



SUBMISSION - Treasury Laws Amendment (2017 Measures No. 1) Bill 2017: Low value imported goods

FTA & SUBMISSION SCOPE

Freight & Trade Alliance (FTA) Pty Ltd is Australia's leading representative body for the international supply chain sector bringing together importers, customs brokers, freight forwarders and logistics service providers. A listing of our 258 business members, mission and a summary of recent advocacy activity is available at <http://www.ftalliance.com.au/>

The *Treasury Laws Amendment (2017 Measures No. 1) Bill 2017: Low value imported goods* brings with it considerable complexity for industry in managing separate processes. Revenue collection at the border will remain for goods with a Value of Taxable Importation over \$1,000 AUD using a Full Import Declaration via the Integrated Cargo System (ICS).

If passed, the legislation will mean that "overseas vendors", "electronic distribution platforms" and "redeliverers" will have to account for GST on sales of low value goods to consumers in Australia if they have Goods and Services Tax (GST) turnover of \$75,000 or more.

New cargo reporting and clearance requirements associated with the import of low value cargo will be imposed on international freight forwarders, express carriers and licensed customs brokers. Accordingly, the primary focus of the FTA submission submitted 2 December 2016 centred on the operational impacts affecting these sectors of Australian commerce.

TREASURY ENGAGEMENT WITH FTA

At 2.49pm Friday 20 January 2017, FTA received an email from Treasury with a revised version of the draft legislation (*Limited Circulation*) and bringing to our attention four points of interest relating to the FTA submission. Included in this response was a request from Treasury to provide a response to "major concerns" by 9am Monday 23 January 2017.

FTA sent an email response at 7.57am on Saturday 21 January requesting additional information to provide a considered response and a request to be contacted any time over the week-end and before 9am on Monday 23 January to discuss the changes. The FTA response also highlighted the critical nature of the changes to the draft to the FTA membership and requested further time for industry engagement.

No response was received from Treasury. In order to meet the stipulated timeframe to respond, FTA provides the following preliminary comments.

INTENT OF THE LEGISLATION

As outlined in the FTA submission from 2 December 2016, merit is seen in terms of the intent of the legislation to ensure that low value goods face an equivalent GST treatment to goods sourced in Australia. Importantly, the legislation will generate a significant quantum of GST revenue.

It is noted that Australia would be the first country to apply GST to the importation of low value goods using a "vendor collection model", with jurisdictions such as the European Union moving in the same direction. Consumers and affected sectors of Australian commerce are at risk of facing complications by the introduction of a new, untested and complex tax regime.

IMPLEMENTATION TIMEFRAME

It appears from the exceptionally short timeframe to respond to amendments to the draft legislation, that the intent is to table the Bill immediately upon Parliament sitting in the second week of February 2017. The above referenced engagement between Treasury and FTA has been inadequate to appropriately engage with members or to seek legal counsel to respond to the proposed changes to the Bill.

As outlined in our original submission, FTA sees the largest risk to implementation being the short window from the passing of the legislation to “go live”. The Australian import sector still vividly recalls the flawed Integrated Cargo System (ICS) implementation in October 2005 that brought Australian ports and airports to a grinding halt.

The Australian National Audit Office post implementation review of the ICS implementation (*The Auditor General Audit Report No.24 2006–07, Performance Audit*) highlighted that Customs underestimated the complexity and the risks associated with the project “*The implementation was not supported by a coordinated implementation strategy or adequate business continuity planning. Insufficient time was allowed for system testing, particularly end-to-end testing. Customs did not have quality assurance mechanisms to assess the readiness of third party software providers, the quality of their software or the preparedness of industry participants.*”

It is imperative that history is not repeated and that adequate time is provided to allow industry to design, scope, budget, implement and test systems.

In contrast, legislation applying the GST to international sales of digital products and services provided to Australian consumers received Royal Assent on 5 May 2016 with the measures to apply from 1 July 2017. We commend the government for supporting this sector of commerce by providing an appropriate implementation timeframe. We are at a loss to understand why a similar implementation timeframe has not been considered for the significantly more complex changes associated with the proposed changes for low value imported goods.

The unrealistic timeframe provided to FTA to respond to changes to the draft legislation only reinforces our concerns that implementation is at risk of a flawed implementation due to the short period from the likely time of legislation passing through parliament in early February to implementation on 1 July 2017.

RECOMMENDATION 1. Defer implementation of the low value imported goods reforms to provide industry a minimum of 12 months for “go live” after the Bill receives Royal Assent.

GOODS FORWARDERS

As highlighted in our original submission, feedback received from FTA members expressed concerns and confusion around the term “Goods Forwarder” as it suggests that this may include international freight forwarders. We commend Treasury for changing this terminology from “*goods forwarder*” to “*redeliverer*”.

COMPLIANCE

We understand from our consultation that the Australian Taxation Office intends to take a considered and reasonable approach to compliance activity as industry implements the low value imported goods reforms. Whilst we support this approach, it is essential that a tough stance is taken on vendors deliberately avoiding GST payments and gaining a commercial advantage over compliant entities. This threat is greater for goods arriving via post that is not subject to cargo reporting and SAC processing.

RECOMMENDATION 2. Informed compliance measures be introduced to deter fraudulent activity and to ensure that postal and cargo handling services operate on a “level playing field”

We note the introduction of Section 84-53 and the relevant penalty in Section 288-46 in Sch 1 to the TAA. Our understanding is that this penalty may be imposed on “*overseas vendors*”, “*electronic distribution platforms*” and “*redeliverers*” if reasonable steps are not taken to supply prescribed information to entities completing declarations at the border.

RECOMMENDATION 3. We seek further engagement with compliance enforcement agencies to gain an understanding of potential implications to entities responsible for completing declarations at the border including international freight forwarders, express carriers and licensed customs brokers.

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