

GST on low-value imported goods: An offshore supplier registration system

A government discussion document

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First published in May 2018 by Policy and Strategy, Inland Revenue, PO Box 2198,
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discussion document.
ISBN 978-0-478-42437-9

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CHAPTER 1

Introduction

- 1.1 At present most goods and services bought and consumed in New Zealand are subject to goods and services tax (GST). This includes goods and services imported for consumption in New Zealand. The New Zealand Customs Service is currently responsible for collecting GST on imported goods at the border. However because of the administrative cost, GST is not currently collected on imported goods attracting less than \$60 in GST or other levies.
- 1.2 The advent of the internet and the growth of online shopping has in recent times seen a rapid increase in sales of imported low-value goods. This has consequences for the tax base if consumers are shifting their buying from domestic to offshore retailers. It also places domestic retailers at an unfair disadvantage. This is a problem faced by tax authorities around the world.
- 1.3 This public consultation document seeks submissions on the design of a system that would require offshore suppliers to collect GST on low-value goods supplied to New Zealand consumers. Offshore suppliers would therefore be required to register for GST with Inland Revenue just as New Zealand domestic retailers are. The offshore supplier registration system would apply to goods valued at or below \$400¹ and is intended to address the non-collection of GST on imported goods below the current *de minimis*.
- 1.4 Implementing an offshore supplier registration system for collecting GST on low-value imported goods is consistent with recent changes New Zealand has made to deal with the non-collection of GST on cross-border services and intangibles. The cross-border rules, which applied from 1 October 2016, require suppliers of cross-border services and intangibles (including e-books, digital downloads and software) to register and return GST when they supply services and intangibles to New Zealand-resident consumers.
- 1.5 The system outlined in this consultation document is also broadly in line with recent international developments. In Australia a similar approach will apply to all imported goods valued at or below AU\$1,000 supplied to Australian consumers from 1 July 2018. The European Commission indicated in December 2016 that European Union (EU) Member States would use a variant of an offshore supplier registration system to collect value-added tax (VAT) on low-value imported goods from outside the EU by 2021. The EU also currently uses an offshore supplier registration model to collect VAT on intra-EU cross-border supplies of goods.

¹ All monetary values in this discussion document are denominated in New Zealand dollars unless otherwise stated.

Background

- 1.6 New Zealand's GST system is a broad-based consumption tax, based on the destination principle. This means that all goods and services should be subject to GST when they are consumed in New Zealand. Consistent with this principle, GST should ideally be collected on all imported goods, regardless of value.
- 1.7 Under the current rules, the New Zealand Customs Service (Customs) collects revenue (GST, tariff duty and cost recovery charges) on imported goods when \$60 or more of total duty (including GST) applies. This threshold is known as the *de minimis* and generally equates to a parcel valued at approximately \$400. However, the value of a parcel on which revenue is collected could be as low as \$226 depending on whether tariffs are collected.
- 1.8 The growth of online shopping means the volume of imported low-value goods on which GST is not collected is becoming significant. This indicates that the current settings are not sustainable. In particular, concerns have been raised about the impact that the uneven GST treatment may have on tax revenues and on the competitiveness of domestic suppliers.

Options for collecting GST on low-value imported goods

- 1.9 There are a number of options for collecting GST on low-value imported goods, based on different points along the supply chain. These are:
- **At the point of sale:** offshore suppliers would be required to register for, collect and return GST ("offshore supplier registration").
 - **Between the point of sale and delivery:** courier companies and New Zealand Post would collect GST, tariffs and cost recovery charges ("extended status quo").
 - **After delivery of the goods:** recipients would pay GST directly to the government after the goods have been delivered ("pay after delivery").
- 1.10 In January 2018, the Government asked the Tax Working Group (the Group) to consider options for collecting GST on low-value goods imported into New Zealand. The Group was established to examine improvements in the structure, fairness and balance of New Zealand's tax system; accordingly, the Government has used the Group's expertise to consider the merits of potential reforms to the mechanism for collecting GST on low-value imported goods.
- 1.11 The Group considered all of the options listed above and has recommended the Government implement an offshore supplier registration model for collecting GST on low-value imported goods. The Group considered options to collect GST on imported goods between the point of sale and delivery and after delivery, but recognised that practical concerns mean these two options may not be feasible in the short term.

- 1.12 The Group’s conclusions are consistent with the findings of the Australian Productivity Commission, who also considered options other than offshore supplier registration to be less feasible at the present time.

New rules for collecting GST on low-value imported goods

- 1.13 If enacted, the new rules would require offshore suppliers to register and collect GST on all goods (except alcohol and tobacco products) supplied to New Zealand consumers valued at \$400 or less.² Offshore suppliers would only be required to register if their total supplies of goods and services to New Zealand consumers exceed \$60,000 a year.³ Offshore marketplaces and re-deliverers would be required to register and return GST if supplies made through them meet the registration threshold. Tariffs and cost recovery charges⁴ would not be collected on goods valued at or below \$400. The existing border processes to collect GST, tariffs and cost recovery charges on imports above \$400 will remain unchanged.

Summary of the proposals

Scope of the rules

- Offshore suppliers would be required to register, collect and return GST on supplies of goods to New Zealand consumers if the value of the goods is \$400 or less. Tariffs and cost recovery charges would no longer be collected on goods valued at or below this value.
- Goods supplied to GST-registered businesses would be excluded unless the offshore supplier decided to zero-rate the supply (this would allow offshore suppliers to claim costs associated with business-to-business supplies).
- Offshore suppliers would be required to charge GST unless the recipient identified themselves as a GST-registered business or provided their GST registration number or New Zealand Business Number.
- A reverse charge (that is, when the recipient of the goods accounts for the GST) would apply to GST-registered recipients that use goods for non-taxable purposes (such as private purposes).

² Unless otherwise stated, references to goods valued at or below \$400 are exclusive of GST.

³ This is in line with the fact that New Zealand suppliers and offshore suppliers of cross-border services are already required to register for and charge GST if they have over \$60,000 of taxable supplies.

⁴ The existing cost recovery charge of \$49.24 charged by Customs at the border comprises two separate departmental levies: an Import Entry Transaction Fee of \$29.26 and a Biosecurity System Entry Levy of \$19.98.

Registration requirements and return filing

- Offshore suppliers would be required to register if their total supplies of goods and services to New Zealand exceed \$60,000 a year (the registration threshold).
- Offshore marketplaces and re-deliverers would be required to register and return GST if they meet the registration threshold.
- A simplified “pay only” registration system is proposed to minimise compliance costs for offshore suppliers.
- Quarterly GST filing is proposed for offshore suppliers of low-value goods.

Enforcement, compliance and penalties

- New Zealand has international agreements with a number of jurisdictions (including our major trading partners) that include “Assistance in Collection” provisions. This means that if a non-resident supplier fails to comply with their New Zealand tax obligations, New Zealand can ask the relevant foreign tax authority to use its enforcement powers to help collect the GST on New Zealand's behalf.
- The existing penalties and use-of-money interest rules would apply to offshore suppliers as they do to domestic suppliers. In addition, existing penalties would apply to consumers that falsely represent themselves as a business to avoid GST.
- For the worst offenders, the rules would provide Inland Revenue with discretion to require a consumer to register and pay the GST that should have been returned.
- Further measures to bolster compliance will be explored, for example a possible joint registration system with other countries (such as Australia) or data matching programmes between tax jurisdictions or government agencies. This might include the sharing of information on registrations with Australia. Another possibility is the sharing of additional information with Customs.

