



30 August 2017

Collection Models for GST on Low Value Imported Goods  
Productivity Commission  
GPO Box 1428  
Canberra City ACT 2601

Online: <http://www.pc.gov.au/inquiries/current/collection-models>

Dear Sir / Madam

### **Submission on Collection Models for GST on Low Value Imported Goods**

Chartered Accountants Australia and New Zealand (CA ANZ) appreciates the opportunity to provide our brief comments in response to the Discussion Paper *Collection Models for GST on Low Value Imported Goods* (the Discussion Paper), issued by the Productivity Commission (the Commission) in July 2017.

CA ANZ welcomes the recently legislated amendments introducing new measures to impose and collect GST on low value imported goods (LVIG) from 1 July 2018. CA ANZ, through our Indirect Tax Committee, worked closely with Treasury and ATO officials in a collaborative process during the development phase of the new LVIG measures to co-design and co-develop measures that would be as workable and effective as possible.

We support the 'expanded vendor' collection model as legislated, and provide our brief comments on why we consider that the legislated model is the most appropriate model. We do not support the alternative methods being considered by the Commission, namely the Complementary GST collection models recommended by the Parcel Processing Taskforce (PPT).

### **Commission's Preliminary work**

The Discussion Paper highlights the key issues, and outlines the preliminary views of the Commission drawing on existing research and evidence, stating that:

"Based on [its preliminary] analysis, at this stage the Commission intends to focus in its final report on the model proposed by the Parcel Processing Taskforce [PPT], together with the legislated model, and any workable proposals to improve these models that may be offered in submissions. In doing so, the Commission will draw on established policy principles in relation to taxation and economic efficiency.

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It will give particular attention to the feasibility of the different approaches and their likely impacts on: tax neutrality between domestic and foreign suppliers; GST revenues; administrative and compliance costs and burdens; and the resultant impacts on Australian consumers and businesses.”

### **Vendor collection model v Two Complementary collection models**

Under the ‘expanded vendor’ collection model, vendor (supplier, platform, or redeliverer) must register and is liable to charge and collect the GST on supplies of LVIG if taxable supplies meet the annual registration threshold of A\$75,000.

By contrast, the Two Complementary GST collection models approach, would involve:

- (i) optional vendor registration; together with
- (ii) purchaser self-assessment and pre-payment of GST on goods they have purchased where payment was not already made by the vendor.

### **Reasons for supporting Vendor collection model**

In forming our views on the appropriate GST collection model, CA ANZ has had regard to the relevant considerations being taken into account by the Commission, namely:

- established policy principles in relation to taxation and economic efficiency;
- the feasibility of the different approaches and their likely impacts on:
  - tax neutrality between domestic and foreign suppliers;
  - GST revenues;
  - administrative and compliance costs and burdens; and
  - resultant impacts on Australian consumers and businesses.

CA ANZ outlines below a range of reasons for which we support the ‘expanded vendor’ collection model as being the most appropriate GST collection model for LVIG, compared with other models being considered by the Commission, and in preference to the alternative of adopting two complementary GST collection models as recommended by the PPT.

The policy merits of imposing GST on LVIG have been well debated and accepted by Parliament during the legislative process when the measure was enacted.

Therefore, these comments focus only on the policy merits of the ‘expanded vendor’ collection mechanism itself.

## **1. Established policy principles – taxation and economic efficiency**

### **1.1 Consistency with established tax policy**

The policy objective of the GST is to tax final private consumption in Australia. Broadly, the mechanism chosen to do this is to apply GST to taxable supplies. The liability for the GST payable on a taxable supply is generally imposed on suppliers (or a deemed liable entity).

As such, the legislated ‘expanded vendor’ collection model is in line with the general legislative and administrative scheme of the GST. It is therefore entirely appropriate that

any new categories of taxable supply be taxed under the same broad vendor collection model. Since the introduction of GST, both resident and non-resident suppliers can be required to register for GST under the standard rules. This is subject to the new rules that have been designed to enable non-residents making business to business (B2B) supplies not to be drawn into the Australian GST system unnecessarily.

Similarly, under the existing rules applicable to Australian entities in the domestic context, non-supplier intermediaries are often deemed liable to account for the GST on taxable supplies under various rules on tax and economic efficiency grounds, as well as for simplicity or assurance regarding compliance. These include the Division 57 resident agent rules, incapacitated entity rules, the grouping rules, the joint venture registration rules, and the new reverse charge for precious metals.

