
TREASURY LAWS AMENDMENT (2017 MEASURES NO. 1) BILL 2017

EXPOSURE DRAFT EXPLANATORY MATERIALS

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Glossary

The following abbreviations and acronyms are used throughout this explanatory memorandum.

<i>Abbreviation</i>	<i>Definition</i>
ABN	Australian Business Number
ATO	Australian Taxation Office
Commissioner	Commissioner of Taxation
GST	goods and services tax
GST Act	<i>A New Tax System (Goods and Services Tax) Act 1999</i>
ITC	input tax credit
ITZ	indirect tax zone (broadly, Australia, excluding those geographic areas where the GST does not apply, such as the external Territories)
Intangibles	things other than goods or real property
Low value goods	goods with a customs value equal to or less than the prescribed amount of \$1,000
TAA 1953	<i>Taxation Administration Act 1953</i>

Chapter 1

Low value imported goods

Outline of chapter

1.1 Schedule # to the draft Treasury Laws Amendment (2017 Measures No. 1) Bill 2017 (the Exposure Draft Bill) amends the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) to ensure that goods and services tax (GST) is payable on certain supplies of low value goods that are purchased by consumers and are imported into Australia.

1.2 The amendments make supplies of goods valued at \$1,000 or less at the time of sale connected with the indirect tax zone (ITZ) if the goods that are supplied are brought to the ITZ with the assistance of the supplier. This ensures that such supplies are subject to GST, consistent with equivalent supplies made within Australia.

1.3 All legislative references in this Chapter are to the GST Act, unless otherwise stated. All references in this Chapter to dollars (\$) are to Australian dollars.

Context of amendments

Operation of existing law

1.4 GST is payable on taxable supplies and taxable importations.

Taxable supplies

1.5 Generally, for a supply to be a taxable supply, it must, among other things, be connected with the ITZ (broadly, Australia, excluding those geographic areas where the GST does not apply, such as the external Territories).

1.6 Broadly, under section 9-25 supplies of goods are connected with the ITZ if the goods are:

- delivered in or made available in the ITZ (domestic transactions);

- removed from the ITZ as part of the supply (exported); or
- brought to the ITZ and the supplier is the importer.

1.7 These rules do not apply to supplies of goods outside the ITZ unless the goods are brought to the ITZ by the supplier. Applying GST to imported goods is consistent with international practice for value added taxes such as the GST and results in an equivalent GST outcome for consumption in Australia.

Taxable importations

1.8 An entity makes a taxable importation if, amongst other things, goods are imported, and either the entity enters the goods for home consumption (within the meaning of the *Customs Act 1901*) or the goods are imported in circumstances specified in Division 114 (which deals with other importations such as importations without entry for home consumption).

1.9 However, certain importations are specified to be non-taxable importations. These include certain goods to which concessional rates of duty apply under Schedule 4 to the *Customs Tariff Act 1995*, such as goods with a customs value equal to or less than the prescribed amount of \$1,000 (low value goods) (see subsection 42-5(1) of the GST Act and item 26 in Schedule 4 to the *Customs Tariff Act 1995*).

Low value goods

1.10 The combined effect of these rules is that consumers can purchase low value goods without being subject to GST if they bring the goods to the ITZ.

1.11 The supply of the goods to the consumer is not a taxable supply, as a supply of goods outside the ITZ is not connected with the ITZ unless the supplier imports the goods. The subsequent importation is not a taxable importation if the value of the goods is \$1,000 or less, which makes the importation a non-taxable importation.

1.12 When the GST was being developed, this was mostly a theoretical issue. At that time it was not common for consumers to deal with foreign suppliers or for Australian suppliers to supply goods that were located outside the ITZ at the time of the supply.

1.13 However, this is no longer the case. In the years since the introduction of the GST, it has become increasingly common for Australian consumers to purchase goods located overseas and arrange for shipping of goods into the ITZ with the assistance of the supplier.

1.14 In this context, the fact that neither the supply nor the importation of such low value goods is subject to GST represents a significant risk to the integrity of the GST system. It also places Australian based suppliers at a growing competitive disadvantage.

Summary of new law

1.15 Schedule # to the Exposure Draft Bill amends the GST Act to ensure that GST is payable on certain supplies of low value goods that are purchased by consumers and brought to Australia.

1.16 The reforms:

- make supplies of goods valued at \$1,000 or less at the time of supply connected with the ITZ if the goods are, broadly, purchased by consumers and are brought to the ITZ with the assistance of the supplier;
- treat the operators of electronic distribution platforms as the suppliers of low value goods if the goods are purchased by consumers and brought to the ITZ through the platform;
- allow non-resident suppliers of low value goods that become connected with the ITZ because of these amendments to elect to be limited registration entities; and
- prevent double taxation by making importations of goods non-taxable importations if the supply of the goods is a taxable supply as a result of these amendments.

Comparison of key features of new law and current law

<i>New law</i>	<i>Current law</i>
<i>Supplies of low value goods that are connected with the ITZ</i>	
<p>A supply of goods is connected with the ITZ if, broadly:</p> <ul style="list-style-type: none"> • the supply takes place in the ITZ; • the supply involves the goods being removed from the ITZ; • the supplier imports the goods to the ITZ as part of the supply; or • the supply is a supply of low value goods to a consumer that involves 	<p>A supply of goods is connected with the ITZ if, broadly:</p> <ul style="list-style-type: none"> • the supply takes place in the ITZ; • the supply involves the goods being removed from the ITZ; or • the supply imports the goods to the ITZ as part of the supply. <p>The acquisition of low value goods is not subject to a reverse charge.</p>

<i>New law</i>	<i>Current law</i>
<p>the goods being brought to the ITZ with the assistance of the supplier.</p> <p>A supply of goods is a supply of low value goods if the customs value of the goods, at the time when the consideration for the supply was first agreed, would have been \$1,000 or less had they been exported at that time.</p> <p>A consumer refers to a recipient of a supply that:</p> <ul style="list-style-type: none"> • is not registered for GST; or • if the recipient is registered for GST – does not acquire the goods solely or partly for the purposes of an enterprise that the recipient carries on in the ITZ. <p>However, a supply of low value goods will not be connected with the ITZ if:</p> <ul style="list-style-type: none"> • the supplier reasonably believed that the goods would be a taxable importation; and • they in fact were brought into the ITZ as a taxable importation. <p>These amendments ensure that supplies of low value goods to consumers that are brought to the ITZ with the assistance of the supplier receive equivalent GST treatment to goods supplied within the ITZ.</p> <p>Entities that are registered or required to be registered for GST and acquire low value goods where the acquisition would not be fully creditable may be subject to a reverse charge.</p>	
<i>Goods forwarders treated as suppliers</i>	
<p>If a supply of low value goods is acquired by a consumer and brought to the ITZ with the assistance of a goods forwarder then the supply is treated as connected with the ITZ and responsibility for any GST liability in relation to the supply becomes the responsibility of the goods forwarder.</p> <p>An entity is a goods forwarder in</p>	<p>Not applicable.</p>