Maintaining effective border risk-management

- Changes to the GST settings for low-value imported goods need to take into account implications for the way that risks to New Zealand are managed at the border.
- Importers would still be required to provide information to Customs and the Ministry for Primary Industries to support effective risk and biosecurity assessment on low-value imported goods.

Application date

- 1.14 The proposals in this discussion document require legislative changes and would apply from 1 October 2019.

How to make a submission

- 1.15 Feedback is sought on the design of the offshore supplier registration system, including:

- how the design of the proposed rules could be improved so they are more effective or have lower compliance costs;
- whether there are any aspects of the proposed rules that would give rise to undue compliance costs;
- whether there are any practical concerns with the proposed rules that would make them unworkable in practice; and
- whether there are any concerns with changing the *de minimis* from a calculation of duty owing to a fixed threshold based on the total value of the goods imported, and whether the proposed \$400 threshold is appropriate.

- 1.16 Send your submissions to policy.webmaster@ird.govt.nz with “GST on low-value imported goods” in the subject line.

- 1.17 Alternatively, send your submissions to:

GST on low-value imported goods
C/- Deputy Commissioner Policy and Strategy
Inland Revenue Department
P O Box 2198
Wellington 6140

- 1.18 The closing date for submissions is **29 June 2018**.

- 1.19 It would be helpful, but not essential, for submissions to include a brief summary of major points and recommendations. They should also indicate whether the authors would like to be contacted by officials to discuss the points raised.

- 1.20 Submissions may be the subject of a request under the Official Information Act 1982, which may result in their publication. The withholding of particular submissions on the grounds of privacy, or for any other reason will be determined in accordance with that Act. You should make it clear if you consider any part of your submission should be withheld under the Official Information Act and the grounds you consider justify its withholding.

CHAPTER 2

Background

New Zealand's GST system

- 2.1 New Zealand's GST is a broad-based consumption tax. It is generally levied at a single standard rate of 15%,⁵ and there are very few exemptions.⁶ Consumption taxes seek to tax consumer spending on goods and services. New Zealand's GST system, along with other value-added tax (VAT) and GST systems around the world, is based on the destination principle. This means that goods and services are subject to GST when they are consumed in New Zealand. In principle, GST should therefore be applied to all goods consumed in New Zealand, including imported goods, regardless of value.
- 2.2 Conversely, goods and services that are exported (and therefore consumed offshore) are generally untaxed. Under the GST rules, exports are zero-rated, meaning GST is charged at a rate of zero percent and businesses can claim the GST back on the cost of their inputs. Allowing exporters to claim back GST on their inputs ensures that GST is not a cost on businesses or offshore consumers.
- 2.3 New Zealand's GST system is regarded throughout the world as a model consumption tax. This is because our GST system is very broad-based – it applies to a wide range of goods and services and there are very few exemptions. When GST applies broadly it ensures that consumer decisions to purchase particular goods or services are not influenced or driven by tax considerations. This improves its efficiency and fairness, and provides simplicity.

Current system for low-value imported goods

- 2.4 GST on imported goods is currently 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*”.
- 2.5 Ideally, GST should be collected on all imported goods, as these goods are likely to be consumed in New Zealand. The rationale behind the *de minimis* threshold is to facilitate trade and achieve a balance between the cost of collection and the revenue received. In the New Zealand context, the *de minimis* was set at a level where it was estimated that the costs of collecting the duty begin to exceed the revenue the duty generates. New Zealand is required to have a *de minimis* to comply with international obligations.⁷

⁵ Certain supplies are levied at a rate of zero percent (see sections 11 and 11A of the Goods and Services Tax Act 1985).

⁶ The key exemptions are supplies of residential accommodation and business-to-consumer supplies of financial services.

⁷ Protocol of Amendment to the International Convention on the Simplification and Harmonization of Customs Procedures (June 1999).

- 2.6 Depending on freight costs, the \$60 *de minimis* roughly equates to a parcel worth \$400 if GST is the only duty applying. It can equate to a parcel with a much lower value when tariff duty applies or if the freight and insurance costs are high.⁸ Tariff duties of five percent or ten percent apply to a range of goods, including some apparel and footwear. Cost recovery charges of \$49.24⁹ also apply to goods above the *de minimis* threshold stopped at the border.

Example 1: Current system

Melissa purchases active wear from a large offshore website. She pays \$100 (inclusive of shipping). Apparel attracts a ten percent tariff duty where New Zealand does not have a free trade agreement with the country of the goods' origin. Since the duty on the clothing is only \$26.50 (comprising tariff duty of \$10 ($\$100 \times 10\%$) and \$16.50 of GST ($\$110 \times 15\%$), Melissa's purchase is below the current *de minimis* threshold. She is not required to pay any duties to Customs on the active wear she purchases from offshore.

The total cost of Melissa's parcel is \$100.

Melissa later purchases a pair of running shoes from the same offshore website with a value of \$300 (inclusive of shipping). Footwear also attracts a ten percent tariff duty. This means the total duty owing on Melissa's running shoes is \$79.50 (the 10% tariff of \$30 plus GST of \$49.50 ($\$330 \times 15\%$)). This is above the current *de minimis* threshold. Melissa is required to pay GST and tariff duty on the running shoes. Melissa also has to pay the cost recovery charges of \$49.24 to Customs.

The total cost of Melissa's parcel is \$428.74.

- 2.7 Historically, the majority of imported goods have been imported by commercial entities in consignments above the *de minimis*. When GST was introduced in 1986, very few final consumers imported goods below the *de minimis*. Therefore, the compliance and administrative costs involved in taxing imported goods below the *de minimis* was considered to outweigh the benefits of taxation at that time.
- 2.8 However, the growth of online shopping and the practice of supplying goods directly to customers have meant that the volume of low-value goods imported by final consumers has significantly increased. Based on a five-year average, volumes are growing at about eighteen percent a year.¹⁰
- 2.9 Given the nature of the current methods of collecting GST on imported goods, the growing volume of imported goods has meant the cost of collecting GST on these goods, and the GST revenue foregone, have both increased.

⁸ The *de minimis* does not apply to shipments of alcohol or tobacco products, as excise taxes are required to be collected on these goods.

⁹ This comprises two separate departmental levies: Customs' Import Entry Transaction Fee of \$29.26 and the Ministry for Primary Industries' Biosecurity System Entry Levy of \$19.98.

¹⁰ Based on Customs and New Zealand Post data.

Issues with the current system

Competitive neutrality and tax distortions

- 2.10 In general, the increasing ability to easily purchase goods and services online has benefited New Zealand. It has given consumers greater access to a wider range of goods and services from around the world, and increased competition in the domestic retail market. Increased competition tends to encourage the efficient use of resources, which can result in lower prices, greater innovation, and better quality goods and services for consumers.
- 2.11 Despite these benefits, when GST does not apply evenly, it may bias consumer and business decisions, which could lead to unfair and inefficient outcomes. The non-collection of GST on imported goods below the *de minimis* creates a distortion in the tax system whereby the vast majority of goods valued below \$400 that are purchased from offshore suppliers are not subject to GST, while all purchases from domestic retailers are subject to GST.
- 2.12 The current policy settings place domestic suppliers of goods at a competitive disadvantage compared with offshore suppliers that are able to transport low-value goods directly to their customers without the imposition of GST. This is having the greatest impact on domestic sellers that provide goods that are similar to goods sold from offshore (or substitutable products).
- 2.13 There are a number of reasons why New Zealand consumers might purchase goods online from offshore businesses, however, the tax treatment should not be a factor in consumers' purchasing decisions.

