

International trade with Australia to become harder ... again

Australia is ranked number 14 on the current Ease of Doing Business index. However, when the review is isolated to cross border trade, Australia's rank drops to 95, behind countries such as Rwanda, Fiji and Botswana. This situation is to become worse after a legislative change that will require overseas vendors to collect and remit tax on sales to Australian consumers.

The legislative change relates to the collection of a 10% goods and services tax (**GST**) on the sale of low value goods to Australia. Currently, consignments of goods with a customs value of less than \$1,000 are entered GST free. This is seen as placing Australian retailers at an unfair advantage (who must charge GST on all sales) and the decision was made to collect GST on all imported goods.

GST on consignments of goods over \$1,000 is collected by way of the importer lodging an import declaration and paying the required customs duty and GST. This was seen as an inefficient method to collect GST on low value imports, much of which are eCommerce sales which do not involve the importer lodging any paperwork with Australian Customs.

In a recent report, the Australian Productivity Commission has endorsed vendor collection as imperfect, but the best currently available method. Under this method, foreign vendors must assess, collect and remit GST to Australia on low value imports. To do this, the vendors will need to be registered under the Australian system.

The new tax will act in a significantly unfair manner by making electronic distribution platforms like Ebay, Amazon and Etsy liable for GST on goods sold via their platforms, even when they are not the actual vendor. A small vendor on Etsy may only sell \$50,000 of goods per year to Australia. If the vendor was a domestic Australian retailer its sales would be GST free as its annual turnover is under the \$75,000 registration threshold. However, as total sales via the Etsy platform will exceed \$75,000, the sales by the foreign small business using Etsy will be subject to GST.

The vendor collection model has been described as voluntary due to the difficulty that the Australian Taxation Office (**ATO**) would have with enforcing the collection and remittance of GST by foreign vendors. The Government has only estimated a collection rate of 27% in the first 3 years.

To enforce compliance, the Productivity Commission suggests stopping goods at the border to and requiring the purchaser to pay the GST. This raises a number of issues:

1. the purchaser has already paid a GST inclusive purchase price – why should it have to pay GST again due to the Government's inability to enforce its laws;
2. domestic suppliers who do not remit GST do not have the ATO interfering or preventing its transactions;
3. consumers will have no way of knowing which international suppliers are compliant. When transacting with foreign vendors consumers will have no certainty that their goods will clear

the border. This uncertainty will have a freezing effect on international trade that is not suffered by Australian domestic retailers.

Even if compliance was possible, some online vendors (including Ebay) have said that establishing an online system that recognises and imposes a tax only on sales to Australian customers will not be feasible. This is most likely to be the case with electronic distribution platforms which operate on small margins and manage sales by 1,000s of vendors.

The end result will be higher costs for Australian consumers, a more difficult regulatory environment for foreign companies trading with Australia and possibly major online platforms ceasing to offer services to Australia. The Productivity Commission has noted that there will be very little return for these trade impediments. The additional revenue will be minimal and there will be little improvement in the competitiveness of Australian retailers. Rather than GST, the drivers of the non-competitive Australian retailer sector are said to be Australia's workplace relations system, limited shopping hours and planning and zoning regulations.

It is also important to question where would a universally adopted vendor collection system leave Australian exporters. If just 10% of countries adopted the model, Australian exporters would need to understand, register, collect and remit taxes under 20 different tax systems. The compliance costs would be a significant barrier to trade, especially for small businesses.

While Australia espouses an open trade agenda, these GST changes, together with changes to anti-dumping laws and country of origin food labelling, show a clear policy of ignoring the impact on trade when setting policy.

Foreign vendors need to be registered by 1 July 2018. Please contact Russell Wiese (rwiese@huntvic.com.au) if you need assistance understanding your obligations under the new law.



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