<i>New law</i>	<i>Current law</i>
<p>relation to a supply if they take delivery or arrange for another entity to take delivery of the goods outside the ITZ, and they assist the recipient to bring the goods to the ITZ. Entities that merely deliver goods to the ITZ for the supplier or which do not carry on an enterprise are not goods forwarders.</p>	
<i>Supply through an electronic distribution platform</i>	
<p>If a supply of low value goods that is connected with the ITZ because of these amendments (an offshore supply of low value goods) or an inbound intangible consumer supply is made through an electronic distribution platform, the operator of the platform is treated as having made the supply. Accordingly, the operator is the supplier for GST purposes.</p>	<p>If an inbound intangible consumer supply is made to an Australian consumer through an electronic distribution platform, the operator of the platform is treated as the supplier for the purposes of GST.</p>
<i>Limited registration rules</i>	
<p>Non-residents making offshore supplies of low value goods that are connected with the ITZ because of these amendments can elect to be limited registration entities. The effect of the limited registration rules for inbound intangible consumer supplies is unchanged.</p>	<p>Entities that make at least one inbound intangible consumer supply can elect to be a limited registration entity. A limited registration entity is able to access simplified registration and reporting requirements, but its acquisitions are never creditable and it cannot obtain an Australian Business Number (ABN).</p>
<i>Preventing double taxation</i>	
<p>Importations of goods are non-taxable importations if:</p> <ul style="list-style-type: none"> • a supply of the goods in which the goods are brought to the ITZ is a taxable supply because of these amendments; and • the importer notifies the Commissioner of Taxation (Commissioner) in the approved form at the time of the importation that the supply was taxable. <p>This ensures that GST does not apply twice to low value goods that are imported to the ITZ.</p>	<p>Not applicable.</p>

<i>New law</i>	<i>Current law</i>
<i>Tax invoices and adjustment notes</i>	
A tax invoice or adjustment note is not required for an offshore supply of low value goods. However, a supplier must notify the recipient of the amount of GST (if any) that is payable in relation to the supply of low value goods that become connected with ITZ as a result of the law change within one day of request from the recipient.	A tax invoice or adjustment note needs to be issued by a supplier to the recipient of supply within 28 days of a request by the recipient of the supply.

Detailed explanation of new law

Extending the circumstances when supplies of goods are connected with the ITZ

1.17 The amendments broaden the scope of the GST so that it applies to supplies of low value goods that are purchased by a consumer and brought to the ITZ with the assistance of the supplier. They ensure that supplies of low value goods that are purchased by consumers receive similar GST treatment whether they are supplied wholly within Australia or brought to Australia during or after the supply with the assistance of the supplier.

1.18 This GST treatment is achieved by creating a new situation in which a supply of goods is connected with the ITZ. Under the existing GST law (see section 9-25), a supply of goods is connected with the ITZ if, as part of the supply, the goods are:

- delivered or made available within the ITZ to the recipient of the supply;
- removed from the ITZ; or
- brought into the ITZ and the supplier is the importer.

1.19 As a result of the amendments, a supply of goods will also be connected with the ITZ if:

- the supply involves the goods being brought to the ITZ with the assistance of the supplier;
- the goods are low value goods; and

- the recipient acquires the supply as a consumer.

[Schedule #, item 48, subsection 85-45(1)]

1.20 However, the supply will not be connected with the ITZ if, at the time the consideration for the supply is set, the supplier reasonably believes the goods will be imported as a taxable importation and the goods are later imported as a taxable importation. *[Schedule #, item 48, subsection 85-45(2)]*

1.21 The amendments ensure that supplies of low value goods to consumers in the ITZ are subject to GST in the same way as all other supplies consumed in the ITZ.

1.22 Supplies that become connected with the ITZ as a result of the amendments will generally be included in the supplier's GST turnover – broadly, the value of the supplies they make that are connected with the ITZ (see Division 188-10). If an entity's GST turnover exceeds the registration turnover threshold (\$75,000 for most entities and \$150,000 for non-profit bodies) it will be required to register and remit GST on its supplies.

1.23 If suppliers are making supplies of goods that are connected with the ITZ under the current law, these amendments do not alter their existing GST obligations in relation to these goods, even if the supplies are also connected because of these amendments.

Bringing goods to the ITZ with the assistance of the supplier

1.24 The first requirement for goods to be connected with the ITZ is that the goods are brought into the ITZ and that the supplier assists in the delivery of the goods into the ITZ. *[Schedule #, item 48, paragraphs 85-45(1)(a) and (b)]*

1.25 This includes both where the supplier delivers the goods and where the supplier procures, arranges or facilitates the delivery of the goods into the ITZ. *[Schedule #, item 48, paragraph 85-45(1)(b)]*

1.26 This requirement is broader than the existing provisions of the GST law. The existing requirements are generally only satisfied where the goods are either located in the ITZ (see subsections 9-25(1) and (2)) or if the supplier imports the goods into the ITZ as part of the supply (subsection 9-25(3)). The new requirement will be satisfied if the goods are brought into the ITZ and the supplier provides some form of assistance in arranging this delivery.

1.27 Assistance includes making arrangements with third parties for the transport of the goods or facilitating the individual making such

arrangements, by for example, having arranged special terms for its customers for delivery. However, it does not include merely making the goods available for collection or providing contact information for otherwise unrelated transport companies.

1.28 Neither the physical location of the recipient of a supply of low value goods nor their residence status for tax purposes is relevant in determining if a supply of low value goods is connected with the ITZ, where the goods are brought to the ITZ with the assistance of the supplier.

1.29 Likewise, the way in which a consumer purchases low value goods is not relevant to determining if a supply of low value goods is connected with the ITZ, where the goods are brought to the ITZ with the assistance of the supplier. The amendments apply equally if a consumer purchases goods online, over the telephone or in person in a store overseas where there is an arrangement for the goods to be brought to the ITZ with the assistance of the supplier. They can also apply for goods ordered from stores in the ITZ if the supply was not already connected with the ITZ (because, for example, the goods were located outside the ITZ at the time of supply) the supplier assists the consumer in getting the goods into the ITZ.

1.30 Effectively, where goods are brought to or delivered within the ITZ, consumption of these goods would be expected to occur in the ITZ. Accordingly, GST should apply to low value goods acquired by consumers that are brought to the ITZ to ensure equivalent treatment with domestically supplied goods. That said, given the existing operation of the GST in relation to goods, extending the rules for when a supply is connected too broadly would cause unnecessary disruption. The remaining requirements (and the qualification) ensure the effects of the amendments are targeted to the situations where consumption is undertaxed.

Low value goods

1.31 The second requirement for goods to become connected with the indirect tax zone as a result of these amendments is that they must be low value goods. [*Schedule #, item 48, subsection 85-45(1)*]

1.32 The GST Act defines goods as tangible personal property.

1.33 A supply of goods is a supply of low value goods if the customs value of the goods would have been \$1,000 or less, had the goods been imported at the time when the consideration for the supply was first agreed. [*Schedule #, item 48, subsection 85-55(1)*]

1.34 The 'customs value' of goods is defined in section 159 of the *Customs Act 1901*. Amongst other things, the customs value excludes GST and is based on the value of the goods and the Australian dollar at the time of export. As the goods will generally not have been exported at the time the consideration for the supply is settled, the customs value for these purposes is calculated as though the goods were exported at the time the consideration was first agreed, and as if the goods were imported into ITZ as a result of the agreement. This ensures that if the goods are sold in a foreign currency, their value in Australian dollars for the purpose of being low value goods is fixed at the time that consideration is agreed. *[Schedule #, item #, subsection 85-55(2)]*

1.35 It should be noted, that while the customs value is used to determine whether the goods are low value goods, it is not used in determining the amount of any GST payable in relation to the supply. Where GST applies to a low value good, it applies to the GST value of the good supplied and any other costs that are included as part of the supply of the good, for example transport and insurance. Generally, the value of a supply for the purposes of GST will be based on the total consideration paid for the supply.