Foregone revenue

- 2.14 Furthermore, the growth of the online shopping market means the amount of GST not being collected on low-value goods supplied from offshore, but consumed in New Zealand, is increasing.
- 2.15 Estimating the total foregone revenue on imported low-value goods relies on a number of assumptions, and estimates of the foregone revenue vary. An estimate by Retail NZ, for example, places the total foregone revenue at \$235 million a year.¹¹
- 2.16 In the 2015 discussion document, *GST: Cross-border services, intangibles and goods*, officials estimated the maximum potential foregone GST revenue for low-value imported goods was around \$140 million a year. This estimate was derived from survey and credit card spending information.
- 2.17 Since then, further work has been undertaken by officials using a mixed dataset that includes Customs' sample data of goods coming across the border. An estimate was calculated based on an assessment of the value of goods under the current *de minimis*. This work conservatively estimates that

¹¹ <http://www.retail.kiwi/advocacy/efairnessnz>

the foregone GST revenue for the 2016 calendar year was around \$80 million. Assuming a foregone revenue growth rate of ten percent a year, the foregone revenue is projected to grow to \$127 million by 2021.

- 2.18 While it is difficult to estimate the total revenue foregone resulting from the non-collection of GST on low-value imported goods with certainty, it is clear that the numbers are significant and a growing concern for Government.
- 2.19 Government revenues pay for important public services such as education, healthcare, roads and superannuation. Given that over thirty percent of total tax revenue is collected from GST, an increasing gap in that revenue base becomes a concern for everyone who relies on these services. A shortfall in GST revenue may eventually have to be paid for by tax increases or spending cuts.

International developments

- 2.20 Following the success of a number of countries' rules (including New Zealand's) to require offshore suppliers to collect VAT and GST on cross-border services and intangibles, there has been some interest internationally in requiring offshore suppliers to also register and collect VAT or GST on low-value imported goods.
- 2.21 On 21 June 2017, the Australian Parliament enacted legislation that requires offshore suppliers of goods to register for GST in Australia, and collect and return GST on their supplies of goods to Australian consumers that are valued at or below AU\$1,000, if their total supplies to Australia exceed the AU\$75,000 registration threshold for GST.¹² The new rules will come into force on 1 July 2018, one year after the implementation of Australia's new rules applying GST to cross-border services and intangibles.
- 2.22 The legislation also required an inquiry by the Australian Productivity Commission on the effectiveness of the rules and other possible models for collecting GST on low-value imported goods. The Australian Productivity Commission completed its inquiry on 31 October 2017 and concluded that the legislated model was the most feasible option at the present time.
- 2.23 The European Commission indicated in December 2016 that EU member countries would implement a variant of an offshore supplier registration system to collect VAT on low-value imported goods from outside the EU from 2021. The proposals would extend their current collection mechanism for digital services and intra-EU cross-border supplies of goods to include supplies of physical goods from outside the EU.¹³

¹² See the Treasury Laws Amendment (GST Low Value Goods) Act 2017.

¹³ https://ec.europa.eu/taxation_customs/business/vat/digital-single-market-modernising-vat-cross-border-ecommerce_en

New Zealand's current rules for collecting GST on cross-border supplies of services

- 2.24 Since 1 October 2016, offshore suppliers of cross-border services and intangibles have been required to register, collect, and return GST on supplies they make to New Zealand-resident consumers. When the rules were initially proposed in the 2015 Government discussion document, *GST: Cross-border services, intangibles and goods*, it was estimated that the Government was foregoing approximately \$40 million a year in revenue through the non-collection of GST on these services.
- 2.25 To date, over 200 offshore suppliers have registered under the new rules. Further, revenue from the GST returns filed by offshore suppliers since the introduction of the rules totals \$162 million.¹⁴
- 2.26 The success of an offshore supplier registration system to collect GST on cross-border services and intangibles illustrates that such a system is effective and relatively easy to comply with.

An offshore supplier registration system for collecting GST on low-value goods

- 2.27 To deal with the issues outlined in this chapter, the Government intends to implement an offshore supplier registration system for collecting GST on low-value imported goods. Chapters 3 to 5 of this discussion document outline the proposed design features of the offshore supplier registration system. The Government is keen to ensure that the design of the rules is workable in practice so that compliance costs are kept to a minimum. The proposed rules, therefore, are broadly in line with New Zealand's current rules for collecting GST on cross-border services and intangibles, and the recently enacted rules for low-value imported goods in Australia.
- 2.28 At the same time, it is important to ensure that the changes proposed do not adversely affect New Zealand's current risk assessment and biosecurity processes at the border.

¹⁴ As of 27 April 2018.

CHAPTER 3

Offshore supplier registration: scope of the rules

- Offshore suppliers would need to register, collect, and return New Zealand GST if:
 - the total value of goods and services they supply to New Zealand consumers is above the \$60,000 registration threshold;
 - a good supplied by them to New Zealand consumers (excluding alcohol and tobacco products and fine metal) is valued at or below \$400; and
 - the goods are delivered to a New Zealand address.
- The current tariffs and cost recovery charges would be removed for goods valued at or below \$400.

- 3.1 An offshore supplier registration system applies a different approach to the one currently in place for taxing low-value imported goods. It is still consistent with the destination principle underpinning New Zealand's GST system but no *de minimis* for collecting GST is required.
- 3.2 Under the Goods and Services Tax Act 1985, supplies of goods by non-residents are treated as being supplied in New Zealand (and therefore subject to GST) if the goods are in New Zealand at the time of supply. If the good is outside New Zealand at the time of supply it is generally not subject to GST. The GST on these supplies is instead collected at the border unless it is valued at or below the customs *de minimis* (usually \$400). The taxing point under the current approach is therefore at the border.
- 3.3 Under an offshore supplier registration system, the taxing point for imported goods valued at or below \$400 would shift to the point of sale. This means that non-resident suppliers (referred to as offshore suppliers in this paper) would be required to register for GST if their total supplies (sales) of services and low-value goods to New Zealand consumers exceed the \$60,000 registration threshold. A supply of a good by an offshore supplier would be treated as supplied in New Zealand if the good is to be delivered to a New Zealand address and the good is valued at or below \$400.
- 3.4 Under this approach the offshore supplier would add GST to the price charged to the New Zealand consumer at the point of sale. This means offshore suppliers of low-value goods would be required to register and return GST in the same way as New Zealand suppliers. It is also consistent with the offshore supplier registration rules that were recently implemented for cross-border services and intangibles. This would ensure that physical goods and competing electronic services (such as physical books and e-books or DVDs and video streaming services) are subject to GST in the same way.

- 3.5 The Government is not proposing that the offshore supplier registration system would apply to goods that exceed \$400. Above \$400 Customs has existing processes to collect GST on imported goods (along with cost recovery charges and tariffs).

Example 2: Goods below the current threshold

Current rules

Sophie buys a t-shirt for \$50 (shipping included) from *The Gorms*, a popular US-based clothing website. Sophie lives in New Zealand and requests that the t-shirt is delivered to her home address, in Wellington. The supplier is a large business that supplies more than \$60,000 of goods to New Zealand a year. Since GST (and tariff duty) on the t-shirt is below the *de minimis*, Customs will not require Sophie to pay any GST (or tariffs).

