THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

TREASURY LAWS AMENDMENT (GST LOW VALUE GOODS) BILL 2017

EXPLANATORY MEMORANDUM

(Circulated by authority of the Treasurer, the Hon Scott Morrison MP)
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**Glossary**

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

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Definition</th>
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<tbody>
<tr>
<td>ABN</td>
<td>Australian Business Number</td>
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<tr>
<td>Commissioner</td>
<td>Commissioner of Taxation</td>
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<tr>
<td>GST</td>
<td>goods and services tax</td>
</tr>
<tr>
<td>GST Act</td>
<td><em>A New Tax System (Goods and Services Tax) Act 1999</em></td>
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<tr>
<td>ITC</td>
<td>input tax credit</td>
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<tr>
<td>ITZ</td>
<td>indirect tax zone (broadly, Australia, excluding those geographic areas where the GST does not apply, such as the external Territories)</td>
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<tr>
<td>Intangibles</td>
<td>things other than goods or real property</td>
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<tr>
<td>Low value goods</td>
<td>goods with a customs value equal to or less than the prescribed amount of $1,000</td>
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</table>
General outline and financial impact

Extending GST to low value imported goods

Schedule 1 to this Bill amends the *A New Tax System (Goods and Services Tax) Act 1999* 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.

The amendments make supplies of goods valued at $1,000 or less at the time of sale connected with the indirect tax zone if the goods that are supplied are offshore low value goods. This ensures that such supplies are subject to GST, consistent with equivalent supplies made within Australia.

**Date of effect:** These amendments apply in working out net amounts for tax periods commencing on or after 1 July 2017 and the GST treatment of importations occurring on or after 1 July 2017.

**Proposal announced:** This measure was announced on 3 May 2016 in the 2016-17 Budget.

**Financial impact:** As reported in the 2016-17 Budget, the measure is estimated to result in a gain to GST revenue of $300 million over the period to 2019-20 comprising:

<table>
<thead>
<tr>
<th></th>
<th>2016-17</th>
<th>2017-18</th>
<th>2018-19</th>
<th>2019-20</th>
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<tr>
<td>Nil</td>
<td>-</td>
<td>$70m</td>
<td>$100m</td>
<td>$130m</td>
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</table>

**Human rights implications:** This Schedule does not raise any human rights issues. See *Statement of Compatibility with Human Rights* — paragraphs 1.183 to 1.187.

**Compliance cost impact:** This measure imposes some transitional and ongoing compliance costs upon suppliers (principally those operating outside of Australia), redeliverers and electronic distribution platforms for supplies of low value goods that are purchased by consumers and are delivered to Australia.
Chapter 1
Extending GST to low value imported goods

Outline of chapter

1.1 Schedule 1 to this 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 to a consumer 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 the treatment of equivalent supplies made within Australia.

1.3 The amendments do not make any changes to the rules in the Customs Act 1901 relating to the importation of goods, or other aspects of the customs law.

1.4 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, unless otherwise stated.

Context of amendments

Operation of existing law

1.5 GST is payable on taxable supplies and taxable importations.

Taxable supplies

1.6 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).
1.7 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.

1.8 These rules do not apply to supplies of goods outside the ITZ unless the goods are brought to the ITZ by the supplier.

**Taxable importations**

1.9 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).

1.10 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 most 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**

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

1.12 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 generally not a taxable importation if the value of the consignment containing the goods is $1,000 or less.

1.13 When the GST was first introduced, it was not usual for consumers to purchase goods that were located outside the ITZ at the time of the supply.

1.14 However, 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 the goods into the ITZ with the assistance of the supplier.

1.15 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**

1.16 Schedule 1 to the 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.

1.17 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 operator of an electronic distribution platform as the supplier of low value goods if the goods are purchased through the platform by consumers and brought to the ITZ with the assistance of either the supplier or the operator;

- treat redeliverers as the suppliers of low value goods if the goods are delivered outside the ITZ as part of the supply and the redeliverer assists with their delivery into the ITZ as part of, broadly, a shopping or mailbox service that it provides under an arrangement with the consumer;

- allow non-resident suppliers of low value goods that are connected with the ITZ only 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 only as a result of these amendments and notice is provided in the approved form.

