

The Treasury Laws Amendment (GST Low Value Goods) Bill of 2017

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The Bill is intended to have the admirable objective of levelling the playing field between local bricks and mortar style retailers and e-traders who are essentially bringing products from overseas to local consumers. The quite legitimate gripe of the local bricks and mortar retailers has been that there is an unfair competitive advantage in relation to goods of value of less than \$1,000 which are imported into the country where no goods and services tax applies as compared to the provision of the same type of product by local retailers where clearly GST is applicable.

The Tax Institute broadly agrees with the sentiment driving the change but we have a number of problems with the way in which this is to be implemented and this includes most particularly the following:

- A. The time frame is absurdly short with a projected start date of 1 July 2017. Importers who need to gear up for this change will quite rightly do nothing in advance of the change being legislated, so effectively they are being provided with a six-week window to put their systems in order.

From the information which we have, it is almost certain that the implementation time will be at least six months and in many instances more likely to be twelve months.

The Tax Institute supports a deferral of the start date to 1 January 2018.

- B. With some exceptions the broad structure of the legislation is to impose the tax on the vendor who is selling the product. In theory this is the correct outcome but the practical reality is that many of these vendors will have little or no presence in Australia and consequently have little or no real incentive to comply with the law. It is unlikely that anybody other than the larger offshore retailers who have a significant reputation to protect are likely to comply. This in its own way creates an unlevel playing field with complying offshore retailers and non-complying offshore retailers.
- C. One exception that I refer to above relates to what are called electronic distribution platforms which would cover organisations such as eBay and Amazon. In such cases the amending Bill will ensure that where a supply is made through such a platform in respect to an offshore supplier of low value goods, ultimately the effect will be that the GST liability will sit with the electronic distribution platform (i.e. eBay or Amazon). In other words, the electronic distribution platform itself will be liable for any unpaid GST even though they have never collected the face value of the underlying transaction.

Imagine a foreign vendor selling a product via eBay for \$100 in circumstances where GST is not added to the transaction when it should have been. This could arise for example if eBay in the given example incorrectly assumes that the product in question is for whatever reason in the GST-free category. eBay would expect a fee for its service and this is likely to be a fraction of the overall consideration in respect of the underlying transaction. Let's assume that eBay collects \$5.

Upon audit when the error is discovered, eBay will be responsible for the payment of GST to the government of \$9.10 being 1/11th of \$100.00. In other words, eBay is up for GST of \$9.10 in circumstances where the amount collected for the services it provided is \$5. No wonder eBay is threatening to close down all such operations in Australia if it is going to face such an absurd potential outcome.

Again I repeat that The Tax Institute is supportive of the underlying principle but the manner and timing in which this is taking place is simply unacceptable.