The total cost of Sophie's parcel would be \$50.

Proposed rules

Under the proposed rules, *The Gorms* would be required to charge GST on the t-shirt. GST would be included in the purchase price and charged to Sophie at the point of sale. The tariff duty would not be collected.

The total cost of Sophie's parcel would be \$57.50 (\$50 t-shirt + \$7.50 GST (\$50 × 15%)).

- 3.6 To enable the proposed changes the Customs *de minimis* would be changed to \$400 based on the value of the goods imported. This would mean that cost recovery charges and tariffs would not be collected on imported goods valued at or below \$400 once the offshore supplier registration system is implemented.

Example 3: Goods below the current threshold – the same treatment for digital and tangible products

Current rules

BigBooks is a large offshore website that supplies both e-books and physical books to consumers. *BigBooks* supplies over \$60,000 of both goods and services to New Zealand consumers, and is registered for GST under New Zealand's cross-border services rules.

Neisha downloads two e-books for her e-reader at \$15 each. Under the current rules, *BigBooks* would charge Neisha \$4.50 GST on her purchase (\$30 × 15%). The total cost of her purchase is \$34.50.

Her husband Damendra buys two hard-copy books from the same website also for \$15 each. Under the current rules, Damendra's purchase is below the *de minimis*. The total cost of his purchase is \$30.

Proposed rules

As *BigBooks* is already registered for GST, it would have to charge GST on all its supplies (both goods and services) to New Zealand consumers. When Damendra purchased his two books for \$30, *BigBooks* would charge him \$4.50 GST at the point of sale.

Under the offshore supplier registration system, both Neisha and Damendra would have to pay \$34.50 each on the total cost of their respective purchases.

Example 4: Goods above the current threshold – where tariffs currently apply (first example)

Current rules

If Sophie in example 2 had purchased a \$250 jacket (shipping included) from *The Gorms*, under current rules Customs would stop the parcel at the border and require Sophie to pay GST, tariffs and cost recovery charges on the jacket.

The total cost of Sophie’s parcel would be \$365.49 (\$250 jacket + \$25 tariff ($\$250 \times 10\%$) + \$41.25 GST ($\$275 \times 15\%$) + \$49.24 cost recovery charge).

Proposed rules

Under the proposed rules, and if Sophie requested that the jacket is delivered to an address in Wellington, GST would be charged by *The Gorms* to Sophie at the point of sale. The new rules mean that tariff duty and Customs cost recovery charges no longer apply to goods valued at or below \$400.

The total cost of Sophie’s parcel would be \$287.50 (\$250 jacket + \$37.50 GST).

Example 5: Goods above the current threshold – where tariffs currently apply (second example)

Current rules

Consider Melissa in example 1 and her \$300 running shoes purchased from a large offshore website. Under the current rules, Customs would stop her parcel at the border for assessment and she would have to pay \$128.74 in GST, tariff duty and cost recovery charges, making the total cost of her parcel \$428.74.

Proposed rules

The large offshore supplier would be required to register for GST. When Melissa purchases her \$300 running shoes from the website, she would be charged \$45 GST by the supplier at the point of sale. No tariffs or cost recovery charges would be payable at the border. The total cost of Melissa’s parcel would be \$345.

Goods included and excluded

- 3.7 The definition of “goods” in the Goods and Services Tax Act 1985 is very broad. “Goods” is defined as meaning all kinds of personal or real property; but it does not include choses in action, money or a product that is transmitted by means of wire, cable, radio, optical or other electromagnetic system or by means of a similar technical system.¹⁵
- 3.8 The term “low-value goods”, as used throughout this paper, refers to imported goods that have a value of \$400 or less. The proposed rules will not apply to shipments of alcohol or tobacco products. The existing rules, including excise-equivalent duties and other charges that are required to be collected at the border, will continue to apply to these products.

¹⁵ See section 2 of the Goods and Services Tax Act 1985.

- 3.9 It is proposed that the new rules would cover all other goods except those that are currently exempt or zero-rated. The main exception would be for supplies to New Zealand-registered businesses. This is discussed in more detail below.

Exempt and zero-rated goods

- 3.10 New Zealand has a very broad-based GST system, with very few exemptions. The main exemptions in the Goods and Services Tax Act 1985 relate to certain types of services, such as financial services and residential accommodation.¹⁶ The only exemption that applies to goods that could be physically imported by consumers concerns supplies of “fine metal”.¹⁷ It is unlikely that there would be very many individual consumers who would import fine metal with a value below \$400; these supplies are more likely to be business-to-business and would most likely have a value above \$400. However, where a consumer imports fine metal supplied by an offshore supplier with a value of \$400 or less, it is proposed that these goods should remain exempt from New Zealand GST.
- 3.11 Having such limited exemptions and a single standard rate of GST (15%) should make it easier for offshore suppliers of goods to comply with the New Zealand GST system, compared with countries that have multiple exemptions or several different rates of VAT/GST.

Supplies of multiple low-value goods

- 3.12 When a consumer purchases multiple goods from a supplier, the supplier of the goods may bundle and ship these goods to consumers in one consignment or as individual consignments. The following rules outline how GST would apply to these multiple supplies.

Total value of the consignment is \$400 or less

- 3.13 As a default rule, offshore suppliers would be required to collect and return GST if they supply a low-value good to a New Zealand consumer. This includes supplies of a single low-value good (valued at or below \$400) or multiple low-value goods that total \$400 or less in one transaction.

Total value of the consignment exceeds \$400

- 3.14 The default rule also means that offshore suppliers would be required to collect and return GST on the supply of multiple low-value goods in a single transaction, even if the total transaction exceeds \$400 in value.
- 3.15 As discussed earlier in this chapter, the rules would move the taxing point for goods valued at or below \$400 from the border to the point of sale. Current processes would, therefore, continue to apply for goods shipped in consignments exceeding \$400.

¹⁶ Section 14 of the Goods and Services Tax Act 1985 contains the current exemptions from GST.

¹⁷ “Fine metal” includes gold, silver and platinum with a purity of at least 99.5 percent, 99.9 percent and 99.0 percent, respectively.

Example 6: Supply of multiple low-value goods – proposed treatment

Chan buys one drill part valued at \$100 for his electric drill from an offshore website, Hammers, Drills & Things. Hammers, Drills & Things is registered under the new rules, and charges Chan GST for the drill part.

Later that year, Chan buys six different drill parts from the website's deluxe range valued at \$200 each. The total value of the goods is \$1,200. Each drill part is considered a low-value good, so Hammers, Drills & Things charges Chan \$180 GST on his purchase.

The discussion below and further examples explain what happens at the border if Chan's \$1,380 transaction is consigned and sent to him as one parcel.

Preventing double-taxation

- 3.16 There may be situations when a consumer has purchased multiple goods from a supplier – either as part of one single transaction or several individual transactions – and then these goods are subsequently packaged together and consigned as one parcel with a value exceeding \$400. Because the value of this consignment is above \$400, that parcel would be processed at the border by Customs for revenue.
- 3.17 To prevent GST being paid twice on the low-value goods in that single consignment, it is proposed that the consumer would need to provide Customs with appropriate evidence that GST had already been paid on the low-value goods portion in that consignment. For example, the consumer¹⁸ would retain a record of delivery duty paid or other evidence that GST was paid at the point of sale.
- 3.18 When GST had not already been paid by the offshore supplier (for example, because the offshore supplier was not registered for GST or had not charged GST), GST would continue to be collected at the border on all the goods in a consignment valued above \$400.