1.18 Schedule 1 does not make any change to the *Customs Act 1901* or related legislation.
## Comparison of key features of new law and current law

<table>
<thead>
<tr>
<th>New law</th>
<th>Current law</th>
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<tbody>
<tr>
<td><strong>Supplies of low value goods that are connected with the ITZ</strong></td>
<td>A supply of goods is connected with the ITZ if, broadly:</td>
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<tr>
<td>A supply of goods is connected with the ITZ if, broadly:</td>
<td>• the supply takes place in the ITZ;</td>
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<tr>
<td>• the supply takes place in the ITZ;</td>
<td>• the supply involves the goods being removed from the ITZ;</td>
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<tr>
<td>• the supply involves the goods being removed from the ITZ;</td>
<td>• the supply imports the goods to the ITZ as part of the supply; or</td>
</tr>
<tr>
<td>• the supplier imports the goods to the ITZ as part of the supply;</td>
<td>• the supply is an offshore supply of low value goods to a consumer.</td>
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<tr>
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<tr>
<td>goods are brought into the ITZ with the assistance of the supplier</td>
<td>• the supply involves the goods being removed from the ITZ;</td>
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<tr>
<td>(or an entity treated as being the supplier) and the customs value of</td>
<td>• the supply imports the goods to the ITZ as part of the supply.</td>
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<td>the goods, at the time when the consideration for the supply was first</td>
<td>The acquisition of low value goods is not subject to a reverse charge.</td>
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<td>agreed, would have been $1,000 or less had they been exported at that</td>
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<td>time. However, supplies of tobacco, tobacco products or alcoholic</td>
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<td>beverages are never supplies of low value goods.</td>
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<td>A consumer refers to a recipient of a supply that:</td>
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<tr>
<td>• is not registered for GST; or</td>
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<tr>
<td>• if the recipient is registered for GST – does not acquire the goods</td>
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<td>solely or partly for the purposes of an enterprise that the recipient</td>
<td></td>
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<tr>
<td>carries on in the ITZ.</td>
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<tr>
<td>However, a supply of low value goods will not be connected with the</td>
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<td>ITZ as a result of these amendments if, after taking reasonable steps,</td>
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<td>the supplier reasonably believes that the goods would be a taxable</td>
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<td>importation.</td>
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<tr>
<td>These amendments ensure that supplies of low value goods to consumers</td>
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<td>that are brought to the ITZ with the assistance of the</td>
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</table>
### Extending GST to low value imported goods

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<tr>
<td>supplier receive equivalent GST treatment to goods supplied within the ITZ. 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.</td>
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</tbody>
</table>

#### Redeliverers treated as suppliers

If a supply of low value goods is acquired by a consumer and brought to the ITZ with the assistance of a redeliverer then the supply is connected with the ITZ. If the supply was not already connected with the ITZ, then the redeliverer is treated as the supplier and is responsible for any GST liability in relation to the supply.

An entity is a redeliverer in relation to a supply if, as part of an arrangement with the recipient or another entity acting on behalf of the recipient, the first entity:

- provides offshore mail or shopping services in relation to the goods;
- takes delivery or arranges for another entity to take delivery of the goods outside the ITZ, and
- assists the recipient to bring the goods to the ITZ.

Entities that do not carry on an enterprise are not redeliverers.

To ensure that redeliverers are treated similarly to suppliers, international transport services provided by redeliverers for supplies of goods for which the redeliverer is liable to GST because of these amendments are not GST free. Further, GST applies to the supply of low value goods on the basis that the price is the GST-exclusive price.

Not applicable.
### New law

<table>
<thead>
<tr>
<th><strong>Supply through an electronic distribution platform</strong></th>
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</thead>
<tbody>
<tr>
<td>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 for the purposes of GST.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Limited registration rules</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>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.</td>
</tr>
<tr>
<td>Entities that make at least one inbound intangible consumer supply continue to be able to elect to be limited registration entities.</td>
</tr>
<tr>
<td>A limited registration entity is able to access simplified registration and reporting requirements, but its acquisitions are never creditable acquisitions and it cannot obtain an Australian Business Number (ABN).</td>
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<table>
<thead>
<tr>
<th><strong>Preventing double taxation</strong></th>
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<tbody>
<tr>
<td>Importations of goods are non-taxable importations if:</td>
</tr>
<tr>
<td>• a supply of the goods in which the goods are brought to the ITZ is a taxable supply because of these amendments; and</td>
</tr>
<tr>
<td>• the importer notifies the Comptroller-General of Customs in the approved form, by the time the importation would have been subject to GST, that the supply was a taxable supply.</td>
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<tr>
<td>This ensures that GST does not apply twice to low value goods that are imported to the ITZ.</td>
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<tr>
<td>If this notification is not provided by this time, the recipient may seek</td>
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<table>
<thead>
<tr>
<th><strong>Current law</strong></th>
</tr>
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<tbody>
<tr>
<td>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 having made the supply for the purposes of GST.</td>
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<tr>
<th><strong>Preventing double taxation</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Not applicable.</td>
</tr>
</tbody>
</table>
### New law

Reimbursement of the overpaid amount from the supplier. If the supplier has provided this reimbursement and obtained a declaration from the recipient that the importation of the goods was a taxable importation, the supplier may adjust their liability for GST accordingly (subject to the other requirements of the GST law).