GST on taxable importations are a secondary category of taxable transaction, applicable to goods with a Customs value of \$1,000 or greater. The GST collection mechanism for such goods, a border collection model, was adopted to align with the existing Customs duty collection process for goods of such dutiable value. GST collection efficiencies and synergies have been achieved by leveraging the alignment with Customs duty collection processes. It is therefore important to be cautious not to upset the efficiencies and synergies between GST and Customs by seeking to effectively dictate a lower value threshold simply to collect GST on LVIG, thereby throwing out of kilter both the existing Customs and GST border model for higher value goods. For goods with a value less than \$1,000, there is no logical policy reason for adopting the 'border collection' model, as that model applies to goods with a value set at the level which is appropriate for levying and collecting Customs duty.

For LVIG, the better approach from a tax policy perspective, in our view, is to adopt the vendor collection model under which the supplier (or intermediary as deemed supplier) is required to register for GST and charge and remit GST.

We note that the legislated 'expanded vendor' collection model for GST on LVIG is consistent with, and well-integrated with, the vendor collection model adopted for the other new category of cross-border supplies - imported intangibles by Australian consumers, i.e. digital products and other intangible things - which was introduced from 1 July 2017.<sup>1</sup>

### *1.2 Alignment with global tax policy trends*

We also note that the OECD has recently included the Australian Government's vendor collection model for LVIG in its paper '[Consumption Tax Trends 2016 – VAT/GST and excise rates, trends and policy issues](#)' (see p.27-28). It then states that the EU Commission has also proposed to introduce legislation to modernise and simplify VAT for cross-border e-commerce, relevantly including:

- extending the One Stop Shop vendor collection mechanism (currently only applicable to telecommunications, broadcasting and e-services) to EU and non-EU countries' *online sales of tangible goods to final consumers*, and

<sup>1</sup> Sub-section 9-25(5) and Sub-divisions 84-B, 84-C and 84-D of the *A New Tax System (Goods and Services Tax) Act 1999*

- removing the VAT exemption for *imports of small consignments* from non-EU suppliers.<sup>2</sup>

We believe that this reflects the trend whereby governments around the world are increasingly seeking to modernise their VAT/GST collection regimes so that they are fit for purpose in an increasingly global and rapidly growing digital economy that is ubiquitous in its geographical presence and cross-border reach. The aim being pursued is to improve the efficiency of traditional collection models that are proving to be inefficient and unsuitable models for dealing with the emerging volume, pace, scale of cross-border supplies to consumers around the world in the digital economy.

The challenge is to find the right balance between revenue protection and avoiding distortions to competition on the one hand, and on the other, ensuring that ensuring that the cost of collection is proportionate to the VAT/GST collected.

In the 2015 report '[Addressing the Tax Challenges of the Digital Economy](#)', the OECD made the above observation. They further recognised that "the digital economy is increasingly becoming the economy itself", and as such, "it would be difficult, if not impossible, to ring-fence the digital economy from the rest of the economy for tax purposes", at p.12. We agree with both of the above propositions, and therefore recommend that a vendor collection model, which is the established standard GST collection model, be adopted for goods and services supplied in the 'digital economy' for these reasons.

In our view, the 'expanded vendor' collection model, which leverages the scale, aggregating, centralising power of electronic distribution platforms and intermediaries in the supply chain, and to the data already available to them, has the greatest potential to provide an efficient and effective solution. As acknowledged by both the OECD and the Australian Treasury, such an 'expanded vendor' model may also allow small and medium sized businesses to comply more easily.<sup>3</sup>

### 1.3 Building the international administrative framework

Importantly, in the 2015 'Addressing the Tax Challenges of the Digital Economy' report at p.148, the OECD did envisage however, that any reforms in this area would need to be complemented with improved international co-operation between jurisdictions to address the challenges administrations are likely to face in enforcing compliance by non-resident suppliers, such as identifying that supplies made, enforcing collection and remittance of tax, accessing books and records, and conducting audits.