Example 7: Supplier below the registration threshold

Chan's wife, Ravin, buys two portable speakers from a boutique offshore supplier for \$300 each. The speakers are sent to Ravin in a single consignment. The supplier does not reach the \$60,000 registration threshold under the proposed rules, and does not charge any GST to Ravin at the point sale. The total value of her transaction is \$600, so it is stopped at the border for revenue assessment. As GST was not charged by the supplier at the point of sale, Customs would charge Ravin GST on the total value of her consignment.

- 3.19 In other cases, the consignment could involve a mix of goods on which GST had been already been charged by the offshore supplier (goods valued at or below \$400) and goods where GST had not yet been charged (goods valued above \$400). In these cases, the consumer could provide evidence to

¹⁸ Or the consumer's broker.

Customs for GST relief in relation to those goods on which GST had already been charged, but would still be required to pay GST on any other (previously untaxed) goods in the consignment.

Example 8: Supply of multiple goods – where one of the goods is valued over \$400

Variation 1: Chan buys 11 different drill parts valued at \$100 each. Even though the total value of his transaction is \$1,100, Hammers, Drills & Things is required to charge GST on the total value of the transaction as each of the 11 individual drill parts are considered to be low-value goods.

Variation 2: If Chan buys five drill parts valued at \$100 each as well as an electric drill valued at \$2,000, Hammers, Drills & Things would only be required to charge GST on the five drill parts. The electric drill is not a low-value good.

Multiple consignments

Under either variation, if the drill parts and the electric drill are ultimately consigned and sent to Chan in separate parcels, only the electric drill would be stopped at the border for assessment by Customs. GST would have already been paid on the individual drill parts and would not be subject to GST at the border.

Single consignment

Under either variation, if the drill parts and the electric drill are consigned and sent to Chan as one parcel, the parcel would be stopped at the border for assessment. Chan would need to pay GST to Customs on the electric drill, and provide Customs with proof that GST has already been paid on the drill parts.

Australia's approach to supplies of multiple low-value goods

- 3.20 Australia's approach to supplies of multiple low-value goods exceeding \$1,000 is similar to this proposal. That is, offshore suppliers should charge GST at the point of sale. However, Australia also applies a "reasonable belief" exception. The exception means that if the supplier reasonably believes that the multiple goods will be grouped together and shipped in one consignment, GST can be charged at the border instead of by the offshore supplier. A supplier's reasonable belief can be based on common industry or commercial practices.
- 3.21 The Government is interested in feedback from offshore suppliers about the proposed approach to supplies of multiple low-value goods. In particular, whether Australia's "reasonable belief" exception should be incorporated into New Zealand's proposed rule. For example, would the test be appropriate in situations when the supplier knows the goods will be shipped in a single consignment, because the supplier of the goods is also responsible for its shipping, or is informed by the person who organises the shipping that it will be consigned as a single parcel.

Returns and refunds

- 3.22 When a consumer imports goods from offshore on which GST has been charged by the supplier and sends the goods back, the consumer would be

able to get the GST refunded by the supplier if the terms and conditions of the supply allow for returns and refunds.

- 3.23 Offshore suppliers would be able to adjust their output tax in a GST return, subsequent to refunding the customer, to take into account the overpaid GST. Consistent with the general rules for claiming input deductions under section 20 of the GST Act, these adjustments would, subject to existing exceptions, be required to be made within two years of the original supply.

Supplies to consumers and GST-registered businesses

- 3.24 The Government is proposing that only supplies of low-value goods by offshore businesses to New Zealand consumers would be covered by the offshore supplier registration system. Supplies to GST-registered businesses would be excluded unless the supplier chose to zero-rate the supply.

Identification of New Zealand consumers

- 3.25 The test for determining who is a New Zealand consumer under the proposals is not based on residence or tax residence.¹⁹ Under the proposed rules, supplies are made to New Zealand consumers if the parcel is addressed to a New Zealand delivery address. Goods intended to be sent to a New Zealand delivery address are likely to be consumed in New Zealand. Therefore, consistent with the destination principle, these goods should be subject to GST.

Supplies to businesses excluded

- 3.26 Goods supplied to New Zealand GST-registered businesses (referred to as “business-to-business supplies”) would be excluded from the proposed rules. This approach is consistent with the rules that apply to suppliers of cross-border services.
- 3.27 From a revenue perspective, there would be little value in requiring offshore suppliers to charge GST on low-value goods to New Zealand businesses. This is because in most situations New Zealand businesses, if registered, would be able to claim back any GST they incur.
- 3.28 Excluding business-to-business supplies has a number of benefits:
- It may reduce the number of offshore suppliers that would be required to register (as many suppliers may only supply to GST-registered businesses), and therefore would reduce compliance costs.
 - Tax invoice requirements could be relaxed for offshore suppliers because no New Zealand consumers charged with GST would be in a

¹⁹ Section YD 1 of the Income Tax Act 2007 contains the rules for determining when a natural person is a New Zealand resident for income tax. However, for GST purposes, the effect of section YD 1(4) and (6) is ignored for determining the residence or non-residence of a natural person. See the definition of “resident” in section 2(1) of the Goods and Services Tax Act 1985, paragraph (c).

position to claim back the GST. Relaxed invoice requirements would lower compliance costs for offshore suppliers.

- There are fiscal risks associated with applying GST to business-to-business supplies, as less reputable offshore suppliers may purport to charge GST but not return the GST, and GST-registered New Zealand businesses would be able to claim the GST back in the normal manner.

3.29 There are, however, some disadvantages in applying the rules only to business-to-consumer supplies:

- Excluding business-to-business supplies means offshore suppliers would be required to determine whether they were supplying to a business or an individual consumer. This could be difficult and may impose compliance costs on suppliers.
- Revenue could be foregone if consumers misrepresented themselves as a GST-registered business and were able to avoid the GST.

3.30 Simplified rules for identifying business-to-business supplies are therefore required to minimise compliance costs to offshore suppliers. The proposed requirements for offshore suppliers to identify business-to-business supplies are discussed below. Rules to address the risk of foregone revenue from consumers misrepresenting themselves as GST-registered businesses are detailed in Chapter 5. Situations when a supplier treats a registered business as a consumer and advertently charges that business GST are covered below.

Rules for identifying business-to-business supplies

3.31 In many instances, offshore suppliers of low-value goods would be able to assume their goods were being purchased by individual consumers given the nature of the supplies.

3.32 As with the approach to cross-border services, the Government proposes that offshore suppliers would be required to assume a New Zealand consumer is not a GST-registered business unless the customer has communicated to the supplier their GST registration number, New Zealand Business Number or self-certification as a GST-registered business.

3.33 It may not be practical for all suppliers to obtain or retain evidence that a customer is GST-registered. Under our cross-border services rules, the Commissioner of Inland Revenue is able to prescribe or agree to an alternative method of determining whether a supply is made to a GST-registered person. The Commissioner takes into account a number of factors, such as the nature and value of the supply, and the terms and conditions of the provision of services.²⁰ It is proposed that this discretion be extended to suppliers of low-value goods.

²⁰ See section 8B(6) to (8) of the Goods and Services Tax Act 1985.