1.36 Sometimes an entity may supply a number of goods as part of one supply. In this case, if the goods would individually all be low value goods, the supply is a supply of low value goods, even if the customs value of all of the goods supplied at the time of the supply would be greater than \$1,000. This ensures GST cannot be avoided by selling goods in bulk and then shipping the goods separately. *[Schedule #, item 48, subsection 85-55(3)]*

1.37 Similarly, in some cases there may be a single supply of goods, where some goods supplied would, if supplied separately, be low value goods. In this case, the parts of the supply that would be supplies of low value goods are treated as a supply of low value goods (whatever the total value of these supplies may be), while any other parts of the supply are treated as a separate supply that is not a supply of low value goods. This applies, where one or more low value goods and one or more higher value goods are supplied as part of a single supply. *[Schedule #, item 48, subsection 85-55(4)]*

1.38 However, in some cases it would not be reasonable in the circumstances of a supply to treat parts of a supply separately (for example, a shipment of sand or box of nails). In these cases, the amendments provide that the goods should not be treated as separate supplies. *[Schedule #, item 48, subsection 85-55(5)]*

1.39 This definition operates in conjunction with the provisions to manage the interaction with customs law discussed at paragraphs #.46 to

#.63. The combined effect of these provisions is to ensure that low value goods brought into the ITZ will be subject to GST as either a taxable supply or a taxable importation but not both, while seeking to minimise compliance costs for suppliers and importers.

Example 1.1: One supply of multiple low value goods

Kevin purchases two pairs of exclusive designer business shoes valued at \$600 and \$900 each from Raj, an overseas seller based in India. Kevin purchases the shoes in one transaction and imports them in separate consignments with the assistance of Raj. Kevin is not registered for GST.

A supply of goods is a supply of low value goods if the customs value would have been \$1,000 or less at the time when the consideration for the supply was first agreed. The shoes have a customs value of \$600 and \$900 respectively. A supply of goods that is not, taken as a whole, a supply of low value goods, but that wholly consists of goods that, taken separately, would be supplies of low value goods, is treated as one supply of low value goods (regardless of the total customs value of all of the goods).

Accordingly, even though the combined value of the shoes exceeds \$1,000 Raj makes one supply of low value goods.

Example 1.2: Supply of many units not a low value good

Clarke purchases and imports a pallet of 100 Italian floor tiles valued at \$2,200 from Venezia Co, a company in Italy. The pallet of floor tiles has a customs value of \$2,200. Clarke is an Australian resident and is buying the tiles so that he can re-tile his bathroom floor. Clarke is not registered for GST.

Due to the nature of the goods and the transaction, it is not reasonable to treat each of the floor tiles as being separately supplied. Accordingly, the pallet of tiles is not a low value good because it has a customs value over \$1,000.

Example 1.3: Supply of low value goods and other goods

Hugh purchases and imports a suit online valued at \$1,300 from Traily, a designer clothing business located in the United Kingdom. In the same transaction, Hugh also purchases a \$200 business shirt.

A supply of goods is a supply of low value goods if the customs value would have been \$1,000 or less at the time when the consideration for the supply was first agreed. The business shirt has a customs value of \$200. It is therefore a low value good.

A supply that involves low value goods and other goods is treated as two separate supplies. Hence, the suit and shirt are treated as separate supplies despite being purchased in one transaction.

The supply of the shirt is a supply of a low value goods and potentially connected with the ITZ as a result of these amendments.

The suit is not a low value good because it would have a customs value over \$1,000 at the time when the consideration for the supply was first agreed.

Receipt as a consumer

1.40 The final requirement that must be satisfied for goods to be connected with the ITZ as a result of these amendments is that the recipient of the goods must be a consumer. [*Schedule #, item 48, paragraph 85-45(1)(c)*]

1.41 Broadly, an entity will be a consumer in relation to a supply they receive if the entity is not entitled to an input tax credit (ITC) for the acquisition of the supply. This is the case if the entity is:

- not registered for GST; or
- does not acquire the supply to any extent for the purpose of an enterprise they carry on in the ITZ.

[*Schedule #, item 48, subparagraphs 85-45(1)(c)(i) and (ii)*]

1.42 In general, consistent with the law in relation to supplies of things other than goods or real property to Australian consumers, businesses can confirm that an entity is not a consumer in relation to a supply by requesting that GST registered businesses provide their ABN and declare that they do not acquire the goods solely or partly for the purposes of an enterprise they carry on in the ITZ.

1.43 Penalties apply to entities that misrepresent their status for the purposes of avoiding GST applying to a supply to them (see paragraphs #.118 to #.119).

1.44 This approach is broadly consistent with the application of GST to supplies of things other than goods and real property provided to Australian consumers and the definition of *Australian-based business recipient* in subsection 9-26(2). As in these cases, the effect of the amendments is that a supply to an entity only becomes connected with the ITZ if the recipient would not be entitled to an ITC in relation to the supply.

1.45 It is important to note that, consistent with the current GST law, the recipient of the supply is not necessarily the person to whom the goods are delivered. Generally, if an entity purchases goods and arranges for their delivery to a third party, the purchaser is still the recipient of the supply of the goods. For example, if an individual purchases a gift overseas, and arranges for it to be delivered to another entity in the ITZ with the assistance of the supplier, the individual will generally be the recipient of the supply of the goods, rather than the entity receiving the gift.

Example 1.4: Supply of low value goods by overseas business

Alex purchases a designer dress for \$440 (including \$20 postage) from Rose, a designer based in Italy. As part of the supply, Rose posts the dress to Alex's nominated address which is in Australia. Alex is not registered or required to be registered for GST.

A supply of goods is a supply of low value goods if the customs value would have been \$1,000 or less at the time when the consideration for the supply is first agreed. The customs value of the dress does not exceed \$1000. It therefore is a low value good. The supply of this low value good is connected with the ITZ, because it is a supply of a low value good that is purchased by a consumer and brought to the ITZ with the assistance of Rose (the supplier).

Example 1.5: Supply of low value goods to relatives in Australia

Wei is a resident of Hong Kong who purchases a piece of artwork valued at \$700 from an auctioneer in Vietnam and arranges for the seller to deliver the artwork to his niece Li who lives in Australia.

A supply of goods is a supply of low value goods if the customs value would have been \$1,000 or less at the time when the consideration for the supply is first agreed. The artwork has a customs value of \$700 and is therefore a low value good. The supply of this low value good is subject to GST as a taxable supply, because it is a supply of a low value good that is purchased by a consumer and brought to the ITZ with the assistance of the supplier. Wei is not registered for GST and is therefore a consumer for the purposes of the GST law. The geographical location of Wei, being outside Australia, is irrelevant.