Such international co-operation would include enhanced exchange of information, assistance in recovery and simultaneous audits. We believe it is important that the Australian government pursue and develop these co-operative networks to develop a correspondingly 'ubiquitous' international administrative framework to support the new vendor collection model under both the GST and LVIG measures, and the cross-border services measures. The 2015 report also suggests that The Convention on Mutual Administrative Assistance in Tax Matters, developed jointly by the Council of Europe and

<sup>2</sup> EU Commission 2016, '[Communication from the commission to the European Parliament, the council and the European economic and social committee on an action plan on VAT - Towards a single EU VAT area - Time to decide](#)', Brussels, 7.4.2016, COM(2016) 148 final

<sup>3</sup> Senate Standing Committees on Economics, Treasury Laws Amendment (GST Low Value Goods) Bill 2017: [Report, Chapter 2 - Views on the Bill](#)

the OECD, provides a useful platform for developing such improved international co-operation (as it also covers VAT/GST matters).

At the Parliamentary Inquiry into the GST and LVIG measures,<sup>4</sup> CA ANZ made the point that GST is not ‘an island’ in the context of the ATO’s enforcement powers. It is not isolated, but rather forms part of a much larger, holistic tax system with many parts (direct taxes and indirect taxes) that apply both to resident and non-resident entities. The ATO therefore has many tools at its disposal, and many levers that it can pull within the larger tax system to encourage and, as necessary, to compel compliance by non-resident suppliers with no physical presence in Australia, should they be recalcitrant in complying with their Australian GST obligations. This is increasingly so given the recent introduction of the Multinational Anti-avoidance Law (MAAL), the Diverted Profits Tax (DPT), and the strengthened global action plan to address Base Erosion and Profit Shifting (BEPS).<sup>5</sup>

## **2. Feasibility of the different approaches and their likely impacts**

In our view, the ‘expanded vendor’ collection model is the most feasible, i.e. effective and workable, of the approaches under consideration by the Commission.

By comparison, the Two Complementary collection models, involving an optional vendor registration and subsequent self-assessment by the purchaser is not a model that we favour or support. We consider that this combined model will effectively amount to a ‘reverse charge’ on the purchaser, which we do not recommend for supplies in a business to consumer (B2C) context. We are not aware of any VAT/GST jurisdiction in the world whose tax policy principles, or whose administrative practice and outcomes reflect that a reverse charge on consumers is best practice in VAT/GST collection. CA ANZ has long held the view that a purchaser self-assessment collection model is the least appropriate model for supplies of both inbound goods and services to consumers. This conclusion becomes more true and emphatic viewed through the lens of the contemporary global digital economy, the new economic norm.

Having regard to all of the considerations concerning tax neutrality between domestic and foreign suppliers, GST policy objectives to tax final private consumption, the integrity of the GST revenue base, the relative administrative and compliance costs and burdens, and the potential impacts on Australian consumers and businesses, we consider that overall, and on balance, the ‘expanded vendor’ collection model that has been legislated for GST on LVIG delivers the most appropriate model. This conclusion is supported by the need for countries, including Australia, to implement tax collection models that are fit for purpose in a global digital economy that is happening here and now. The ‘expanded vendor’ collection model for GST on LVIG achieves this, and complements a consistent model for collecting GST on digital imported services, which is already in operation for non-resident suppliers and platforms from 1 July 2017.

It may be that detailed modelling will shed further light on the relative efficiencies of the different approaches. We understand that Treasury has performed modelling on the new measures, although this is only one consideration among many. It may also be that

<sup>4</sup> Senate Standing Committees on Economics, Treasury Laws Amendment (GST Low Value Goods) Bill 2017: [Public Hearings](#)

<sup>5</sup> [Inclusive Framework on BEPS: Progress Report 1 July 2016 – 30 June 2017](#), published 5 July 2017: “...we have seen 100 countries and jurisdictions become members. Representing a broad range of economic profiles, accounting for more than 93% of global GDP, as well as regional diversity, from Latin America through Asia-Pacific; this reflects the global commitment to address BEPS through enhanced international co-operation.”

Treasury should review the chosen model post-implementation having regard to experience with it and to the experiences of overseas jurisdictions which implement a similar measure.

We believe that the additional 12 months deferral will provide non-resident businesses with sufficient preparation time to enable tax advice to be obtained, and systems and processes to be developed, tested and implemented ready for the revised 1 July 2018 start date.

We trust that the above comments in response to the Commission's Discussion Paper assists you with finalising the Commission's report to the Government. If you have any questions in relation to any aspect of this submission, please contact Donna Bagnall

Yours sincerely

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