Ability to zero-rate business-to-business supplies

- 3.34 While excluding business-to-business supplies as a default rule is expected to minimise compliance costs for the majority of offshore suppliers of low-value goods, some offshore suppliers may have incurred New Zealand GST in making a business-to-business supply. The Government is therefore proposing to allow offshore suppliers to choose to zero-rate their business-to-business supplies of low-value goods (apply GST at a zero percent rate). This would allow offshore suppliers to deduct any New Zealand GST costs incurred in making the supply the same way as resident suppliers, thus ensuring that GST is not a tax on businesses.

Example 9: Supplies only to GST-registered businesses

Pie Trays Co (PT Co) is an offshore supplier of large multi-hole pie trays for commercial kitchens. PT Co supplies pie trays to New Zealand businesses, all of whom are GST-registered.

As business-to-business supplies are excluded, PT Co would not be required to register for New Zealand GST as it only makes supplies to GST-registered businesses.

Given the pie trays supplied by PT Co are only suitable for use in commercial kitchens and supplied to businesses, PT Co can apply to Inland Revenue seeking to treat all their supplies into New Zealand as business-to-business supplies. If the discretion is applied, its customers would not need to advise PT Co that they are a business.

If PT Co decided to voluntarily register, the goods it supplies could be zero-rated for GST purposes and PT Co would be able to claim back any New Zealand GST it incurs on its costs in the course of making those supplies.

Reverse charge for GST-registered businesses

- 3.35 GST should not be a tax on businesses. This is achieved by allowing GST-registered businesses to claim back GST charged on goods and services they receive to the extent the goods and services are used for, or available for use in, making taxable supplies.²¹ When GST-registered businesses purchase goods and services for non-taxable purposes, such as for private or exempt activities, the business cannot claim back GST as the goods and services received do not relate to the making of taxable supplies. Effectively, the business is treated like a final consumer.
- 3.36 To account for GST in situations when a GST-registered business purchases goods for non-taxable purposes, a special reverse charge would be included. The reverse charge rule would treat the GST-registered business that purchased the low-value goods as the supplier of those goods, so that the business would be required to return the GST instead of the offshore supplier.
- 3.37 This rule would be an extension of New Zealand's existing reverse charge rules in the Goods and Services Tax Act 1985, which apply domestically and in the cross-border services context. It would only apply when the GST-

²¹ See section 20(3C) of the Goods and Services Tax Act 1985 – *Input tax may be deductible.*

registered recipient of the goods intends to use the goods other than for making taxable supplies. This would include situations when they use the goods for a private purpose (as opposed to a business purpose) or for making GST-exempt supplies. The current five percent *de minimis* exemption would also be retained.

- 3.38 If the reverse charge applies, the GST-registered business would be required to return output tax on the full value of the supply (as the deemed supplier), but only claim an input tax deduction to the extent the good is used for making taxable supplies. The net result would be that output tax on the non-taxable use is paid by the GST-registered business.

Example 10: Where the reverse charge applies

Thomas is a self-employed architect registered for GST. In his spare time, Thomas is also learning to paint landscapes. He purchases drawing supplies from an offshore supplier for \$300. Thomas identifies himself as a registered business and therefore is not charged GST. He uses his drawing supplies fifty percent for his taxable architecture business and fifty percent for his hobby as an artist.

Under the reverse charge, Thomas is treated as making a supply to himself of \$300 at the 15% GST rate. He must return output tax of \$45 ($\$300 \times 15\%$). However, Thomas can claim an input deduction for the portion of the value of the drawing supplies (fifty percent) that is attributed to his taxable use. This input deduction is \$22.50. His net position in the relevant return (assuming no other supplies) is therefore an output tax liability of \$22.50 (\$45 output tax minus \$22.50 input tax).

If Thomas's use of his drawing supplies had been ninety-five percent taxable or more, he would not be required to apply the reverse charge.

New Zealand businesses being inadvertently charged GST

- 3.39 There may be instances when an offshore supplier treats a GST-registered business as an individual consumer and inadvertently charges that business GST.
- 3.40 For these situations, as with cross-border services, it is proposed that the New Zealand business contact the offshore supplier directly to rectify the mistake. The supplier would then have the option of doing one of two things:
1. It could provide the GST-registered business with a refund of the incorrectly charged GST.

If a refund is provided, the New Zealand business would not be able to claim an input tax deduction for the GST that was incorrectly charged. To take into account the overpaid GST, the offshore supplier would be able to adjust their output tax in their GST return, subsequent to the refund being made.

2. Alternatively, the supplier could choose to provide the GST-registered business with a full tax invoice.²²

This could be a compliance cost saving for offshore suppliers, when the cost of issuing a refund would exceed the cost of issuing a tax invoice. If a full tax invoice is provided, the New Zealand business would be able to claim an input tax deduction under the general rules.

Special provisions under our cross-border services rules which turn a supply that should not have been taxed by the supplier (or taxed at zero percent) into a supply that is taxed at the standard GST rate of 15% would be extended to low-value imported goods. This would ensure that if the supplier exercised the full tax invoice option, they would not have to subsequently make an adjustment to their GST return as the correct GST result would have been reached.

Tariffs and cost recovery charges

- 3.41 Under the current system, GST and cost recovery charges for Customs and the Ministry for Primary Industries are collected at the border by Customs on goods valued above the *de minimis* threshold. For some goods, tariffs may also apply, depending on the product type and the country of origin where the good was manufactured. When tariff duties also apply, GST, tariffs and cost recovery charges may be collected at the border on goods with a value as low as \$226.
- 3.42 The cost recovery charge of \$49.24 collected by Customs at the border comprises two separate departmental levies: Customs' Import Entry Transaction Fee of \$29.26 and the Ministry for Primary Industries' Biosecurity System Entry Levy of \$19.98.
- 3.43 The Import Entry Transaction Fee is used to fund Customs' border clearance activities, including screening for prohibited goods such as drugs and other dangerous goods or objectionable material. The Biosecurity System Entry Levy funds the Ministry for Primary Industries' activities in relation to assessing and managing biosecurity risks at the border.
- 3.44 The offshore supplier registration system would require offshore suppliers to register for and return GST on goods imported by consumers valued at or below \$400. Offshore suppliers will however not be responsible for collecting tariff duties and cost recovery charges under the proposed rules.
- 3.45 The Government considers that Customs collecting tariffs and cost recovery charges on goods valued at or below \$400 would undermine the efficiency of the proposed system. The Government is therefore proposing to remove tariffs and cost recovery charges from all imported goods valued at or below \$400.

²² Section 24(5B) allows suppliers of cross-border services to choose to provide a tax invoice where GST is incorrectly charged on a supply to a GST-registered business, provided that the payment for the supply is less than \$1,000.

- 3.46 Removing the need to collect tariffs and cost recovery charges at the border will simplify the process, avoid delays for consumers, and reduce barriers to importing low-value goods.

CHAPTER 4

Registration requirements and returns filing

- All offshore suppliers supplying a total value of goods and services to New Zealand consumers above \$60,000 in a 12-month period would be required to register.
- Online marketplaces and re-deliverers would be required to register and return GST if they meet the registration threshold.
- Business-to-business supplies would not count towards an offshore supplier's total supplies unless the supplier chose to zero-rate these supplies.
- A simplified "pay only" registration system will be available to offshore suppliers.
- Quarterly filing is proposed for offshore suppliers of low-value goods.

