

From:
Sent: Monday, 10 September 2012 11:18 AM
To:
Cc:
Subject: Michael Evans Paper
Attachments: 120821 Briefing for Retail Council - Michael Evans's paper (3).docx; Secretariat note - summary of consultant's report on GST on online sales (2).docx

Hi

Attached are a paper prepared by the GST distribution review secretariat which summarises Michael Evans' paper and the note prepared by for the Retail Council meeting on the paper.

A couple of other points to note are:

The option of overseas supplier collecting and remitting GST on imported goods is canvassed in the taskforce report (Recommendation 4.3). The report notes that 'the capacity to establish a reform of this nature increases if it is done in conjunction with broader reforms which make it certain that goods will be assessed for GST as they arrive into the country unless it has already been assessed and paid'.

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Let me know if you would like anything further.

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AGENDA ITEM 2— PAPER PREPERED BY MICHAEL EVANS FOR THE GST DISTRIBUTION REVIEW PANEL

BRIEF OVERVIEW OF ISSUE

1. The GST Distribution Review Panel engaged Michael Evans to explore whether the GST revenues collected for the States and Territories could be increased by collecting GST currently foregone on the importation of goods below the low value threshold of \$1,000.

KEY POINTS

2. The key points arising from this report are:

- An acknowledgement of the findings from other recent reviews, namely by the Board of Taxation in 2009 and the Productivity Commission in 2011 that whilst there are strong in-principle reasons to significantly lowering the current threshold and apply GST to more imported goods this was not cost effective under existing arrangements.
- That of the four options explored for increasing GST revenues from greater taxation of cross-border transactions, Option 2 is considered to be “the most likely to be successful”.
- Option 2 seeks to impose liability for GST on the offshore supplier and GST registered recipients through two mechanisms:
 1. Requiring off-shore suppliers to register for GST when making supplies to unregistered customers in Australia – similar to existing arrangements for GST taxpayers; and
 2. Broadening the existing ‘reverse charge’ provisions to both goods and services for offshore supplies to GST registered customers that are of a private nature.
- Option 2 applies to more than just imported goods and includes imported services (although the extent of such services to be captured is not specified it notes the approach adopted in the EU which includes music and software downloads).
- The Report notes that the success of this option depends upon:
 - Simple registration, lodgement and compliance processes, including a registration threshold;
 - Certainty and clarity in the taxation treatment of the transactions to be covered;
 - The identification of, and communication with, major suppliers to Australian customers to ensure voluntary compliance;
 - Limiting its scope to supplies under \$1,000 and on-line purchases and delivery of intangibles. There would also be a registration threshold to limit the number of offshore suppliers dragged into the GST net.

- The other options included:
 - Option 1: Collecting GST from Australian customers (self-assessment approach, although the Report noted that administrative and compliance costs may outweigh revenue gained)
 - Option 3: Collecting GST from third parties, intermediaries or agents (not recommended because of likely complexity and administrative costs)
 - Option 4: Collecting GST at origin (GST collected by offshore suppliers tax authority and shared with Australia, Report considered not viable at present).

BACKGROUND

3. This paper was commissioned by the GST Distribution Review Panel in the context of looking at options to increase GST revenue collections for the States and Territories. In this context it is worth noting that the States and Territories are responsible for the ATO's administration costs in collecting the GST and therefore have a strong interest in ensuring that the costs of collecting additional GST revenue from imported goods does not exceed the GST collected.
- It was with this in mind that the Productivity Commission recommended that the Government establish a Low Value Parcel Processing Taskforce to examine options for lowering compliance and processing costs.
 - The paper's favoured approach (Option 2: imposing GST liability on offshore suppliers to unregistered Australian customers) relies heavily upon voluntary compliance. The Paper, however, notes that:
 - Offshore suppliers, whilst preferring not to incur the compliance costs of registration and reporting, will respond to gentle persuasion and simple compliance regimes.
 - Dozens of major e-commerce firms such as eBay, Skype and iTunes comply with the EU's collection of VAT from non-EU suppliers for telecommunication services and radio and television broadcasting services where the use and enjoyment of the service occurs within a Member State. In all likelihood, these 'voluntary' registrations for VAT account for a significant proportion of the value of telecommunication services imported to the EU.
 - Michael's paper is referred to in the Taskforce's report.

For Panel meeting:	9 February 2012
Paper number:	RN 2011-69
Author/s:	
Purpose:	Information

Options for applying GST to certain imported goods and services

Purpose

To summarise a report on options for GST taxation of imported goods and services prepared for the GST Distribution Review Panel by Mr Michael Evans, an independent indirect tax consultant.