### Current law

### Obligations for entities making offshore supplies of low value goods

A tax invoice or adjustment note is not required for an offshore supply of low value goods to a consumer. However, a supplier must notify the recipient in the approved form of the amount of GST (if any) that is payable in relation to offshore supplies of low value goods at the time the consideration for the supply is agreed.

If an entity fails to do so, it must correct this error within five business days of a request by the recipient or an administrative penalty will apply.

Entities that are registered or required to be registered and make an offshore supply of low value goods must ensure specified information about the supply is included in relevant customs documentation. This requirement applies whether or not the supply is a taxable supply.

If an entity fails to take reasonable steps to ensure that this information is included, it will be liable to an administrative penalty.

A tax invoice or adjustment note needs to be issued by a supplier of goods to the recipient of a 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

1.19 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, or an entity that is treated as being the supplier. They ensure that supplies of low value goods that are purchased by consumers receive similar GST treatment regardless of where the goods are located at the time of supply.

1.20 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.

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

• the supply is an offshore supply of low value goods; and

• the recipient acquires the supply as a consumer.

[Schedule 1, items 1 and 38, subsection 9-25(3A) and section 84-75]

1.22 However, the supply will not be connected with the ITZ if, at the time the consideration for the supply is set, the supplier (or the entity that is treated as being the supplier for the purposes of the GST law), after taking reasonable steps, reasonably believes the goods will be imported as a taxable importation. [Schedule 1, item 38, subsection 84-83]

1.23 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.

1.24 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 section 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.

1.25 Entities that are required to be registered but do not do so are still liable for GST on their supplies. They are also subject to compulsory registration upon identification by the Commissioner and potentially a range of administrative penalties and other consequences under the existing provisions of the GST law and powers of the Commissioner. The Commissioner also has wide general anti-avoidance powers that can be exercised if entities reorganise their business practices or undertake other activities for the purpose of avoiding GST.

1.26 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.

Offshore supplies of low value goods

1.27 The first requirement for goods to be connected with the ITZ as a result of these amendments is that the supply must be an offshore supply of low value goods.

1.28 To be an offshore supply of low value goods, a supply must be:

• a supply of goods that are brought into the ITZ with the assistance of the supplier or another entity that is treated as being the supplier in connection with the supply; and

• a supply of low value goods.

[Schedule 1, item 38, section 84-77]

Bringing goods to the ITZ with the assistance of the supplier or another entity that is treated as being the supplier

1.29 The first requirement for a supply to be an offshore supply of low value goods relates to the process by which the goods are brought to the ITZ. Broadly, it provides that a supply of goods will only be connected with the ITZ as a result of these amendments if the supplier or an entity treated as being the supplier has some involvement in the delivery of the goods into the ITZ as part of the process of making the supply. It ensures that entities are only liable for supplies where the knowledge and involvement of the entity make this appropriate.

[Schedule 1, item 38, subsections 84-77(1), (2) and (3)]
1.30 Generally, the entity that is liable for GST will be the supplier and it will be their involvement that results in the supply satisfying this element of the definition of offshore supply of low value goods. However, under the amendments, operators of electronic distribution platforms and redeliverers are treated as the supplier in some circumstances.

1.31 A supply involving a redeliverer can be an offshore supply of low value goods if:

- the goods are not brought into the ITZ with the assistance of the supplier in connection with the supply (so it would not generally otherwise be a supply of low value goods); and
- the redeliverer assists in the delivery of the goods into the ITZ.

[Schedule 1, item 38, subsections 84-77(3) to (5) and 84-81(4)]

1.32 The rules relating to redeliverers are discussed further in paragraphs 1.85 to 1.102.

1.33 If a supply is made through an electronic distribution platform, it can be an offshore supply of low value goods if either the actual supplier or the operator of the electronic distribution platform assists in the delivery of the goods into the ITZ. Irrespective of whether the operator of the electronic distribution platform or the supplier assists with delivery, it is the operator that is liable for any GST. This means that the operator of an electronic distribution platform will need to consider if supplies are offshore supplies of low value goods both because of their own actions or the actions of the supplier of the goods. The rules relating to electronic distribution platforms are discussed further in paragraphs 1.119 to 1.131. [Schedule 1, item 38, subsections 84-77(1) and (2) and 84-81(3)]

1.34 Overall, this new requirement is broader than the existing provisions under which supplies can be connected with the ITZ. 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 amendments provide that goods may be connected to the ITZ as an offshore supply of low value goods if the goods are brought into the ITZ and the supplier, or an entity treated as the supplier, provides some form of assistance in arranging this delivery. This assistance can involve actual delivery or merely arranging, procuring or facilitating delivery.

1.35 Procuring, arranging or facilitating the delivery of the goods includes making arrangements with third parties for the transport of the
Extending GST to low value imported goods

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 selling goods to a recipient, making the goods available for collection or providing contact information for otherwise unrelated transport companies.

