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AUSTRALIA + NEW ZEALAND

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## WEEKLY COMMENT: FRIDAY 24 OCTOBER 2025

1. The *Taxation (Annual Rates for 2019-20, GST offshore Supplier Registration, and Remedial Matters) Act 2019* (“the GST Offshore Supplier Amendment Act 2019”), with a date of assent of 26 June 2019, introduced the GST rules on distantly taxable goods.
2. This is week 2 of my 5-week review of the GST rules relating to distantly taxable goods. This week, I look at electing that supplies of higher value goods be treated as distantly taxable goods, the imposition of GST and calculating GST on distantly taxable goods, and the treatment of amounts paid for delivery and related services.

### **Election by supplier that supplies of higher-value goods be supplies of distantly taxable goods**

3. Section 10C allows a supplier to elect that an item of goods having an estimated customs value greater than the entry value threshold is a supply of distantly taxable goods if the goods are delivered at a place in New Zealand, and the requirements of s 10C are met, being that:
  - (a) The non-resident supplier, or the operator of an electronic marketplace through which the goods are sold (to be covered in next week’s *Weekly Comment* 31 October 2025), or a redeliverer (to be covered in *Weekly Comment* 7 November 2025), makes an election notifying the Commissioner that for an initial taxable period, beginning after the election, and for subsequent taxable periods that s 10C is to apply; and
  - (b) At the time of the election, either:
    - (i) The electing supplier considers that 75% or more of the total value of distantly taxable goods supplied by the electing supplier to places in New Zealand in the 12-month period beginning with the first day for which the election will be effective, will consist of items having an estimated customs value equal to or less than the entry value threshold (currently \$1,000 – see last week’s *Weekly Comment* 17 October 2025); or
    - (ii) If the electing supplier does not meet the above 75% threshold, the Commissioner considers that accepting the election will not result in a risk to the integrity of the tax system, taking into account the electing supplier and associates’ compliance with NZ and foreign tax laws, and the total value of items that would each have an estimated customs value greater than the entry value threshold that the electing supplier sells in a period and are delivered at places in New Zealand, and any other considerations the Commissioner considers are relevant.

4. Inland Revenue has stated in *Tax Information Bulletin* Vol. 31, No. 8, September 2019 (the “Distantly Taxable Goods TIB Item”), page 47, that there must be “reasonable grounds” that the 75% threshold will be met, meaning that:
  - (a) The supplier must firstly assume that it has made an effective election for the initial year, meaning that for the purposes of determining whether the 75% threshold is met, the supplier should include high-value goods supplied to customers in New Zealand (both consumers and GST-registered businesses) in the “total value of distantly taxable goods supplied by the electing supplier to places in New Zealand”;
  - (b) Having made the above starting assumption, the test then requires the electing supplier to determine whether it is reasonable to believe that the total value of its low-value goods supplied to customers in New Zealand during the 12-month period will be at least 75% of the total value of the distantly taxable goods that it will supply in the initial year;
  - (c) The reasonable grounds requirement means different things for different types of electing suppliers:
    - (i) For an electing supplier who is a merchant, or an electing supplier who is a redeliverer treated by s 60E as the supplier of low-value goods that it brings to New Zealand (to be covered in *Weekly Comment* 7 November 2025): the reasonable grounds requirement means the electing supplier has a reasonable belief that 75% percent or more of the total value of goods that it will bring (or assist in bringing) to New Zealand in the initial year of the election will consist of items that individually have an estimated customs value of NZ\$1,000 or less;
    - (ii) For an electing supplier who is an operator of a marketplace (and who is treated by either of sections 60C or 60D as the supplier of low-value goods sold through its marketplace by non-resident underlying suppliers – to be covered in next week’s *Weekly Comment* 31 October 2025): the reasonable grounds requirement above means the marketplace operator has a reasonable belief that 75% or more of the total value of goods that would be purchased on the marketplace in the initial year of the election, and supplied by non-resident underlying suppliers to customers in New Zealand, will consist of items that individually have an estimated customs value of NZ\$1,000 or less; and
  - (d) In either case, the electing supplier should not include alcohol or tobacco products for the purposes of assessing whether the 75% test is met.
5. As noted in **paragraph 3** above, the Commissioner has the discretion, under s 10C(2)(b) to accept an election by a supplier to treat its high-value goods as distantly taxable goods, even if the self-assessed 75% test is not met. Inland Revenue notes that:
  - (a) The ability for the Commissioner to allow suppliers to charge GST on high-value goods supplied to consumers recognises that the costs to a supplier in configuring their point-of-sale systems to distinguish between low-value and high-value goods may be disproportionate to any potential revenue risk from allowing the supplier to charge GST on high-value goods (effectively replacing the collection of GST on these goods by Customs), even if the 75 percent test is not met;
  - (b) Either the supplier must have a good tax compliance history, or the Commissioner should be satisfied the value of high-value sales to consumers in New Zealand is not significant;

- (c) In practice, there will be a general presumption in favour of exercising the discretion, unless there was information available suggesting this would result in a revenue risk.
6. The Commissioner may cancel the election if requested by the supplier or if the Commissioner considers that there are reasons to do so. In the latter case, the Commissioner must notify the electing supplier of the date of the proposed cancellation and the reasons for it.

