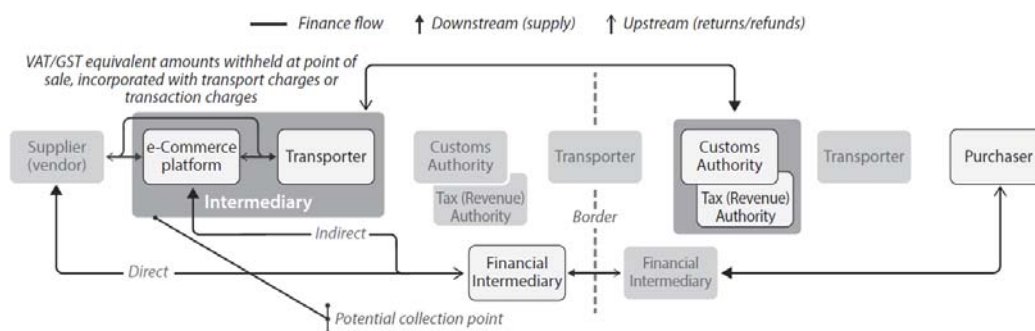
⁹⁹ Ibid., p198.

4) The Intermediary Collection Model¹⁰⁰

The Report’s Intermediary Collection Model envisaged transferring the liability to collect and remit GST from non-resident vendors to different types of intermediaries:

- A. Collection by postal operators – GST liability could be transferred from a postal operator in the export jurisdiction to the postal operator in the jurisdiction of importation. The report stressed that this option would need to be supported by the use of electronic collection and transmission processes which may not be available in the short term.
- B. Collection by express carriers and freight forwarders – Given the important role express carriers and freight forwarders already play in the collection of taxes and duties on the importation of goods into many countries, and the electronic data collection and transmission systems that they already have in the place, the Report suggested that express carriers and freight forwarders could readily be made accountable for GST collection and remittance at importation.
- C. Collection by e-commerce platforms – Under this option, e-commerce platforms that provide a trading framework for vendors but that are not parties to the commercial transaction would collect and remit GST on behalf of the vendor (the Platform Model). The Report stated that e-commerce platforms have access to the necessary information based on the information that is provided to them by vendors.
- D. Collection by financial intermediaries – The Report considered placing the liability for remitting GST on payment providers but concluded that they were not already collecting the relevant information and that this was not a good collection model since it would involve deep changes in data collection processing of financial intermediaries.

Figure C.5. Intermediary Collection Model¹⁰¹



The Report assessed its models against six criteria, derived from the Ottawa Taxation Framework:

- **“Neutrality:** Taxpayers in similar situations carrying out similar transactions should be subject to similar levels of taxation;
- **Efficiency of compliance and administration:** Compliance costs for taxpayers and administrative costs for tax authorities should be minimised as far as possible;

¹⁰⁰ Ibid., p 201-205, 207-208.

¹⁰¹ Ibid., p202.

- **Certainty and simplicity:** *The tax and duty rules should be clear and simple to understand, so that taxpayers can anticipate the tax/duty consequences in advance of the transaction, including knowing when, where and how the tax/duty is to be accounted for;*
- **Effectiveness:** *The reduction/removal of the exemption threshold so that the right amount of tax is collected in the right place (i.e. country of importation where the goods are consumed);*
- **Fairness:** *The potential for tax evasion and avoidance (e.g. undervaluation and mis-description) should be minimised (while keeping counteracting measures proportionate to the risks involved);*
- **Flexibility:** *The systems for the taxation should be flexible and dynamic to ensure that they keep pace with technological and commercial developments.*¹⁰²

The OECD’s assessment of these models against these criterion is summarised below:¹⁰³

Collection Model	Neutrality	Efficiency	Certainty / Simplicity	Effectiveness	Fairness	Flexibility
Traditional	Low	Low	Medium	Medium	Low	Medium
Purchaser	Low	Low	Low	Low	Low	Low
Vendor	Medium	Low	Medium	Low	Medium	Medium
Vendor (simplified regime)	Medium	Medium	High	Medium	Medium	Medium
Intermediary (postal operators)	Medium	Medium	Medium	Medium	Medium	Medium
Intermediary (express carriers)	Medium	Medium	High	High	Medium	Medium
Intermediary (e-commerce)	Medium	Medium	Medium	Medium	Medium	Medium
Intermediary (financial intermediaries)	Medium	Medium	Low	Low	Medium	Medium

¹⁰² Ibid., par 52.