4.1 This chapter discusses the proposed registration threshold that could be applied to offshore suppliers, and situations when an electronic marketplace or a re-deliverer might be required to register instead of the principal supplier.

Registration threshold for offshore suppliers – \$60,000

4.2 Currently, domestic businesses and offshore suppliers of cross-border services are required to register for, collect and return GST if their total New Zealand supplies exceed, or are reasonably expected to exceed, \$60,000 in a 12-month period. They are also able to voluntarily register if their turnover falls below that amount.

4.3 While the registration threshold might be considered an exception to New Zealand's broad-based GST policy, as some suppliers would not be required to register and return GST, it is intended to reduce compliance costs for very small businesses. For the same reason, a similar registration threshold is proposed for offshore suppliers of low-value goods.

4.4 For some suppliers, the compliance costs of registering and returning GST may outweigh the revenue collected in supplying low-value goods to New Zealand customers. As far as possible any new rules should be designed in a way that does not pose a barrier to trade with New Zealand as this could reduce market competition and consumer choice.

4.5 Countries that have introduced offshore supplier registration systems for services and intangibles have typically adopted low or nil thresholds. However, similarly to New Zealand, Australia has a registration threshold for

offshore supplies of cross-border services and intangibles that is the same as the domestic registration threshold of AU\$75,000. This registration threshold will also apply to offshore suppliers of low-value goods to Australian consumers from 1 July 2018.

- 4.6 The Government considers that applying the existing \$60,000 registration threshold, which applies to domestic suppliers and offshore suppliers of cross-border services, is most appropriate. This would ensure that offshore and domestic suppliers making a similar level of supplies in New Zealand would receive comparable treatment. Although, it is acknowledged that with the exclusion of business-to-business supplies, for some offshore suppliers, the registration threshold could in practice be higher than the domestic one. It would also mean the compliance burden associated with the requirement to register and file returns is not imposed on smaller suppliers to the New Zealand market, which could otherwise pose a barrier to trade with New Zealand and could reduce market competition and consumer choice.

Example 11: Supplier below the registration threshold

Ryan buys \$200 worth of mobile phone accessories from a website called Dalen's Designs, a small boutique store in Utah that sells individualised mobile phone covers. Dalen's Designs does not make \$60,000 worth of supplies to New Zealand a year. Under the new rules it would not be required to register for, collect or return New Zealand GST.

Special rules for marketplaces and re-deliverers

Marketplaces

- 4.7 The Government is proposing to extend the electronic marketplace rules that apply to cross-border services to supplies of low-value goods. In some instances, offshore suppliers would not directly supply goods to their customers. Instead they may use an online marketplace, such as a website or internet portal, to market and sell their products. It is proposed that the marketplace would be treated as the supplier and be required to register.
- 4.8 The marketplace is generally in a better position to register and return GST on supplies compared with the underlying supplier. Typically, the marketplace would be larger and better resourced and may have a closer relationship with the customer. Requiring the marketplace to register may also reduce compliance costs, as a potentially large number of smaller suppliers may not be required to register. It is anticipated that the marketplace and the underlying supplier will have commercial arrangements in place that could take any GST costs into account.
- 4.9 To ensure these rules can be easily applied in practice, it is important to clearly define the circumstances in which the marketplace would be required to register, and therefore, the underlying supplier would not be required to register. Without this clarity there is a risk that both parties may register or fail to register.

- 4.10 It is proposed that a marketplace would be required to register when customers would normally consider the marketplace to be the supplier, and this is reflected in the contractual arrangements between the parties. This is likely to be when the marketplace:
- authorises the charge to the customer;
 - authorises delivery of the goods to the customer; or
 - sets any of the terms and conditions of the transaction.
- 4.11 It would be expected that an offshore supplier simply using a payment service provider to organise the payment from the customer would still be required to register. In this situation, the payment service provider would have a limited role in the supply chain. However, if for example an offshore supplier listed goods on a third-party website, and that website interacted directly with the customer and organised payment and delivery for any purchases, that website would be required to register, charge and return GST instead of the underlying supplier.
- 4.12 Underlying suppliers would still be required to register for supplies to New Zealand residents not connected with the marketplace.
- 4.13 The proposal to require marketplaces to register for GST means that supplies of low-value goods made by smaller suppliers to New Zealand consumers through the marketplace would be subject to GST. It is acknowledged that in the absence of marketplace rules, supplies of low-value goods by these smaller suppliers would not be subject to GST because the total value of their supplies to New Zealand consumers would fall below the GST registration threshold. While the purpose of the registration threshold is to reduce compliance costs for suppliers that do not supply many goods and services to New Zealand consumers, the compliance costs for these smaller suppliers fall away when the requirement to register and return GST is shifted to the marketplace.

Example 12: Marketplace with supplies over \$60,000 a year

Anthony's Accessories is a small store in England that sells mobile phone accessories. These phone accessories are also available to purchase online but only through the large online marketplace, E-Marketz.

An extensive range of goods and services are sold to consumers through the E-Marketz marketplace such as, physical books, e-books, CDs, DVDs, and digital music and movie files. The total value of low-value goods and services sold through E-Marketz' platform to New Zealand consumers is well over \$60,000 a year.

Consider Ryan in example 11. He now purchases \$200 worth of phone accessories from Anthony's Accessories through the E-Marketz website.

Under the proposals, E-Marketz would be treated as the supplier of goods to Ryan. E-Marketz is already registered for GST under New Zealand's cross-border services rules. E-Marketz would now be required to collect and return GST on its supplies of low-value goods to New Zealand consumers.

- 4.14 Australia has similar GST rules for cross-border services supplied through electronic distribution platforms. These rules include the ability for platforms and underlying suppliers to agree that the underlying supplier is responsible for returning GST on the services supplied through the platform to Australian consumers. From 1 July 2018, these rules will also apply to goods sold through these platforms.
- 4.15 The Government is seeking feedback on whether, as a default rule, treating the marketplace as the supplier of the goods provided that any of the conditions in paragraph 4.10 are met is workable.

Re-deliverers

- 4.16 Re-deliverers are used by consumers when the supplier or marketplace does not offer shipping to New Zealand. The good is instead shipped to an overseas “hub” or mailbox, which then ships the good to New Zealand. Since the supplier or marketplace in this situation may not know that the final destination of the good is New Zealand, it would be unreasonable to require them to charge GST.
- 4.17 Re-deliverers will, however, know the final destination of the goods on which they are “redelivering”. They should also know the value of the goods to be redelivered to New Zealand, as the consumer is generally required to provide a value for their parcel as part of the arrangements with the re-deliverer for payment and delivery of the goods to New Zealand.
- 4.18 For these reasons, it is proposed that re-deliverers, rather than the underlying suppliers, be required to register and return GST, if their supplies to New Zealand are above the registration threshold. Requiring re-deliverers to collect and return GST instead of the underlying supplier or the marketplace recognises that when consumers engage the services of a re-deliverer to “redeliver” their goods to New Zealand, it is the re-deliverer who would be best placed to know the status of the goods and the location to which they being delivered.

Australia’s approach to re-deliverers

- 4.19 Under Australia’s rules for low-value imported goods, an entity is a re-deliverer if that entity arranges with the recipient consumer to:
- provide for the use of an overseas mailbox to which the goods are delivered; or
 - purchases the goods (as an agent of the recipient consumer); and
 - delivers the goods to Australia.²³
- 4.20 Consistent with Australia’s rules, it is also proposed that freight forwarders or transporters (such as courier companies) who bring goods to New Zealand for consumers would not fall within the scope of the proposed rules for re-

²³ The entity would also be a re-deliverer if it procured, arranged or facilitated in these activities.

deliverers, unless the functions they are performing for the consumer are more akin to those of a re-deliverer.