Accordingly, the supply of the artwork is connected with the ITZ.

Example 1.6: Business to business supplies

Foeli, a small Australian business, purchases and imports 400 pens collectively valued at \$50 from Penworks, a stationery business based in Thailand. The pens are to be used in the course of Foeli's business. The pens have a customs value of \$50 and are therefore low value goods.

This supply of pens would normally be subject to GST as a taxable supply. However, the supply is not connected with the ITZ. The supply of the pens does not meet any of the requirements to be connected with the ITZ (the pens are not delivered to, removed from or made available in the ITZ and Penworks does not import the pens into ITZ). Further, while the goods are low value goods, Foeli is registered for GST and acquires the pens solely for the purpose of an enterprise it carries on.

As a result the supply is also not connected with the ITZ as a result of these amendments.

Example 1.7: Business to business supplies for private use only

Natasha, a sole trader, is an Australian resident and is registered for GST.

Natasha purchases and imports a coffee machine valued at \$600 (excluding tax and delivery costs) from a business based in Italy. The coffee machine has a customs value of \$600 and is therefore below the low value goods threshold. Natasha quotes her ABN and declares that she is registered. However, when Natasha receives the machine she takes it home for her own private use.

A supply is not connected with the ITZ if the recipient of the supply is an Australian based business that acquires the thing that is supplied for the purpose of an enterprise it carries on in the ITZ. However, Natasha is not acquiring the coffee machine for the purpose of her business, but instead for 100 per cent private use. As a result, the supply is a supply of low value goods to a consumer and may be connected with the ITZ.

However, Natasha is subject to the reverse charge rules in Division 84, discussed in paragraphs #.79 to #.93 below. If the supply is a taxable supply, Natasha will be responsible for any GST.

Example 1.8: Business to business supplies for partly private and partly business purposes

Joe, a sole trader, is an Australian resident and is registered for GST.

Joe purchases and imports a laptop from a business based in Taiwan. The laptop has a customs value of \$850 and is therefore a low value good. Joe will use the laptop for his business and for his own private use. 50 per cent of Joe's use of the laptop will be private use.

As Joe has acquired the laptop partly for the purposes of his Australian based business, the supply is not connected with the ITZ.

Joe will be subject to the reverse charge rules in Division 84 discussed in paragraphs #.79 to #.93 below, and as a result the supply is a taxable supply for which Joe will be responsible for any GST.

Interaction with customs law

1.46 However, there is a qualification to the new rule for when goods are connected with the ITZ.

1.47 Even if a supply of goods satisfies all of these requirements, it will not be connected with the ITZ as a result of the amendments if:

- the supplier reasonably believes when selling the goods that they will be imported as a taxable importation; and
- the goods are imported as a taxable importation.

[Schedule #, item 48 section 85-45(2)]

1.48 In this context a reasonable belief could be based on specific information about the shipment or general knowledge about how a supplier's goods are usually shipped. It can also include knowledge that a supplier has business processes that allow them to know if the goods purchased will be consigned in the one shipment with a customs value exceeding \$1000.

1.49 In practice, it is expected that suppliers will apply GST based on their reasonable belief at the time they set the consideration for the supply.

1.50 If they believe the supply will not be a taxable importation, they will remit GST. As they have paid GST, under the rules detailed in paragraphs #.59 to #.63 below, any subsequent importation will not be subject to GST (even if the belief would otherwise not have been correct).

1.51 On the other hand, if the supplier believed the importation would be taxable, they will not need to remit GST. If they are correct, the supply will not be taxable and tax will be collected consistent with the prior outcome on the taxable importation. If they are not correct (that is, they have not paid GST and the importation is not a taxable importation), the supplier will be liable for GST in relation to the supply. Generally, they will be able to include the additional GST payable in their next GST return using the GST mistakes rule – see section 17-20 and the *Goods and Services Tax: Correcting GST Errors Determination 2013*.

1.52 Generally, no penalties will apply if GST is not remitted because of a reasonable belief held by the supplier even if this belief later proves not to have been correct.

1.53 The new rule broadens the scope for GST to apply to the supply of goods that occur outside the ITZ. This makes it important for the

amendments to ensure that the supply and importation of goods into the ITZ is taxed only once for GST.

1.54 For the most part this is achieved through the restriction of the rule to low value goods, as importations with a customs value that does not exceed \$1,000 when exported to the ITZ are generally not taxable importations.

1.55 However, there is still potential for overlap. The value of an importation is determined at the time it reaches the customs barrier and includes the value of the whole consignment. If many supplies of low value goods are shipped together, or a supply of high value goods is shipped separately, then it would be possible for GST to apply to both the supply and importation or neither the supply nor the importation.

1.56 The qualification addresses this possible overlap while minimising change to established processes and minimising compliance costs.

1.57 It ensures that if tax will be collected under the existing importation rules and the supplier is confident about this when settling the terms of the supply then no change is needed to existing processes.

1.58 This approach simplifies compliance for taxpayers where tax is collected under existing settled arrangements. At the same time, the limits on the qualification ensure that taxpayers are not required to accurately predict how goods will be consigned at the time of sale and either penalised despite the difficulty in making an accurate prediction or incentivised to anticipate shipping arrangements to shift the burden of GST to customers.

1.59 However, in cases where the qualification does not apply and a supply of low value goods is connected with the ITZ, there is a further mechanism to prevent double taxation.

1.60 An importation of goods will be a non-taxable importation if:

- a supply involving the goods being brought to the ITZ was a taxable supply;
- the supply was connected with the ITZ only because of these amendments; and
- the importer notifies the Commissioner in the approved form that the goods were supplied as part of a taxable supply.

[Schedule #, item 20, section 42-15]

1.61 This ensures that if a supply of low value goods is subject to GST, the importation is not subject to GST.

1.62 This requirement to notify the Commissioner ensures that information substantiating the application of GST to the supply must be provided before the goods can be imported as a non-taxable importation. It is expected that the information required by the Commissioner will include the ABN or vendor registration number of the supplier and the reporting will be combined with other reporting on the entry of goods for customs purposes.

1.63 Given the Commissioner delegates administrative responsibility for collection of GST on importations to the Comptroller-General of Customs it is also expected that in most cases this approved form will need to be provided to the Comptroller-General of Customs.

Example 1.9: Supply of low value goods not connected with the ITZ if imported as a taxable importation

In example #.1, Kevin purchased two pairs of shoes from Raj, valued at \$900 and \$600 respectively, that were later separately shipped to Australia with the assistance of Raj.

Had these shoes instead been shipped as a single consignment, that consignment would have exceeded the threshold at which goods may be a taxable importation.

In this situation, Raj may reasonably believe that the goods will be imported as a taxable importation. If he does, and the goods are later imported as a taxable importation, the supply would not be connected with the ITZ, even though it meets all of the other requirements.

However, if Raj's reasonable belief is not correct and the importation of the goods is not a taxable importation, the supply would be connected with the ITZ.

If Raj is registered for GST and he has not paid the GST, he must correct this error. Generally, under the rules for correcting errors he will be able to do so by remitting the unpaid amount of GST together with any other GST payable for his current tax period.

