

Tax by the megabyte

New Zealand's GST in our digital economy

*What you need to know
about GST reform and
offshore online purchases*

18 August 2015



Overview – New Zealand moving in line with international best practice

The debate on GST and offshore online purchases is a fascinating one. New Zealand has a GST model that is regarded globally as the 'best in class'. In recent times the main challenge has been how to address GST and the digital economy. Specifically, the issue is how to design rules to tax online purchases of goods and services from offshore sellers by New Zealand consumers who are not registered for GST (ie online business-to-consumer (B2C) transactions).

As widely anticipated the Government has today released a discussion document on the GST treatment of digital products and other **services** purchased online by New Zealand consumers. The analysis in the discussion document is based on the OECD guidelines for the taxation of cross-border intangibles and services (eg music, movie and game downloads).

In relation to imported **goods**, the Government has indicated that various challenges exist to devising a solution for low value goods imports (covered by the current so-called \$400 threshold or the minimum duties/taxes \$60 concession). Although the goods solution is expected to take more time, work is progressing on a solution for collecting duty/GST on imported goods in the most efficient way.

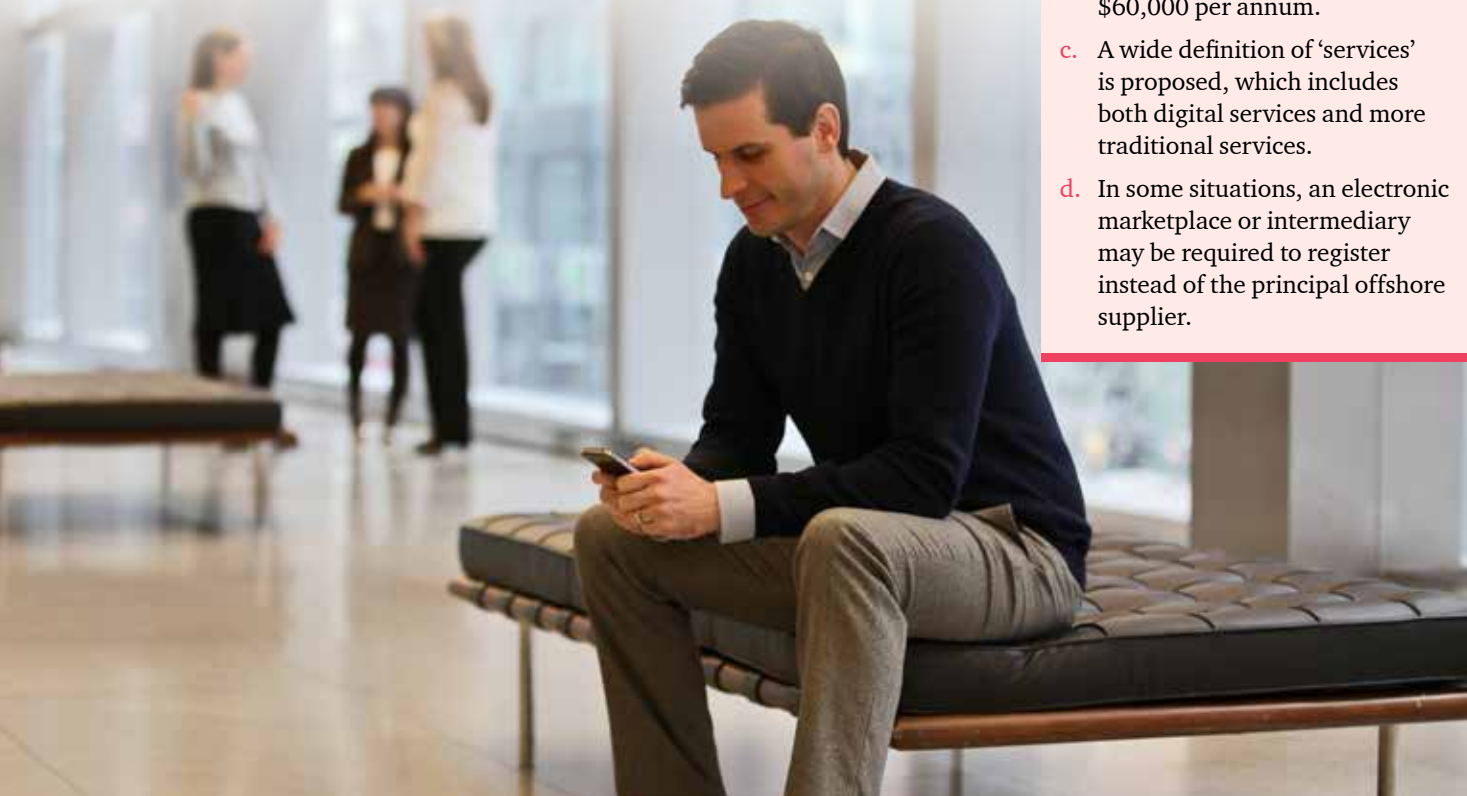
We welcome the release of the discussion document. It demonstrates that our Government and policy makers have a desire to keep our GST model current for the digital economy. This is in line with recent OECD guidelines and developments in Australia, Europe, Japan, South Korea and South Africa. The document also addresses matters of sound tax policy, tax leakage (estimated at \$180 million per annum and growing) and fairness. The measures will go a long way to ensure that consumption in New Zealand is taxed in the same way as domestic purchases of goods and services.