### **Imposition of goods and services tax on supply**

7. Under s 8(1), GST is imposed on the supply in New Zealand of goods and services by a registered person in the course or furtherance of a taxable activity, and:
- (a) Under s 8(2), goods and services are deemed to be supplied in NZ if the supplier is resident in NZ, and are deemed to be supplied outside NZ if the supplier is a non-resident; but
  - (b) Section 8(3)(ab) provides that goods and services are treated as being supplied in New Zealand if the supplier is a non-resident, and the goods are distantly taxable goods to which s 8(4E) does not apply; and
  - (c) Section 8(4E) provides that if a non-resident is a supplier of distantly taxable goods to a registered person for the purpose of carrying on the registered person's taxable activity, the services are treated as being supplied outside NZ unless, under s 8(4F):
    - (i) The non-resident supplier elects to apply s 8(4F); and
    - (ii) The non-resident supplier reasonably expects that more than 50% of the value of the supplies made by the non-resident supplier to persons in NZ in the 12 months from the election will be made to persons who are not GST-registered; and
    - (iii) The value of the supply is not more than \$1,000.
8. The requirements relating to this option to charge GST on distantly taxable goods to a GST-registered business will be fully covered in *Weekly Comment* 14 November 2025.
9. An amendment to the reverse charge rule in s 8(4B) requires GST-registered recipients of distantly taxable goods treated by s 8(4E) as not supplied in New Zealand, where the recipient did not pay GST to Customs nor to the supplier, to return output tax of the percentage of intended or actual taxable use of the goods is less than 95% of the total use.
10. Goods treated as having been supplied by a New Zealand-resident person, such as an electronic marketplace operator, redeliverer or agent domiciled in New Zealand, would be treated as supplied in New Zealand by existing s 8(2), even if the goods are supplied to a GST-registered business for the purposes of carrying on its taxable activity – covered more fully in next week's *Weekly Comment* 31 October 2025 and the week after that in *Weekly Comment* 7 November 2025.
11. Section 8BB(1B) provides that a supplier must not treat the supply as being made to a registered person for use in the course or furtherance of the registered person's taxable activity if the recipient does not meet the requirements of s 8BB as follows:
- (a) Section 8BB(2) states that a recipient meets the requirements of s 8BB if the recipient notifies the supplier that the recipient is a registered person or provides the supplier with the recipient's registration number or New Zealand Business Number (Inland Revenue notes that GST-registered recipients of distantly taxable goods should not

identify themselves as a GST-registered business, or provide their GST registration number or a New Zealand business number, if they intend to use the goods wholly for non-taxable purposes);

(b) Inland Revenue notes that it may not be practical for all suppliers to ask for evidence that a customer is GST-registered, therefore, s 8BB(3) states that the Commissioner may prescribe, as an alternative to the above-stated method in s 8BB(2), a method that a supplier may use to determine whether the supply is made to a registered person for use in the course or furtherance of the registered person's taxable activity, or may agree with the supplier on the use of another method, and in doing so, the Commissioner may take into account:

- (i) The nature of the supply, including, for example, whether the supply is of goods and services that are purchased only by a registered person in the course or furtherance of the registered person's taxable activity;
- (ii) The value of the supply, including, for example, whether the supply is of a value that would be expected to be received only by a registered person in the course or furtherance of the registered person's taxable activity;
- (iii) The terms and conditions related to the provision of the goods and services, including, for example, whether the supply is of goods and services that may be leased, licensed, or otherwise made available, for use by a registered person in the course or furtherance of the registered person's taxable activity.

12. Inland Revenue notes that suppliers who have already agreed an alternative method with the Commissioner for supplies of remote services could use the same method for distantly taxable goods, if they wish to do so, by requesting the Commissioner's approval to use their existing method for distantly taxable goods.