1.36 Neither the physical location of the recipient of a supply of low value goods nor their residence status for tax purposes are 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, the operator of an electronic distribution platform or a redeliverer.

1.37 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), provided the supplier assists with the delivery of the goods into the ITZ.

1.38 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 would otherwise be undertaxed.

Example 1.1: Assistance in bringing goods to the ITZ

Mugs Co operates an internet business selling custom-designed mugs based principally out of Norway.

John purchases a selection of mugs for delivery to Sydney, Australia.

Mugs Co packages and posts the mugs. This constitutes assisting in bringing the mugs to the ITZ.

Example 1.2: Assistance in bringing goods to the ITZ

NZ Toy Co sells toys from a store located in New Zealand.
Muriel shops in NZ Toy Co’s store while on holiday from Australia. She purchases a number of toys as gifts for relatives in Australia which she later brings back to the ITZ in her luggage.

NZ Toy Co has not assisted Muriel in bringing the mugs to the ITZ.

**Low value goods**

1.39 Even if goods are brought into the ITZ with the assistance of the supplier, the supply of the goods will not be an offshore supply of low value goods unless it is a supply of low value goods. [Schedule 1, item 38, section 84-77]

1.40 The GST Act defines goods as tangible personal property.

1.41 A supply of goods is a supply of low value goods if the customs value of one or more of the goods making up the supply would have been $1,000 or less at the time when the consideration for the supply was first agreed. [Schedule 1, item 38, subsection 84-79(3)]

**Low value goods – customs value**

1.42 The ‘customs value’ of imported goods is defined in section 159 of the *Customs Act 1901*. It is generally based on the value of the goods at the time of exportation as determined by the Comptroller-General of Customs or a delegate. It excludes, among other things, GST as well as transport and insurance costs from the place of export.

1.43 Generally goods will not have been exported, imported into Australia or considered by a delegate of the Comptroller-General of Customs at the time the consideration for the supply is settled. This means that it would be problematic for the supplier (or entity treated as being the supplier), to determine their customs value at that time. To address this, when working out the customs value for the purpose of these amendments, the customs value is to be determined as though the goods were exported at the time the consideration for the supply was first agreed and imported into the ITZ as a result of that agreement. The customs value is also to be determined as if a delegate of the Comptroller-General of Customs had exercised any relevant discretions reasonably in accordance with the law. [Schedule 1, item 38, subsection 84-79(4)]

1.44 Additionally, the amendments allow the prevailing exchange rate at the time to be determined in accordance with a method prescribed by the Commissioner by legislative instrument rather than using the fixed rates prescribed daily under section 161J of the *Customs Act 1901* for the determination of customs value more generally. This provides scope for the Commissioner to develop alternative methods for calculating exchange rates should the process fixed under section 161J of the
Extending GST to low value imported goods

Customs Act 1901 prove not to be suitable in all circumstances. [Schedule 1, item 38, paragraph 84-79(4)(e) and subsection 84-79(5)]

1.45 Despite the general rule, the amendments provide that certain goods – specifically tobacco, tobacco products and alcoholic beverages – are never low value goods, whatever their customs value. These goods are always taxable importations under the existing rules for non-taxable importations (see section 42-5 of the GST Act, item 26 of Schedule 4 to the Customs Tariff Act 1995 and Customs By-law No. 1305011). Because GST will always be collected through customs processes upon importation, there is no need to also apply GST to supplies of such goods outside the ITZ. [Schedule 1, item 38, paragraph 84-79(3)(b)]

1.46 Overall, these changes ensure the character of goods as low value goods is fixed at the time that the consideration for the supply of the goods is agreed. Further, they also ensure that the process for determining if goods are low value goods is aligned as closely as is practical to the method for determining if goods are low value goods when imported.

1.47 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 supply of low value goods, it applies to the GST value of the goods supplied and any other costs that are included as part of the supply of the goods, 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. Likewise, none of the special rules for determining customs value for the purpose of these amendments apply to the determination of customs value elsewhere in the law, including under the Customs Act 1901.

Low value goods – supplies of multiple goods

1.48 Sometimes an entity may supply a number of goods as part of one supply. In this case, the test applies individually to each of the separate goods that are supplied. This means that if some or all of the individual goods have a customs value of $1,000 or less, the part of the supply made up of these goods is treated as a supply of low value goods, regardless of the total value of the supply. To the extent the supply also includes goods individually valued at more than $1,000, that part of the supply is treated as a supply that is not a supply of low value goods. This provides clarity and consistency in the application of GST to goods. Ultimately it means that any transaction that contains low value goods that could be consigned separately, and therefore could be a low value import, is a supply of low value goods to that extent. [Schedule 1, item 38, subsection 84-79(2)]
1.49 It should be noted that a supply is not a taxable supply under these amendments solely because it is a supply of low value goods. The rule about when offshore supplies of low value goods are connected to the ITZ operates in conjunction with the provisions which deal with supplies to consumers (see paragraphs 1.51 to 1.59) and the interaction with customs law (see paragraphs 1.60 to 1.84). The combined effect of these provisions is to ensure that low value goods brought into the ITZ are 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.