The discussion document will affect many businesses and consumers. We encourage interested parties to consider making submissions – the closing date for the submission of comments is **25 September 2015**.

Proposals in relation to remote services

Key points

- a. Services and intangibles supplied remotely by an offshore supplier to New Zealand-resident consumers will be treated as performed in New Zealand and therefore subject to GST.
- b. Offshore suppliers will be required to register and return GST if their supplies of services to New Zealand-resident consumers exceed a given threshold in a 12-month period. Submissions are sought on the value of that threshold. There are pros and cons for a threshold lower than the current GST registration threshold of \$60,000 per annum.
- c. A wide definition of 'services' is proposed, which includes both digital services and more traditional services.
- d. In some situations, an electronic marketplace or intermediary may be required to register instead of the principal offshore supplier.



The proposals are suggesting a simplified GST registration process for affected offshore sellers. Various options are covered and one such option is a 'pay only' GST registration with regular two-monthly filing to make compliance easier.

To make it easier to identify NZ customers the offshore sellers will be able to rely on proxy information already held in relation to their customer (eg billing address, IP address). This should help reduce compliance costs.

For services that *could* be received by a GST-registered NZ customer or an unregistered customer, a default rule is proposed that will impose GST unless the NZ recipient can provide their IRD number to the offshore seller.

Many offshore online purchases are made via intermediaries or distributors (eg an app developer may make their app available on a mobile app store). The proposals suggest new rules - based on a series of tests about the purchasing process - to shift the GST collection burden away from the supplier (or contractual offshore seller) onto the intermediary in the supply chain. This will capture most online (or electronic) marketplace arrangements. There will be some exceptions from the proposed intermediary rules. Care is required in this area because the EU experience of taxing intermediaries is that there has been significant confusion as to the scenarios in which the primary supplier is liable for VAT and those in which the intermediary is liable.

Our initial observations are:

- a. A commencement date for the new rules has not been provided as this will depend on both the submission process and the legislative process. Many offshore businesses have indicated they will require at least nine months to implement the necessary changes. Affected businesses will need to start thinking about systems changes, pricing issues and customer interactions sooner rather than later.
- b. Offshore businesses have indicated a desire to comply with the new rules provided that GST registration and compliance are relatively straightforward. It is possible that New Zealand and Australian officials will work together on certain administrative aspects (eg registration thresholds and return periods) to ensure that the trans-Tasman approach is as consistent as possible.
- c. There are likely to be implementation issues regarding requesting information from customers about their New Zealand residency and GST registration status. The proxy rules referred to above are a step in the right direction. The process needs to be smooth - any extra steps in the online purchasing flow are likely to negatively impact the customer experience.
- d. The main design issues concern the types of services that are covered by the rules and the taxation of intermediaries (in relation to the latter there is a need to ensure that only one GST impost arises in a supply chain).
- e. It is pleasing to see the existing GST exemptions and zero-rating treatments will be preserved.
- f. The GST Act applies a 'net value' approach to certain transactions such as gambling and insurance. Special rules may be required here and the discussion document recognises this.
- g. It will be important to consider the overlap between the proposed rules and the existing reverse charge (on imported services).
- h. The proposed new rules are extremely broad. They will cover supplies of digital products and other services imported by consumers, such as streaming or downloading of movies, music, apps, games, e-books as well as other services such as consultancy and professional services. In essence any services that can be purchased on the internet.

Submissions are sought in relation to excluding business-to-business (B2B) supplies. The international best practice is to exclude B2B supplies. We expect New Zealand will ultimately reach this position and seek to apply any new GST rules to B2C transactions.

The discussion document is a comprehensive document with a very useful analysis of the issues, options and the international landscape. We expect Inland Revenue will work with businesses in the lead-up to any new GST law to assist in this process and to gain an understanding as to what information businesses routinely collect from their customers in the course of their normal business activities.

PwC will be consulting with Officials in relation to the introduction of any new GST rules.



Proposals in relation to goods

The solution for low value goods imports raises different challenges and more complex dimensions. Imported services do not involve the clearing of physical goods at the border so the challenge for imported goods is:

How do we assess and collect duty and GST at the border on millions of low value goods parcels?

The current minimum duties/taxes concession is set at \$60 (or goods price ranging between \$225 - \$400). Historically, this concession recognises that the cost of collecting taxes may exceed the actual tax collected. It's a concession designed to achieve the balance between tax integrity (ie taxing like with like) and efficiency of tax collection.

The discussion document recognises the challenge with low value goods imports. The document indicates that the Government is considering a range of options including efficiency issues and how the collection of tax on low-value goods can be improved. In the end a combination of solutions may be required.

It is indicated that Officials will report to Ministers by October this year. A consultation paper on low-value goods is expected to follow on the GST treatment of low-value goods imports.

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