Example 1.10: Importation of low value goods treated as non-taxable importation

Skye purchases and imports a computer with a customs value of \$999 from a retailer in China based on the US dollar value on the date of purchase. Skye is an Australian resident and is not registered or required to be registered for GST.

The retailer determines that the computer is a low value good because it would have a customs value of \$1,000 or less at the time when the consideration for the supply was first agreed. The supply of this computer is subject to GST as a taxable supply, because it is a supply of a low value good acquired by a consumer and brought to the ITZ with the assistance of the retailer (the supplier). Accordingly, the retailer charges GST on the supply of the computer.

Two weeks later, the computer is imported. The importer notifies the Commissioner in the approved form that the supply of the goods was a taxable supply. A drop in the Australia dollar against the US dollar results in the computer having a customs value of \$1,001 on the day of export to the ITZ. This exceeds the low value goods threshold, resulting in the computer no longer being a low value good.

As the computer is above the low value goods threshold at the time of the importation, its importation would normally be a taxable importation. However, an importation is a non-taxable importation to the extent that it relates to goods that have been subject to GST as a supply of a low value good that is acquired by a consumer and brought to the ITZ if the Commissioner has been notified in the approved form that the supply of the goods was a taxable supply.

Therefore the computer is a non-taxable importation. This avoids double taxation.

Example 1.11: Supply of goods above \$1,000, value below \$1,000 at time of import

Kieran purchases and imports a signed football jersey with a customs value of \$1,004 from Lexa, a supplier based in Spain based on the conversion rate from euros at that time. Kieran is an Australian resident and is not registered for GST. Lexa determines that the jersey would have a customs value of over \$1,000 at the time when the consideration for the supply was first agreed and accordingly is not a supply of a low value good.

Three weeks later, the jersey is imported. A rise in the Australia dollar against the euro results in the jersey having a customs value of \$999 at the time of export to the ITZ. This results in the jersey being below the low value goods threshold for customs purposes.

Accordingly, the supply of the jersey is neither a taxable supply of low value goods nor a taxable importation.

Goods forwarders

1.64 The amendments also provide a further rule extending the circumstances in which supplies may be connected with the ITZ to include supplies of goods in which individuals obtain the services of a third party to assist in bringing the goods into the ITZ.

1.65 In some circumstances an individual may obtain goods from a supplier outside the ITZ and the supplier may deliver the goods or make them available outside the ITZ. In such cases the supplier has done nothing to assist in bringing the goods into the ITZ and may well have no knowledge about any intention of the recipient to bring the goods into the ITZ. Given this, it is not reasonable to apply GST to the supply by the supplier.

1.66 However, there are a class of businesses, often referred to as mail, post, package or goods forwarders, that assist entities wanting to obtain goods from foreign suppliers. As part of their enterprise, goods forwarders can help arrange the initial purchase, take delivery of the goods and/or arrange for their pick-up, make arrangements for any required storage and deliver the goods or arrange for their delivery to the consumer.

1.67 The amendments provide that if a supply of goods to a consumer involves goods being delivered outside the ITZ and a goods forwarder takes delivery or arranges for the collection of the goods and then assists with their delivery into the ITZ in the course of their enterprise, then the supply of the goods will be connected with the ITZ. Further, unless the supply was already connected with the ITZ under another provision, the goods forwarder will be treated as the supplier for the purposes of the GST law (except when working out if an entity is a goods forwarder) and liable for GST in relation to the supply. *[Schedule #, item 48, subsection 85-50(1)]*

1.68 As a result of this change, if the supplies made by the goods forwarder, including supplies they are treated as having made as a result of their forwarding service, result in the forwarder exceeding the GST registration turnover threshold (see paragraph #.22), they will be required to register and remit GST on their taxable supplies.

1.69 This recognises that, where no other entity would be liable for GST, the goods forwarder is the entity that is best placed to know the status of the goods and the location to which they are delivered because of their relationship with the recipient and the services they are providing. That said, if the supply was already connected with the ITZ and another entity was already liable for GST, these amendments do not apply to alter the existing obligations. As a result, goods forwarders will never be treated as the supplier of supplies of goods already connected with the ITZ under the prior law. *[Schedule #, item 48, subsection 85-50(3)]*

1.70 Being a goods forwarder requires some greater involvement with the supply and the recipient, such as acting as a delivery address for the goods and then arranging onwards shipping to the ITZ. Entities that

merely deliver goods to the ITZ are not treated as goods forwarders. [Schedule #, item 48, subparagraph 85-50(1)(b)(i)]

1.71 Entities are also not treated as goods forwarders if they are not acting in the course of an enterprise. It is not appropriate or practical to have entities that are not engaged in an enterprise be registered for GST. [Schedule #, item 48, paragraph 85-50(1)(b)]

1.72 Where the goods forwarder is treated as the supplier in relation to a supply, the Division 57 (resident agents acting for non-residents) and sections 84-55 and 84-60 (operator of electronic distribution platform treated as supplier) do not apply in relation to the supply. These rules change the normal liability of the supplier. In circumstances involving a goods forwarder, the specific rules for goods forwarders are intended to take precedence. [Schedule #, item 48, subsection 85-50(6)]

Multiple goods forwarders

1.73 In some cases more than one entity may meet the requirements to be a goods forwarder in relation to a supply. This may occur, for example, if one entity acting as a goods forwarder employs another entity to act as its agent in relation to obtaining goods for a particular consumer. To address this, there are priority rules for goods forwarders to ensure that only one goods forwarder is treated as the supplier for each supply.

1.74 These priority rules provide that the first entity that has entered into an arrangement with the recipient in relation to the supply is treated as the goods forwarder that has the GST obligations for that supply.

1.75 If no goods forwarder has entered into an arrangement with the recipient, then the goods forwarder that first entered into an arrangement with an associate of the recipient relating to the supply will be treated as the supplier. If there is no such entity, then the first goods forwarder to enter into an arrangement for the activities that make them a goods forwarder is treated as the supplier. In the event that none of these priority rules are satisfied, the goods forwarder that is treated as the supplier is the entity determined in accordance with the rules specified by the Commissioner by legislative instrument. [Schedule #, item 48, subsections 85-50(4) and (5)]

1.76 Consistent with the general rule about supplies of low value goods, supplies of low value goods for which goods forwarders are treated as the supplier are not connected with the ITZ if the goods forwarder has a reasonable belief that the goods will be a taxable importation at the time of making arrangements for delivery and the goods were imported as a taxable importation (see paragraphs #.46 to #.52). [Schedule #, item 48, subsection 85-50(2)]

1.77 In the same way as the general rules for low value goods apply, if a supply of the goods is a taxable supply for a goods forwarder because of these amendments, the subsequent importation of the goods in connection with the supply is not a taxable importation, provided the importer (or their agent) notifies the Commissioner in the approved form that the goods were supplied as a taxable supply (see paragraphs #.59 to #.63). [Schedule #, item 20, section 42-15]

Example 1.12: Supply through a goods forwarder - goods forwarder treated as supplier

Sam is an Australian resident and is not registered for GST. Sam has an account with Mailme, a mail forwarding service based in the US.

Sam purchases a hockey stick online valued at \$300 from a sports store based in the US for his own personal use. The store does not ship to Australia, so Sam instructs the store to send his purchase to Mailme. Sam has an arrangement with Mailme that Mailme will send the hockey stick to Australia and deliver it to Sam.