¹⁰³ Ibid., p 210-217.

The **Intermediary Collection Model – express carriers** received a **High** rating for **Certainty/Simplicity** because *“express carriers already have systems in place for declaring/paying import GST.”*¹⁰⁴

This model also received a **High** rating for **Effectiveness** because carriers *“already use electronic procedures and could relatively easily switch to this model to collect VAT/GST on imports of low value goods. Electronic processes will support more effective audit strategies based on computer-assisted auditing using electronic records.”*¹⁰⁵

The **Vendor Collection Model** received a **Low Efficiency** rating as the model *“May involve significant burdens for non-resident vendors of having to register and account for tax in every country to which export to, in the absence of simplified registration and compliance mechanism. This may create a disincentive for small operators to comply. Some suppliers may also decide not to supply to smaller markets.”*¹⁰⁶

The **Vendor Collection Model** received a **Low Effectiveness** rating because it *“May not be attractive (not effective) for businesses without a fast-track process. This approach relies on self-compliance by the vendors. In the absence of a fall-back rule, non-compliance could significantly reduce revenues.”*¹⁰⁷

¹⁰⁴ Ibid., p215.

¹⁰⁵ Ibid., p216

¹⁰⁶ Ibid., p213

¹⁰⁷ Ibid., p214

Appendix J – The EU’s approach to removing its equivalent of an LVIG exemption

A common Value Added Tax (VAT) system applicable in all EU Member States was established in 2006.¹⁰⁸ The thresholds applied by members of the EU are guided by a Council Directive. It requires Member States to exempt goods of a total value not exceeding €10, but allows them to grant exemption for goods valued at between €10 and €22 depending on the country.¹⁰⁹ Thresholds within the EU only affect parcels entering EU countries from outside the EU. Duty is not applicable on the movement of goods within the EU and other arrangements have been made to deal with collection of VAT on cross-border transactions. Implementation of the EU directive is left to individual countries.

The VAT payable on imports into the EU may be, but is not necessarily, included in the overall price paid to the seller. If the VAT is included in the overall price, the recipient will be pay VAT to the seller at the time of sale. If the VAT is not included in the price paid to the seller (which is the common situation), the recipient will pay the VAT to either the postal company or courier that is responsible for delivery, or directly to the customs if the goods are cleared at customs by the recipient. In the latter case, the procedure differs according to the country. If the import VAT is not properly estimated by the seller, or if the seller fails to ensure the transfer of this VAT amount to the customs, national legislation can hold the recipient and seller jointly liable.¹¹⁰

Following a 2014 *Report on Taxation of the Digital Economy*,¹¹¹ the European Commission announced its strategy for an EU ‘digital single market’.¹¹² The strategy included a proposal to remove the VAT exemption for the importation of small consignments from suppliers in non-EU countries.¹¹³ This proposal was then included as an action in an April 2016 *Action Plan on VAT*.¹¹⁴ On 1 December 2016 the European Commission released a *VAT Digital Single Market Package*¹¹⁵ confirming that it was committed to the removal of the small consignment exemption.

In order to collect VAT on small consignments, the EU is now in the process of developing a collection model whereby non-EU sellers will register with an electronic system and designate an EU

¹⁰⁸ The Council of the European Union (2006), Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, Official Journal of the European Union, Brussels.

¹⁰⁹ The Council of the European Union (2009), Council Directive 2009/132/EC of 19 October 2009 determining the scope of Article 143(b) and (c) of Directive 2006/112/EC as regards exemption from value added tax on the final importation of certain goods, Official Journal of the European Union, Brussels.

¹¹⁰ European Commission (2017), Buying Goods Online Coming From Non-EU Union Country, http://ec.europa.eu/taxation_customs/individuals/buying-goods-services-online-personal-use/buying-goods/buying-goods-online-coming-from-a-noneu-union-country_en, (accessed 8 April 2017).

¹¹¹ European Commission (2014), Commission Expert Group on Taxation of the Digital Economy, Taxation and Customs Union, Brussels.

¹¹² European Commission (2015), Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - A Digital Single Market Strategy for Europe, COM(2015) 192 final, European Commission, Brussels.

¹¹³ *Ibid.*, 8-9.

¹¹⁴ European Commission (2016a), Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on an action plan on VAT - Towards a single EU VAT area - Time to Decide, COM(2016) 148 final, European Commission, Brussels.