Issue

GST is an indirect tax on household consumption. As an indirect tax, GST liabilities apply to the suppliers of goods and services rather than the consumers. This simplifies the collection of GST by significantly reducing the number of taxpayers.

To increase neutrality in consumption decisions, GST is also levied based on the jurisdiction in which consumption takes place and not in the jurisdiction from which the goods and services originate.

However, because of the practical difficulties of enforcing GST obligations on non-resident suppliers, imports of intangibles (such as downloads of software, music and games) and packages below a low value threshold (LVT) of \$1000 are not generally subject to GST.¹

Estimates of annual revenue forgone from these exemptions are:

- \$480 million in GST and \$135 million in duty from the LVT, according to the Productivity Commission (PC) report on the *Economic Structure and Performance of the Australian Retail Industry*.²
- \$1 billion from the exemption of imports of intangibles, according to the Commonwealth Treasury.

The PC found that there are grounds, in-principle, to reduce the LVT, but that it is currently not cost-effective to do so (lowering the threshold to \$100, for example, could collect around \$500 million in revenue, but at a cost of \$1.2 billion in administration and compliance costs).

In response, the Commonwealth Government announced a taskforce to investigate options to improve the efficiency of processing low value imported packages, with an interim report due in February-March and a final report due by July 2012.

1. GST liabilities do exist in a very limited number of specific circumstances, but compliance levels are unclear.
2. A submission to the Commission from the Conference of Asia Pacific Express Carriers (CAPEC) suggested the level of revenue forgone may be significantly lower at \$315 million.

The report prepared by Mr Evans does not consider how to increase the efficiency of processing arrangements, but rather canvasses the relative practicalities of other options for applying GST to imports of intangibles and low value packages.

Possible options

According to Mr Evans, the best option (of four separate approaches) would be to require major offshore suppliers to pay GST on purchases made from Australia.

- US states have been unsuccessful in requiring out-of-state suppliers (such as Amazon.com) to pay state sales tax. However, this is because the US Supreme Court has determined that states lack the constitutional power to apply extra-territorial taxes, not because companies have simply refused to comply with their legal obligations.
- Dozens of major e-commerce firms such as eBay, Skype and iTunes comply with the EU's collection of VAT from non-EU suppliers for telecommunication services and radio and television broadcasting services where the use and enjoyment of the service occurs within a Member State. In all likelihood, these 'voluntary' registrations for VAT account for a significant proportion of the value of telecommunication services imported to the EU.
- Offshore suppliers, whilst preferring not to incur the compliance costs of registration and reporting, will respond to gentle persuasion and simple compliance regimes.
- The success of the initiative would depend upon:
 - simple registration, lodgement and compliance processes, including a registration threshold
 - certainty and clarity in the taxation treatment of the transactions at issue
 - the identification of, and communication with, the major suppliers to Australian customers to ensure their voluntary compliance with an increased scope of the Australian GST net.
- Information provided by debit and credit card issuers or intermediaries would be an extremely convincing voluntary compliance tool and it is considered that large companies would be more likely to comply than not.
- An ability to enforce the collection of tax against intermediaries that are within the Australian jurisdiction, while unpopular, may encourage the compliance of non-residents.

An alternative approach, considered by Mr Evans to have some merit, would be to collect GST from Australian customers under a voluntary compliance, self-assessment approach, through income tax returns.

- Compliance levels may be an issue with such an approach.
 - Experience in the US on voluntary reporting of similar liabilities found that on average 1.6 per cent of taxpayers reported a liability, though the percentage rose to 3.1 per cent for States where taxpayers were asked specific questions about their liabilities.
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- Nonetheless, taking note of the apparent success of communication and compliance encouragement in the US income tax system, a similar approach in Australia, when combined with data matching, would be successful in recovering the significant revenue lost from on-line retailing under the current regime.
- Compliances costs may also be problematic:
 - The difficulty in determining and recording GST liabilities would impose significant compliance costs on consumers (though this burden could be reduced through sufficiently comprehensive questions on an income tax return)
 - If the income tax return results in a liability to pay tax (rather than a refund of excess PAYG instalments), the costs of collection and recovery of small amounts may outweigh the additional revenue gained from the expansion of the scope of GST.

Options not recommended

Mr Evans considers, but does not recommend, other approaches, such as:

- GST being collected by the jurisdiction in which the supplier resides, and
- A new and separate GST liability being imposed on transactions entered into by intermediaries such as card issuers that obtain fees through facilitation of the offshore purchase of goods or services.
 - These approaches are not recommended because they either do not increase the GST revenue in Australia, or because of the likely complexity and administrative costs involved.