The goods forwarder, Mailme, rather than the sports store is treated as making the supply. This makes the supply connected with the ITZ, because:

- the supply is made to a consumer;
- the supply is not otherwise connected with the ITZ;
- the supply is a low value good supply;
- the hockey stick is brought to a location outside the ITZ; and
- Mailme arranges for the delivery of the hockey stick to the ITZ.

Accordingly, Mailme is treated as making the supply of the hockey stick. However, Mailme is only required to register and remit GST if it has a GST turnover of \$75,000 or more (that is, broadly, the total value of their supplies connected with the ITZ over a twelve month period exceeds \$75,000 – see paragraph #.22).

Example 1.13: Priority rules for multiple goods forwarders

Albert is an Australian resident and is not registered for GST. Albert has an account with Mailme, a mail forwarding service.

Albert purchases hiking boots online for \$250 from an outdoor adventure store based in the US. The hiking boots are for personal use. The store does not ship to Australia, so Albert instructs the store to deliver his purchase to Mailme. Albert has an arrangement with

Mailme that Mailme will arrange for the delivery of the hiking boots to Albert in Australia.

Mailme receives the hiking boots and subcontracts the arrangement of the delivery of these to Australia to another company, Zippy Deliveries.

Mailme meets the definition of a goods forwarder because they arrange for the delivery of the goods in the ITZ. However Zippy Deliveries also meets the definition of a goods forwarder because they deliver the goods to the ITZ.

As there are multiple goods forwarders, the priority rules determine which goods forwarder is treated as the supplier of the goods. Mailme is the first of the goods forwarders to enter into an arrangement with Albert in relation to the supply. Accordingly, Mailme is treated as making the supply, rather than the outdoor adventure store, or Zippy Deliveries.

The supply is connected with the ITZ, because the supply is not made to a business recipient, is not otherwise connected with the ITZ, is a low value good supply, results in the hiking boots being brought to a location outside the ITZ, and Mailme arranges for the hiking boots to be brought to the ITZ.

Accordingly, Mailme is liable to pay GST on the supply. However, Mailme is only required to register and remit GST if they have a GST turnover of \$75,000 or more.

Revised rules for offshore supplies of goods

1.78 The extension of when supplies of goods are connected with the ITZ to include more offshore supplies of goods also requires a number of changes to the rules about when recipients may be liable for GST (the reverse charge rules), supplies through electronic distribution platforms and various administrative requirements to ensure the appropriate operation of the GST law to these supplies.

Reverse charge rules

1.79 Currently, the GST law includes provisions (reverse charge rules) that make:

- certain supplies of things other than goods or real property taxable supplies; and
- the recipient liable for any GST payable on the supply.

1.80 However, these provisions will not make a supply a taxable supply if, broadly, the recipient is entitled to an ITC for the full amount of any GST paid in relation to the supply or if the recipient is not registered for GST.

1.81 The broad effect of these rules is to ensure that enterprises operating in the ITZ pay an appropriate amount of GST on services they acquire from foreign suppliers, so that the GST outcome is the same as if the same services were acquired from a resident supplier. They also ensure that goods acquired by an entity that carries on an enterprise but applies the goods solely for private use do not bear less GST than goods used in the same way by a private individual.

1.82 With the changes to the treatment of low value goods, goods purchased from overseas partly in the course of an enterprise by entities registered for GST will generally not be taxable supplies. This is because they will not be connected with the ITZ.

1.83 Supplies of low value goods to an entity registered for GST that are acquired by the entity otherwise than in the course of an enterprise it carries on will be connected with the ITZ. However, the supplier will generally not be in a position to question information provided by the recipient about whether the supply is acquired in the course of an enterprise.

1.84 To address these concerns, the amendments rewrite Division 84, which previously concerned only offshore supplies other than goods or real property. Now a reverse charge may apply in relation to the supply of goods if the goods are acquired by an entity that is registered for GST.

1.85 The amendments insert into Division 84 a definition of 'offshore supply of low value goods'. A supply of goods is an offshore supply of low value goods if the supply is a supply of low value goods and the supply is connected with the ITZ only because of Subdivision 85-B, (Subdivision 85-B connects supplies of low value goods by suppliers or goods forwarders with the ITZ if they are purchased by consumers and brought to the ITZ). *[Schedule #, item 43, section 84-67]*

1.86 The amendments also ensure that the reverse charge rules in Division 84 apply to offshore supplies of low value goods in two circumstances.

1.87 First, they will apply to offshore supplies of low value goods that are acquired for wholly private purposes, if the recipient wrongly represents that they are acquiring the goods for the purposes of an enterprise.

1.88 This outcome is achieved by treating supplies of low value goods that are not connected with the ITZ as taxable supplies if:

- the recipient does not acquire the goods to any extent for the purposes of an enterprise that they carry on in the ITZ;
- the recipient wrongly represents to the supplier that the acquisition is to some extent for the purposes of such an enterprise;
- the supply is for consideration;
- the recipient is registered or required to be registered; and
- the importation of the goods is not a taxable importation on which the recipient is liable to pay GST.

[Schedule #, item 30, item 4 of the table in subsection 84-5(1)]

1.89 Secondly, a supply of offshore low value goods that would have been connected with the ITZ if the recipient had not been registered for GST will now be treated as a taxable supply if:

- the recipient acquires the supply to some extent for the purpose of an enterprise they carried on in the ITZ, but the recipient is not entitled to a full ITC;
- the supply is for consideration; and
- the importation of the goods is not a taxable importation.

[Schedule #, item 30, item 3 of the table in subsection 84-5(1)]

1.90 However, consistent with the existing reverse charge rules, the supply is not a taxable supply to the extent that it is GST free or input taxed. *[Schedule #, item 30, subsection 84-5(1A)]*

1.91 As with all cases where a supply of low value goods is a taxable supply because of section 84-5, the recipient of the supply to which the new rules apply is liable for GST, rather than the supplier (see section 84-10).

Rewrite of existing provisions for clarity

1.92 The amendments also make structural and consequential changes to section 84-5 to ensure that its operation remains clear despite the wide range of circumstances it now applies to. In particular, the taxable supply rules in section 84-5 are rewritten into a table to

accommodate the extension of the connected with the ITZ rules to supplies of low value goods. *[Schedule #, items 27 to 29 and 31 to 35, section 84-1, the headings to Subdivision 84-A and section 84-5, subsections 84-5(1) to (1C), 84-5(2), the headings to sections 84-10, 84-12 and 84-13 and subsection 84-30(1) and 84-30(2)]*

1.93 While these provisions have been rewritten, the changes are solely intended to improve the clarity and readability of the law in relation to those areas in which it applied prior to these amendments. The rewriting of existing provisions does not result in any change to their operation or effect.

GST obligations imposed on electronic distribution platforms

1.94 The amendments also extend the electronic distribution platform rules in Subdivision 84-B to offshore supplies of low value goods.

1.95 Broadly, the electronic distribution platform rules apply to shift GST liability for supplies made through electronic distributions platforms from individual suppliers to the operators of the platform. An electronic distribution platform is defined as a service (including a website, internet portal, gateway, store or marketplace) that allows entities to make supplies available to end-users delivered by means of electronic communication (see subsection 84-70(1)).