- 4.21 The Government is interested in feedback from re-deliverers on this measure, in particular, whether the Australian approach should be adopted in New Zealand. The Government would also be keen to understand any practical issues with this approach.

Example 13: Re-deliverer above the registration threshold

Marie lives in Wellington and is an avid purchaser of designer handbags. She wishes to order a \$300 handbag by popular American designer, Babette Nordqvist. Unfortunately, Babette Nordqvist does not offer shipping to New Zealand. When Marie purchases the handbag from Babette Nordqvist, she requests that the bag is delivered to a US-based address provided to her by *Ship2Me*.

Ship2Me is an entity that provides its customers with a US postal address and then arranges with its customers to have their goods redelivered to New Zealand.

Marie arranges with *Ship2Me* to have her handbag delivered to her home address in Wellington.

Ship2Me's supplies exceed the registration threshold. Under the proposed rules, it would be a re-deliverer and would be required to register for GST instead of Babette Nordqvist (the underlying supplier).

Simplified registration system

- 4.22 To ensure compliance costs are kept to a minimum, the Government proposes that a simplified “pay only” registration system be available to offshore suppliers of low-value goods. A pay-only registration system is tailored for offshore suppliers that have no GST to claim and make payments only. The main benefit of a pay-only system is that the system can be very simple.
- 4.23 Because offshore suppliers that are in a pay only position represent a low risk from a revenue perspective, the registration and filing requirements are significantly simplified. The usual checks and balances focussed on ensuring that input tax deductions or refund claims are correct can be relaxed.
- 4.24 Inland Revenue has already developed a system for offshore suppliers of cross-border services and it has been well received. The Government proposes to extend this system to offshore suppliers of low-value goods. Offshore suppliers that are already registered for GST under the cross-border services rules would not need to re-register for their supplies of low-value goods under the proposed new rules.
- 4.25 While it is expected that the majority of offshore suppliers would only need to register under a pay-only system (as they would not normally incur any New Zealand-based GST costs on their supplies of low-value goods to New Zealand consumers), the normal domestic registration system would also need to be available so that offshore suppliers who do wish to claim back any New Zealand GST they have incurred may do so. By international standards, New Zealand’s domestic registration system is considered to be very simple.

Filing periods

- 4.26 Currently, domestic suppliers must file GST returns on a one-monthly, two-monthly or six-monthly basis, depending on turnover level. However, during consultation for the GST rules on cross-border services, offshore suppliers expressed a preference for quarterly GST returns, to better align with their filing obligations in other countries.
- 4.27 Consequently, under New Zealand's GST rules, quarterly returns are mandatory for offshore suppliers whose only New Zealand supplies consist of cross-border services. The Government proposes that this rule is extended to offshore suppliers of low-value goods.

CHAPTER 5

Enforcement, compliance and penalties

- The existing penalties under tax legislation would apply to consumers that falsely represent themselves as a business to avoid GST.
- Inland Revenue would be provided with the discretion in certain circumstances to require a consumer to register and pay the GST that should have been returned.
- Further measures to bolster compliance will be explored, such as a possible joint-registration system with other countries or data matching programmes between tax jurisdictions or government agencies.

- 5.1 New Zealand's tax system is based on the principle of voluntary compliance. That is, because our tax system is largely fair and coherent, the vast majority of people do the right thing and comply with their tax obligations. Our tax rules, by and large, are designed to make it easy for people to comply and difficult for people not to comply. It is expected that most offshore suppliers of low-value goods would comply with the rules outlined in this document for the same reason.
- 5.2 New Zealand's recent experience with GST on cross-border services has shown that a strategy of making it as easy as possible for offshore suppliers to comply with the rules is likely to help maximise compliance with an offshore supplier registration system. It has also been the experience in other jurisdictions that have implemented similar rules for cross-border services that offshore suppliers have demonstrated a willingness to comply. This is to a large extent because the tax is passed on to the consumer and any cost is administrative only.
- 5.3 The Government is therefore keen to ensure that the rules are workable and are as easy and practical for offshore suppliers to comply with as reasonably possible.
- 5.4 New Zealand has mechanisms for mutual co-operation, information exchange and assistance with many jurisdictions under both bilateral agreements and the Multilateral Convention on Mutual Administrative Assistance in Tax Matters. These agreements cover an extensive network of jurisdictions, including our major trading partners. The agreements mean New Zealand can request that our treaty partners (that is, other foreign tax authorities), collect and provide information, assist in the service of documents, and collect unpaid GST on New Zealand's behalf.
- 5.5 In addition to the current compliance approach, the Government will continue to explore different approaches to further bolster compliance as well as maintain and strengthen cross-border neutrality.

Measures to bolster compliance

Opportunity to explore a joint-registration system with other countries in the future

- 5.6 It will be important in the future to explore joint compliance initiatives with other jurisdictions that have similar rules for collecting GST on low-value goods. For example, this could mean a joint Australia/New Zealand registration system. A similar system operates in the European Union and is known as the “one-stop-shop” registration system. Under the one-stop-shop, suppliers are able to register in a single Member State, which is then responsible for distributing the GST returned amongst the other relevant Member States at the appropriate rate.
- 5.7 The intention of the one-stop-shop was to lower the compliance costs imposed on offshore suppliers and to enhance compliance with the system as a whole. This is because registering and filing a single return with one Member State is considered to be easier than registering and filing in multiple Member States.
- 5.8 In the New Zealand context, our most obvious regional partner is Australia. Similar benefits could be achieved through a comparable one-stop-shop in the future. For example, if an offshore supplier supplied services or goods to both Australia and New Zealand, a one-stop-shop registration system would allow the supplier to register and file returns in a single country, instead of both countries.
- 5.9 It should be noted, however, that such a system would require high levels of cooperation and would take time to develop. An offshore supplier registration system would therefore be embedded in both New Zealand and Australia before consideration would be given to developing a joint registration system.

Data matching programmes

- 5.10 Other compliance measures that could be explored include data matching programmes. This could be done between jurisdictions or with Customs and Inland Revenue.
- 5.11 As a first step towards a joint-registration system it could be possible, for example, for Australia and New Zealand to share a list of registered suppliers under our respective rules for low-value imported goods.
- 5.12 Domestically, Customs’ import entry information could be matched with Inland Revenue’s list of GST-registered businesses to determine whether suppliers who are supplying more than \$60,000 of goods a year into New Zealand are registered for GST. Officials consider that this can be efficiently supported by the new customs and excise legislation.

Penalties for false representations by consumers

- 5.13 The Government proposes that the existing penalties and use-of-money interest rules that apply to domestic suppliers be extended to apply to offshore suppliers. Further, the existing knowledge offences under tax legislation would apply when a person deliberately supplies incorrect information for the purpose of avoiding GST – for example, by misrepresenting themselves as a GST-registered business. The maximum fine a court could impose is \$25,000 for a first time offender or \$50,000 for a repeat offender.
- 5.14 In addition to existing penalties, it is proposed that in egregious cases, Inland Revenue would also have the discretion to require a person to register and pay the GST that should have been returned. This would apply only in exceptional cases, such as when a person repeatedly provided false or misleading information about themselves in order to avoid GST.