¹¹⁵ European Commission (2016), Commission proposes new tax rules to support e-commerce and online businesses in the EU, Press Release, IP/16/4010, European Commission, Brussels.

intermediary to deal with VAT-related compliance.¹¹⁶ The electronic system will build upon an existing EU run VAT ‘mini One Stop Shop’ (MOSS) which allows ‘taxable persons supplying telecommunication services, television and radio broadcasting services and electronically supplied services to non-taxable persons in Member States in which they do not have an establishment to account for the VAT due on those supplies via a web-portal in the Member State in which they are identified.’¹¹⁷

This new electronic system will be called the ‘One-Stop Shop’ (OSS) and will extend the MOSS concept to cover online supplies of goods, all cross-border services to end consumers and, other imports.¹¹⁸ The lead time to allow for the expansion of this system is expected to be 4 years with all goods bought online by EU consumers from sellers outside the EU expected to be covered by OSS and subject to VAT by 2021.¹¹⁹ Where the OSS is not used, it is expected that VAT will be collected from customers on importation and that a simple monthly declaration to customs will be transmitted by the relevant postal company or courier.¹²⁰

¹¹⁶ European Commission (2016c), *Modernising VAT for e-commerce: Questions and Answers*, Fact Sheet, MEMO/16/3746, European Commission, Brussels.

¹¹⁷ European Commission (2013), ‘Guide to the VAT mini One Stop Shop’.

¹¹⁸ European Commission (2016e), VAT Digital Single Market Package (1 December 2016), ‘Overview’, https://ec.europa.eu/taxation_customs/business/vat/digital-single-market-modernising-vat-cross-border-ecommerce_en, (accessed 2 April 2017).

¹¹⁹ European Commission (2013), n 144.

¹²⁰ VAT Digital Single Market Package, Above n 118.



Appendix K – Amazon and United States Sales Tax

Amazon has been asked by Australian officials why we consider the hybrid Vendor Model a problem from an operational and compliance perspective, when we already administer sales taxes on transactions made using our marketplaces across the US States. We appreciate on face value that these may seem similar, but there are important differences, as laid out below:

Amazon.com approach to US State Taxes	Hybrid Vendor Model Requirements
As of April 1st, Amazon collects US sales and use taxes on Amazon retail sales (i.e. where Amazon is the seller) in all of the 45 states that impose such tax	Requires Amazon to collect taxes on sales where Amazon is the seller AND where the seller is a third party on Amazon’s platform.
Amazon is not legally required to collect US sales and use taxes on behalf of third-party sellers listing on Amazon.com in those same states.	Requires Amazon to collect taxes on sales where the seller is a third party.
Amazon offers an optional, self-service sales and use tax calculation service to third-party sellers on our platform. Participating sellers have the ability to configure their own tax settings within the service, and have taxes applied automatically to their transactions in accordance with their own tax collection obligations.	Amazon is principally liable for collecting and remitting taxes where the seller is a third party. Amazon is also responsible for calculating the taxes payable on third party goods that we haven’t sold and may not even handle (and which may be shipped directly by the third party seller to the buyer).
Taxes collected on third-party seller transactions are remitted directly to the sellers, and the sellers are individually responsible for reporting and remitting those taxes directly to the taxing authorities.	Amazon is responsible for reporting and remitting taxes payable on third party transactions directly to the taxing authorities.
Amazon calculates US sales and use taxes (and in some cases manages collection and remittance) for a single national jurisdiction.	The hybrid Vendor Model requires Amazon to enable calculation of GST for every product category, from potentially every jurisdiction in the world, and to then enable collection and remittance of GST from potentially every jurisdiction in the world.

Appendix L – Who is Amazon?

Founded in 1994, Amazon is a retail and technology company with principal offices in Seattle, Washington. Amazon is guided by four principles: customer obsession rather than competitor focus, passion for invention, commitment to operational excellence, and long-term thinking. Customer reviews, 1-Click shopping, personalized recommendations, Prime, Fulfillment by Amazon, Amazon Web Services, Kindle Direct Publishing, Kindle, Fire tablets, Fire TV, Amazon Echo, and Alexa are some of the products and services pioneered by Amazon.

Amazon serves Australian customers through its global websites including www.amazon.com.au. There are thousands of small and medium-sized Australian businesses currently sell their products to Amazon customers around the world via Amazon Marketplaces and thousands of independent Australian authors have published books via our Kindle Direct Publishing service. Amazon Web Services provides Australian businesses – from startups to established enterprises – access to virtually unlimited compute power, storage, and other IT resources, making it faster and less expensive to launch and grow new businesses.



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