1.96 The operators of electronic distribution platforms are better placed to comply with GST obligations because they are generally larger and better resourced entities than individual suppliers.

1.97 As a result of the changes made by the amendments, these rules will now apply to supply of goods that are offshore supplies of low value goods – that is, they are a supply of low value goods that is only connected with the ITZ because of these amendments.

1.98 For such supplies, like other supplies to which the electronic distribution platform rules apply, the operator of the platform is treated as:

- the supplier of the supply;
- having made the supply for the consideration for which it was made; and
- having made the supply in the course or furtherance of an enterprise the operator carries on.

[Schedule #, item 41, section 84-55]

1.99 However, unlike inbound intangible consumer supplies, supplies of goods need not be made by means of electronic communication.

Further discussion of the electronic distribution platform rules is set out in paragraphs 1.100 to 1.143 of the Explanatory Memorandum to the Tax and Superannuation Laws Amendment (2016 Measures No. 1) Bill 2016. *[Schedule #, item 44, paragraph 84-70(1)(c)]*

1.100 The amendments also make a minor amendment to clarify the scope of the electronic distribution platform rules. The rules set out a number of conditions that must all be met for an entity that would otherwise be an operator of an electronic distribution platform to exclude itself from the operation of section 84-55.

1.101 Among these conditions is a requirement that the entity must not set the terms and conditions under which the supply is made. There was some potential ambiguity about the degree of influence an entity must have over the terms and conditions in order to prevent this condition being satisfied.

1.102 The amendments revise the language of this requirement to make clear that an entity must not, whether directly or indirectly, set any of the terms and conditions. This removes any doubt that this condition is not satisfied where an operator of an electronic distribution platform influences terms and conditions without direct involvement in contractual arrangements or where they set or influence only one term or condition. *[Schedule #, item 42, subparagraph 84-55(4)(c)(iii)]*

Example 1.14: Supply through an electronic distribution platform

Laurie purchases and imports a music player on eProcure from Electronix, an overseas seller based in China. Laurie is an Australian resident and is buying the music player for his own personal use. Laurie is not registered for GST.

eProcure has an Australian GST turnover of \$100,000. Accordingly, eProcure is required to register and remit GST on supplies of low value goods that are purchased by consumers and brought to the ITZ with the assistance of eProcure.

A supply of goods is a supply of low value goods if the customs value would have been \$1,000 or less at the time the consideration was agreed. The digital music player has a customs value of \$200. It is therefore a low value good. The supply of this music player is subject to GST as a taxable supply because it is a supply of a low value good that is purchased by a consumer and brought to the ITZ with the assistance of the supplier.

eProcure is a website that allows people and businesses to buy and sell goods worldwide, with transactions processed by eProcure. Accordingly, eProcure is an electronic distribution platform because it is a service that allows entities to use the platform to make supplies

available to end-users that operates by means of electronic communication.

As the supply of the music player was made through eProcure, the operator of eProcure, rather than Electronix, is treated as having made the supply.

Note: For an operator of an electronic distribution platform to be treated as the supplier, it must first be determined that there is an offshore supply of low value goods.

Simplified registration arrangements

1.103 Currently, most entities that are registered for GST are required to complete monthly or quarterly business activity statements. Entities seeking registration must provide a range of information to verify their identity and entitlement to registration. Registered entities are required to include detailed information in their GST returns. These registration requirements are designed to simplify registration for suppliers with limited involvement with Australia's tax system while also preventing unauthorised ITC and GST refund claims.

1.104 Non-resident suppliers that only interact with Australia's GST system by charging and remitting GST and that have only a remote link with Australia are unlikely to undertake activities for which they need to claim GST refunds. Accordingly, it is unnecessary for such suppliers to have the same reporting requirements as entities that are registered for GST and claim GST refunds under the standard registration requirements.

1.105 The amendments extend the limited registration rules in the prior Subdivision 84-D that apply to inbound intangible consumer supplies made to Australia to:

- non-resident suppliers (including entities treated as suppliers such as operators of electronic distribution platforms) that make or intend to make low value goods supplies that are connected with the ITZ solely because they involve goods being brought to the ITZ; and
- non-resident goods forwarders of such low value goods supplies or entities that intend to become goods forwarders.

[Schedule #, item 49, subparagraph 146-5(2)(a)(ii) and paragraph 146-5(2)(b)]

1.106 The combining of the limited registration rules for intangible consumer supplies with the low value goods supply measure is achieved by repealing Subdivision 84-D and incorporating its operation into new

Division 146. This rewrite does not alter the operation of the law in relation to suppliers of inbound tangible consumer supplies. *[Schedule #, items 45 and 49, Subdivision 84-D and Division 146]*

1.107 The limited registration rules allow non-resident suppliers and non-resident goods forwarders of low value goods to elect to be a 'limited registration entity' for a tax period, by notifying the Commissioner in the approved form. *[Schedule #, item 49, subsections 146-5(1) and (2)]*

1.108 An entity can revoke an election to be a limited registration entity by notifying the Commissioner in the approved form unless it has already been notified of the Commissioner's decision to cancel its registration (whether or not the cancellation has already taken effect). *[Schedule #, item 49, subsections 146-5(5) and (6)]*

1.109 An election to be a limited registration entity takes effect from the start of the tax period nominated in the election. If their registration is cancelled and the cancellation date is after the start of that tax period, the election to be a limited registration entity ceases to have effect on the date the cancellation applies from. If the cancellation does not occur after the start of the tax period, and they revoke an election, the election to be a limited registration entity will cease to have effect at the start of the first tax period to start after revocation. *[Schedule #, item 49, subsection 146-5(3)]*

1.110 However, an election to be a limited registration entity never takes effect if their registration is cancelled on or before the start of the tax period they nominate in the election. *[Schedule #, item 49, subsection 146-5(4)]*

1.111 Limited registration entities have simplified registration and reporting requirements. However, they:

- are not entitled to make creditable acquisitions;
- are not entitled under subsection 8(3) of the *A New Tax System (Australian Business Number) Act 1999* to hold an ABN and do not have their registration recorded on the Australian Business Register;
- must have a quarterly tax period regardless of their turnover and are not able to elect to have monthly tax periods or have the Commissioner determine their tax period; and
- must not elect to pay GST by instalments under paragraph 162-5(1)(f). *[Schedule #, item 49, sections 146-10, 146-15, and 146-20]*

Example 1.15: Low value good supplier elects limited registration

Chloe is a Swedish supplier of low value goods. She makes supplies connected with the ITZ solely because she makes supplies of goods that are acquired by consumers and are brought to the ITZ. Accordingly, her only interaction with Australia's GST system is through charging and remitting GST that she has charged on low value goods.

Chloe has an Australian GST turnover of \$80,000 and therefore is required to register for and charge GST.

Chloe elects to be a limited registration entity as she does not need an ABN and prefers the simplified reporting requirements.

Chloe elects on 15 July 2017 to be a limited registration entity and accordingly her status as a limited registration entity applies from 1 July 2017 which is the start of the quarterly tax period in which Chloe made her election.