1.50 This definition applies only for the purposes of the GST law. It does not include any change to customs law or the meaning of ‘consignment’ for the purposes of the Customs Act 1901.

Example 1.3: One supply of multiple low value goods

Kevin purchases two pairs of exclusive designer business shoes valued at $600 and $900 each (excluding GST and transport costs) from Raj, an overseas seller based in India. Kevin is not registered for GST.

A supply of goods is a supply of low value goods if the customs value of any of the individual goods supplied would have been $1,000 or less at the time when the consideration for the supply was first agreed.

In this instance, the shoes have a customs value of $600 and $900 respectively and so the entire supply is a supply of low value goods.

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

This example is discussed further in Example 1.10.

Example 1.4: Supply of low value goods and other goods

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

A supply of goods is a supply of low value goods if the customs value of any of the individual goods supplied would have been $1,000 or less at the time when the consideration for the supply was first agreed. As the business shirt has a customs value of $200 the supply is a supply of low value goods.

However, to the extent the supply includes goods that individually would have a customs value of more than $1,000, that part of the supply is treated as being a separate supply that is not a supply of low value goods. This means that as the dress would have had a customs
value of over $1,000 at the time when the consideration for the supply was first agreed, the sale of the dress and shirt are treated as separate supplies despite being purchased in one transaction.

Hence, the supply of the shirt is a supply of low value goods and potentially connected with the ITZ as a result of these amendments. The supply of the dress is not a supply of low value goods.

**Supply to a consumer**

1.51 In addition to being an offshore supply of low value goods, a supply must be made to a consumer for the supply to be connected with the ITZ as a result of these amendments. [Schedule 1, item 38, subsection 84-75(1)]

1.52 Broadly, an entity will be a consumer in relation to a supply it receives if the entity is not entitled to an input tax credit (ITC) to any extent for the acquisition of the supply. More specifically, an entity will be a consumer in relation to a supply it receives if it is either:

- not registered for GST; or

- does not acquire the supply to any extent for the purpose of an enterprise it carries on in the ITZ.

[Schedule 1, item 38, subsection 84-75(2)]

1.53 This approach is broadly consistent with the application of GST to supplies of things other than goods and real property provided to Australian consumers by enterprises operating outside the ITZ 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 as a result of the amendments if the recipient would not be entitled to an ITC (to any extent) in relation to the supply.

1.54 It is important to note that, under the GST law, the recipient of a 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 an 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.

1.55 This requirement only applies if supplies of goods are connected to the ITZ because of the new connected rules inserted by these amendments. To the extent supplies of goods to businesses may be
connected as a result of the other existing connected to the ITZ rules, this does not change. This means that, for example, a supply of goods located in the ITZ at the time of supply to an Australian business remains connected to the ITZ under subsection 9-25(1).

Protections for suppliers

1.56 In general, suppliers of consumer goods must rely on information supplied by the recipient to determine if the recipient is a consumer. For entities supplying high volumes of low value consumer goods over the internet, the only practical and commercially realistic means of obtaining information about the status of the recipient is likely to be information gathered during the process of the sale.

1.57 Hence, the amendments provide a safe harbour for suppliers that reasonably rely upon information provided by the recipient in the course of their dealings with the recipient. These dealings can be solely by means of transactions entered into via the supplier’s website. Specifically, the entity that would be liable for GST in relation to the supply may treat the supply as not being connected with the ITZ because of these amendments if the entity reasonably believes that the recipient of the supply is not a consumer, provided the entity has:

- obtained the recipient’s ABN or similar identifier prescribed by the Commissioner; and
- received a declaration or other information from the recipient indicating the recipient is registered for GST.

[Schedule 1, item 41, section 84-105]

1.58 This safeguard is equivalent to the safeguard for suppliers that treat an entity as not being an Australian consumer in relation to inbound intangible consumer supplies in section 84-100. Further discussion of that safeguard is set out at paragraphs 1.71 to 1.74 of the Explanatory Memorandum to the Tax and Superannuation Laws Amendment (2016 Measures No. 1) Bill 2016.

1.59 Penalties apply to entities that misrepresent their status for the purposes of avoiding GST applying to a supply to them (see paragraphs 1.166 to 1.167).

Example 1.5: 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 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 is $380 (being the price less $20 postage and $40 GST). It therefore is a low value good. The supply of the dress is an offshore supply of low value goods to a consumer, because it is a supply of a low value good that is brought to the ITZ with the assistance of Rose (the supplier) and the recipient, Alex, is not registered for GST.