### **Calculating GST on distantly taxable goods**

13. The amount of GST required to be returned on a supply of distantly taxable goods is 15% of the value of the supply. Inland Revenue notes that:

- (a) The value of a supply of distantly taxable goods is not the same as the estimated customs value of distantly taxable goods;
- (b) The estimated customs value is only used for the purpose of determining whether a given item is distantly taxable;
- (c) The value of the supply is determined by the amount of the consideration for the supply, which, unlike the estimated customs value, will typically include amounts paid by the recipient for related services such as freight and insurance;
- (d) For goods priced inclusive of GST, the amount of GST that should be returned will be equal to the amount of consideration for the supply multiplied by 3/23.

14. When converting foreign currency amounts to NZD to determine GST to be returned, s 77(3) provides that a supplier can use the conversion rate (see last week's *Weekly Comment* 17 October 2025) applying on either:

- (a) The last day of the relevant taxable period;
- (b) The date the supplier files their GST return for the relevant period (or the due date for filing if the return is filed past the due date); or

- (c) Another date as agreed with the Commissioner.
15. Inland Revenue notes that if the supplier elects to use an option other than expressing amounts in NZD at the time of supply, they may not change their method for a period of 24 months, unless they agree otherwise with the Commissioner.
16. In a situation where a merchant has returned too much or too little GST as a result of an event referred to in s 25(1), as a result of a mistake, subsequent alteration to, or cancellation of the supply, s 25(2) provides that the merchant may make an adjustment in its GST return when it is apparent that too much or too little output tax has been returned. The list of events in s 25(1) include:
- (a) The supply of goods and services has been cancelled;
  - (b) The nature of the supply of goods and services had been fundamentally varied or altered;
  - (c) The previously agreed consideration for the supply of goods and services has been altered, for instance through the offer of a discount;
  - (d) The goods and services or part of the goods and services have been returned to the supplier.
17. Note that a special valuation rule applies when an operator of a marketplace provides a discount, as discussed in next week's *Weekly Comment* 31 October 2025.

#### **Amounts paid for delivery and other related services**

18. Inland Revenue notes that under ordinary GST principles, the amount of consideration for a supply of distantly taxable goods will typically include amounts paid by the recipient for services relating to the goods, such as delivery and insurance, because these services are generally either:
- (a) Ancillary or integral to the supply of the goods (such as in the case of freight and insurance); or
  - (b) Merely incidental to the goods, or are a means of better enjoying the goods.
19. In some circumstances, there may be a separate zero-rated supply if the recipient contracts separately for the supply of these services. Inland Revenue notes that to avoid doubt and ensure consistent treatment, s 10(7E) states that where a person makes a supply of services to the recipient of a supply of goods that include distantly taxable goods, and the supply of services includes "related services" that relate to the distantly taxable goods, the consideration for the related services is part of the consideration for the supply of the distantly taxable goods if:
- (a) The consideration for the supply of the related services is determined by reference to the items included in the supply of distantly taxable goods (Inland Revenue notes that, for example, this means that a subscription where a consumer is paying for the transport of many supplies of goods over a period of time is excluded from the scope of this rule); and
  - (b) The supply of services is made or arranged or facilitated by the supplier or underlying supplier of the distantly taxable goods; and
  - (c) The supply of related services is directly in connection with the distantly taxable goods or is of insurance of the goods (Inland Revenue notes that the "directly in connection

with” wording is intended to apply broadly to services that have a direct physical intervention with the goods, including (but not limited to) transportation and handling of the goods, for example, services such as gift-wrapping would meet the “directly in connection with” test; and

(d) The supply of related services would be chargeable with tax at the rate of 0% in the absence of this subsection; and

(e) The supply of related services and the supply of distantly taxable goods do not form a single supply.

20. Inland Revenue notes that the effect of s 10(7E) is that amounts paid by the recipient for a separate zero-rated supply (such as international transportation that is contractually supplied to the recipient by a third party) may still be included as part of the consideration for a supply of distantly taxable goods that is subject to GST at the rate of 15%.

21. Where a customer is charged a single delivery fee for the transportation of both distantly taxable goods and goods that are not distantly taxable goods, apportionment of GST on the amount paid for transportation will be required. Inland Revenue notes that the supplier may use any fair and reasonable method of apportioning GST on the delivery charges (which could, but does not have to be, the same as the method used to apportion delivery charges for customs purposes, for example, apportionment based on the:

(a) Weight of the distantly taxable goods relative to the weight of other goods; or

(b) Value of the goods.

22. Inland Revenue notes that apportionment of GST on a single delivery charge relating to both distantly taxable goods and other goods will not be required if:

(a) The delivery services are a separate zero-rated supply; and

(b) Section 10(7E) does not apply to treat the amount of consideration relating to delivery services as part of the consideration for the supply of distantly taxable goods (so GST will not apply at all to the amount paid for delivery).



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