Tax invoices and adjustment notes not required

1.112 Unlike most other types of taxable supplies, supplies of low value goods acquired by consumers and brought to the ITZ with the assistance of the supplier are not made to entities that are entitled to ITCs in relation to the acquisition of the things supplied. Accordingly, it is unnecessary to require suppliers to issue tax invoices and adjustment notes. Furthermore, limited registration entities that do not have an ABN would be unable to comply with the tax invoice requirements.

1.113 Currently, suppliers of inbound intangible consumer supplies are not required to issue tax invoices or adjustment notes for those supplies. The amendments extend this rule to suppliers of low value goods brought to the ITZ. *[Schedule #, item 40, section 84-50]*

1.114 This means that a supplier is not required to issue a tax invoice for a taxable supply if the supply is solely a supply of low value goods being brought to the ITZ. *[Schedule #, item 40, paragraph 84-50(1)(b)]*

1.115 Similarly, a supplier is not required to issue an adjustment note for an adjustment event relating to a taxable supply if the supply is solely a supply of low value goods being brought to the ITZ. *[Schedule #, item 40, subsection 84-50(3)]*

1.116 However, suppliers of low value goods must notify the recipient in the approved form of the amount of GST (if any) payable on the supply, within one working day of a request by the recipient of the supply. This allows the consumer to obtain this notice in the time needed to

ensure the notice of the information can be provided when the goods are imported. *[Schedule #, item 40, subsection 84-50(2)]*

1.117 Failure to provide the information in the approved form within one day or such further time as the Commissioner may allow will make the supplier liable to an administrative penalty of 20 penalty units. *[Schedule #, item 60, section 288-45 in Schedule 1 to the Taxation Administration Act 1953]*

Penalties for misrepresentations by consumers

1.118 To address the possibility that individuals may make misrepresentations about an entity's status as a GST-registered business, the amendments broaden the existing administrative penalties for making false or misleading statements (see subsection 284-75(4) in Schedule 1 to the *Taxation Administration Act 1953* (TAA 1953)).

1.119 This administrative penalty is extended to apply to individuals making statements that might reasonably be expected to be used by an entity, such as a supplier, in determining whether a supply is connected with the ITZ because it is a supply of low value goods. For example, this could apply where a consumer misrepresents that they are registered for GST and are acquiring a supply for the purpose of an enterprise they carry on in the ITZ. *[Schedule #, item 59, paragraph 284-75(4)(b) in Schedule 1 to the TAA 1953]*

GST benefit rule to address schemes to avoid supplies being connected with the ITZ

1.120 Treating goods forwarders as suppliers does not result in GST being applied if a consumer establishes a separate arrangement for holding goods overseas and then arranges themselves for delivery in Australia. In these circumstances the entity delivering the goods does not have information about the consumer status of the recipient of the goods in Australia or the purchase price of those goods. In this case, it is possible that neither the original supplier nor the goods forwarder would have access to the information required to determine the status of the supply as a taxable supply. The entity delivering the goods may be the only party in possession of such information.

1.121 To address this situation, the amendments ensure that the GST otherwise payable on the supply to a recipient in this situation, if the supplier had organised or arranged for delivery to Australia themselves or through a goods forwarder, is classified as a GST benefit to the recipient. *[Schedule #, item 52, paragraph 165-10(1)(e)]*

1.122 A consumer receives a GST benefit from a scheme if an amount of GST that would be expected to be payable by another entity in relation

to a supply to the consumer is, or could reasonably be expected to be, smaller than it would otherwise be reasonably expected to be apart from the scheme, because the supply is wholly or partly not connected with the ITZ as a result of the scheme. *[Schedule #, item 52, subsection 165-10(1)]*

1.123 Where such a reduction arises because of a scheme by the recipient or related parties with the dominant purpose or principal effect of obtaining the benefit, the Commissioner may make a declaration to deny this benefit and include an appropriate amount in the net amount of the recipient (see section 165-40).

GST and international transport

1.124 Subdivision 38-K of the GST Act makes certain supplies of transport and related services GST free. The GST free supplies include the international transport of goods and related services. Instead, the value of the transport of these goods is included in the value of the goods when imported for the purposes of GST (see section 13-20).

1.125 Previously, this has meant that the GST on these services has not been collected in relation to supplies of low value goods, as the importation of these goods was generally not a taxable importation. However, this was a matter of what was practical rather than driven by policy.

1.126 Now offshore supplies of low value goods are subject to GST, it is anomalous that no GST will be collected on services in relation to their transport. This is especially so in the case of the services of goods forwarders, whose activities in relation to the goods may result in them being liable for GST in relation to the supply of the goods, but not for the services that make them so liable.

1.127 This Exposure Draft does not contain amendments to the GST treatment of international transport. However, the Government is considering removing the GST free treatment for supplies of the international transport of low value goods either generally or specifically for services provided by goods forwarders.

Consequential amendments

1.128 Schedule # to the Exposure Draft Bill makes a number of consequential amendments to the GST law, including revising and adding guide material, to reflect the substantive amendments. *[Schedule #, items 1 to 19, 21 to 29, 31 to 39, 48 to 51 and 53 to 58, the note to subsection 9-25(3), items 7, 9AA and 13 in the table in section 9-39, item 4 in the table in section 9-69, subsection 9-75(4),*

item 4A in the table in section 9-99, items 7A and 8A in the table in section 11-99, items IAA and 4 in the table in section 25-49, items IAA and 1C in the table in section 25-99, items IAC and IAD in the table in section 27-99, items 18A, 21, 30AA, and 35A in the table in section 37-1, paragraph 48-40(2)(a), subsection 48-45(3), subsections 72-5(2), 72-10(3) and 72-70(4), paragraph 83-5(2)(a), the heading to Division 84, section 84-1, the heading to Subdivision 84-A, the heading to section 84-5, subsection 84-5(2), the heading to section 84-10, the heading to section 84-12, the heading to section 84-13, the heading to Subdivision 84-B, section 84-45, section 85-40, section 146-1, the notes to subsections 153-55(4A) and 153-60(3A) and the definitions of 'business day', 'connected with the indirect tax zone', 'goods forwarder', 'limited registration entity', 'offshore supply of low value goods', and 'supply of low value goods' in section 195-1 of the GST Act and subparagraph 284-75(4)(b)(ii) in Schedule 1 to the Taxation Administration Act 1953]

1.129 Schedule # to the Exposure Draft Bill also makes consequential amendments to the heading of Division 85. Previously this Division dealt only with telecommunications supplies. Now, the Division deals more generally with supplies connected with the ITZ and the title and structure of Division 85 has been amended accordingly. *[Schedule #, items 46 to 48, the heading to Division 85, section 85-1 and Subdivision 85-B]*

Application and transitional provisions

Application provision

1.130 The amendments apply in working out net amounts for tax periods starting on or after 1 July 2017. *[Schedule #, item 61]*

Limited registration entities

1.131 The amendments repeal the limited registration provisions that apply for suppliers of inbound intangible consumer supplies and remake them so they apply for both these suppliers and also suppliers of low value goods (see paragraphs #.103 to #.111 above). The amendments ensure that an election under the repealed subsection 84-140(2) that was in effect immediately before the commencement of the amendments continues after that commencement as if it was an election under new Division 146 applying to limited registration entities (new subsection 146-5(2)). *[Schedule #, item 62]*