**Example 1.6: 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 a supplier in Vietnam. The supplier arranges for the delivery of 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 connected to 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 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 1.7: Business to business supplies**

Foeli, a small Australian business, purchases 4,000 pens collectively valued at $500 (excluding delivery costs and taxes) from Penworks, a stationery business based in Thailand. Foeli supplies its ABN to Penworks and declares it is registered for GST and Penworks reasonably believes Foeli is not a consumer. The pens are to be used in the course of Foeli’s business in Australia. The pens have a customs value of $500 and are therefore low value goods. As part of the sale arrangements, Penworks assists in the delivery of the pens into the ITZ.

If Foeli was a consumer of the supply, the supply could be connected with the ITZ as it is an offshore supply of low value goods because the customs value of the goods supplied does not exceed $1,000 and they are brought into the ITZ with the assistance of the supplier.

However, despite being an offshore supply of low value goods, the supply is not connected with the ITZ. This is because Foeli is registered for GST and has acquired the pens solely for the purpose of an enterprise it carries on so it cannot be a consumer of the supply.

As a result the supply is not connected with the ITZ as a result of these amendments.
Even if Foeli was a consumer of the supply, Penworks would be entitled to treat it as not being a consumer for the purposes of the GST law. Penworks satisfies the requirements for the safeguard for suppliers to apply as it reasonably believes Foeli is not a consumer of the supply, and Foeli has provided Penworks with its ABN and declared it is registered for GST.

Example 1.8: Business to business supplies for private use only

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

Natasha purchases a coffee machine valued at $600 (excluding tax and delivery costs) from Un Caffe, a supplier of coffee machines based in Italy. Un Caffe arranges for the delivery of the coffee machine to Natasha in the ITZ. The coffee machine has a customs value of $600 and therefore the supply is a supply of low value goods. At the time of the purchase, Natasha only intends to use the coffee machine for private purposes and as such is a consumer of the supply. As a result, the supply is a supply of low value goods to a consumer and may be connected with the ITZ.

However, Natasha represents to Un Caffe that she is not making the acquisition as a consumer, quoting her ABN and declaring that she is registered for GST.

Despite Natasha being a consumer, if Un Caffe reasonably believed Natasha was not a consumer, it may treat the supply as not being connected with the ITZ as Natasha has supplied her ABN and declared she is registered for GST.

Natasha is subject to the amended reverse charge rules in Division 84, discussed in paragraphs 1.104 to 1.118 below. If the supply is a taxable supply as a result of these provisions, Natasha will be responsible for any GST. Natasha is also potentially subject to administrative penalties for her false representation and declaration.

Example 1.9: 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 supply of low value goods. Joe will use the laptop both for his business and for his own 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 as a result of the amendments.
The supplier is able to treat the supply as not being made to a consumer, because it reasonably believes that Joe is not a consumer and he has supplied his ABN and declared that he is registered for GST.

Joe will be subject to the extended reverse charge rules in Division 84 discussed in paragraphs 1.104 to 1.118 below. If the supply is a taxable supply as a result of these provisions, Joe will be responsible for any GST.

**Interaction with customs law**

1.60 However, there is a qualification to the new rule for when goods are connected with the ITZ. Even if a supply of goods satisfies the requirements outlined above, it will not be connected with the ITZ as a result of the amendments if the supplier (or an entity treated as the supplier):

- has taken reasonable steps to obtain information about whether the importation is a taxable importation; and
- after taking these steps, reasonably believes that they will be imported as a taxable importation.

*Schedule 1, item 38, section 84-83*

1.61 To satisfy this test, a supplier or the operator of an electronic distribution platform must hold this belief at the last time the consideration for the supply changes prior to export. This represents the last time at which the consideration for the supply could have been adjusted to take into account changes in how the goods are expected to be transported. *[Schedule 1, item 38, paragraph 84-83(4)(a)]*

1.62 However, if a redeliverer is treated as making the supply, this concept would not be relevant as redeliverers do not set the consideration for the supply. Instead, a redeliverer must hold the reasonable belief at the time when the redeliverer assists in bringing the supply into the ITZ – i.e at the time when the redeliverer either delivers the goods or procures arranges or facilitates the delivery of the goods. This similarly represents the time at which arrangements for transport were settled. *[Schedule 1, item 38, paragraph 84-83(4)(b)]*

1.63 This test has two elements – reasonable belief and reasonable steps. If these elements are satisfied, the supply is not connected with the ITZ because of these amendments, even if the belief is incorrect and the importation of the goods is not a taxable importation. This ensures that suppliers that act reasonably at the time of supply are not disadvantaged by events beyond their control. *[Schedule 1, item 38, subsections 84-83(1) and (2)]*
**Reasonable steps**

1.64 Broadly, taking reasonable steps generally involves the supplier seeking to obtain information, whether directly or by setting up business systems and processes, about how the goods are to be consigned. What is specifically involved in having taken reasonable steps for a particular supply varies depending on the circumstances of the supply.

1.65 In many cases, especially where the supplier makes a large volume of similar supplies of goods as part of its businesses, reasonable steps may involve merely taking into account information gathered through its usual businesses system or processes, together with pre-existing knowledge. For example, if a supplier knows that its business processes result in all goods in an order being packed together if they are held in the same warehouse, taking reasonable steps may involve checking (via automated systems or otherwise) where the goods that will be sourced to fulfil the order are held.

1.66 Reasonable steps involve delegation or automated processes. For example, if a supplier develops software that undertakes an inventory and value check at the time of sale, the use of this software (assuming it is expected to be reliable) can constitute reasonable steps. Similarly, if a third party is wholly responsible for the transport of goods, seeking advice from this party (assuming it is expected to be reliable) can be reasonable steps.

1.67 An entity will not generally have taken reasonable steps if it does not have or seek to obtain information relevant to how the specific goods are likely to be consigned (such as information about how goods of that sort and value are packaged and shipped). Similarly, steps undertaken by an entity are unlikely to be reasonable if they repeatedly or systematically result in incorrect beliefs.

1.68 In some circumstances, the process for making a supply may involve no direct human involvement or oversight. To address stakeholder concerns about whether reliance on such processes constitutes ‘reasonable steps’, the amendments make clear that this requirement is satisfied if an entity has usual business systems and processes that provide a reasonable basis for identifying whether goods will be imported into the ITZ as a taxable importation. [Schedule 1, item 38, subsection 84-83(2)]

**Reasonable belief**

1.69 A reasonable belief requires that the entity must believe that the goods will be a taxable importation and this belief must be one that a reasonable person in the position of the taxpayer would hold.
In this context, an entity’s reasonable belief is a belief by the entity (or an agent or employee of the entity) about the likely treatment of the goods upon importation into Australia.

However, in the majority of cases, the sale of the goods will take place through automated processes and no individual will specifically examine the individual sale. This does not mean that the entity responsible for the supply does not have a reasonable belief about how the goods will be imported. In such cases, the entity may well have a reasonable belief that if their systems determine that a good will be a taxable importation it will be a taxable importation. The important factor is the appropriate design of their systems to identity expected taxable importations.

In general, a genuine belief will only be unreasonable if it is not supported by sufficient evidence or where there is countervailing information or evidence (such as knowledge that stocks are low enough that there is a serious risk the consignment may be split). That said, one feature that may draw into question whether a belief is reasonable is if it is frequently wrong. Repeated errors that reduce an entity’s GST liability may also draw into question whether the belief is reasonable as well as whether it is genuine. In this situation the Commissioner would need to consider whether penalties or the general anti-avoidance regime may apply.

It is expected that the Commissioner will provide further guidance about what will constitute taking reasonable steps and reasonable belief.

**Preventing double taxation**

The new rule about when supplies of goods are connected to the ITZ 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 does not result in goods bearing GST more than once.

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. This is further supplemented by the qualification outlined in paragraph 1.60, which ensures that if the supplier reasonably believes tax will be collected under the existing taxable importation rules when settling the consideration for the supply then no change is needed to existing processes.

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, for example, many supplies of low value goods are shipped together and this was not anticipated at the time of supply, then it would be possible for GST to apply to both the supply and importation and for the qualification not to apply.

1.77 To address these remaining overlaps, Schedule 1 amends the GST law to include a further mechanism to prevent double taxation.

1.78 An importation of goods is a non-taxable importation if:

• a supply involving the goods being brought to the ITZ was a taxable supply solely because of section 9-5;

• the supply was connected with the ITZ only because of these amendments; and

• the importer notifies the Comptroller-General of Customs in the approved form that the goods were supplied as part of a taxable supply at or before the time by which the taxable importation of the goods would otherwise have been made.

[Schedule 1, item 19, section 42-15]

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

1.80 This requirement to notify the Comptroller-General of Customs 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 will include the ABN or vendor registration number of the supplier and that this reporting will be combined with other existing reporting on the entry of goods for customs purposes.

1.81 If this notification is not provided in time the importation of the goods will be a taxable importation. In this case, the amendments allow the recipient to address the double taxation by seeking reimbursement of the GST from the supplier. If the supplier:

• provides this reimbursement; and

• obtains a declaration from the recipient that the importation of the goods was a taxable importation;

then the original supply ceases to be connected to the ITZ, resulting in an adjustment event for the supplier that entitles them to seek a refund of the
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GST paid on the supply in their next GST return (see Division 19). [Schedule 1, item 38, section 84-85]

1.82 The amendments also include rules to address cases in which a supply is mistakenly treated as being a taxable supply if this results in a subsequent importation being incorrectly treated as a non-taxable importation.

1.83 If the supply is made to an entity that is a consumer, the tax payable in relation to the supply will be taken to be payable on the supply and no refund will be available unless the supplier:

- reimburses the recipient for any GST that was passed on in the price of the supply; and

- holds a declaration or other information indicating that GST has been paid on the taxable importation.

[Schedule 1, item 45, section 142-16]

1.84 This prevents any potential GST advantage arising from this mistake. However, if the supply is provided to an entity that is not a consumer, this restriction does not apply. [Schedule 1, item 45, paragraph 142-16(1)(c)]

Example 1.10: Supply of low value goods where the supplier reasonably believes the goods will be imported as a taxable importation

In example 1.3, Kevin purchased two pairs of shoes from Raj, valued at $900 and $600 respectively.

In this situation, Raj may, after taking reasonable steps, reasonably believe that the goods will be imported as a taxable importation at the time when he agrees to the final price with Kevin. If he does, the supply would not be connected with the ITZ, even though it meets all of the other requirements.

Example 1.11: Importation of low value goods treated as non-taxable importation

Skye purchases a computer from a retailer in China for delivery to Australia. The computer, which is priced in US dollars and has a customs value of $999, based on the exchange rate on the date of purchase. Skye is an Australian resident and is not 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 exported from China to Australia. The importer notifies the Comptroller-General of Customs 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.

As the customs value for the purposes of determining if a good is a low value goods is fixed at the time the consideration for the supply is first agreed, this does not affect the GST treatment of the supply. However, it does mean that the computer is not a low value good for customs purposes.

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 Comptroller-General of Customs 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 1.12: Supply of goods above $1,000, value below $1,000 at time of import**

Kieran purchases a signed football jersey for delivery in Australia from Lexa, a supplier based in Spain. The jersey is priced in euros and has a customs value of $1,004 based on the conversion rate from euros at the time when the consideration for the supply was first agreed. 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 Australian 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.

**Redeliverers**

1.85 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.

1.86 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.

1.87 However, there is a class of businesses, often referred to as mail, post, package forwarders or redeliverers, that assist entities to obtain goods from foreign suppliers. As part of their enterprise, redeliverers can make or help arrange the initial purchase (including by acting as a personal shopper), provide a mailing address for delivery in the relevant jurisdiction, make arrangements for any required storage and deliver the goods or arrange for their delivery to the consumer.

1.88 The amendments provide that if a supply of goods to a consumer involves goods being delivered outside the ITZ and an entity (a redeliverer) as a result of an arrangement with the recipient (or an entity acting on the recipient’s behalf) both:

- provides offshore mailbox or shopping services in relation to the goods; and

- delivers 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. [Schedule 1, item 38, subsections 84-77(3), (4) and (5)]

1.89 In general, offshore mailbox services involves providing or facilitating the use of a foreign address for the delivery of goods. Shopping services involves purchasing or facilitating the purchase of the goods on behalf of the recipient. [Schedule 1, item 38, subsection 84-77(4)]

1.90 If a supply is connected with the ITZ because of this rule, then the redeliverer will be treated as the supplier for the purposes of the GST law (except when working out if an entity is a redeliverer) unless the supply was already connected with the ITZ under another provision. [Schedule 1, item 38, subsection 84-81(4)]

1.91 If the supplies made by the redeliverer, including supplies they are treated as having made as a result of their redelivery service, result in
the redeliverer exceeding the GST registration turnover threshold (discussed further in paragraphs 1.24 to 1.25), they will be required to register and remit GST on all of their taxable supplies.

1.92 The imposition of liability on the redeliverer, where the actual supplier would not be liable for GST because of a lack of knowledge about the ultimate destination of the supply, recognises that in that situation the redeliverer is the entity that is best placed to know the status of the goods and the location to which they are delivered.

1.93 This only applies if the only reason why the goods are connected with the ITZ is the involvement of the redeliverer. If the supply was already connected with the ITZ and the supplier (or another entity) was already liable for GST, this entity remains liable and these amendments do not apply to alter the existing obligations. In effect, redeliverers will never be treated as the supplier of goods if the supplier (or another entity treated as being the supplier, such as the operator of an electronic distribution platform) could be liable for GST in relation to that supply. [Schedule 1, item 38, subsections 84-81(1) and (4)]

1.94 Entities are also not treated as redeliverers 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 1, item 38, subsection 84-77(4)]

1.95 Where the redeliverer is treated as the supplier in relation to a supply – that is, neither the actual supplier nor an operator of an electronic distribution platform would be liable for the GST on the supply – Division 57 (resident agents acting for non-residents) does not apply in relation to the supply. These rules treat other entities as being the supplier based on their relationship with the actual supplier. In circumstances involving a redeliverer being treated as the supplier, it is not appropriate for rules based on the relationship between another entity and the actual supplier to apply. [Schedule 1, item 38, subsection 84-81(7)]

1.96 Additionally, as the redeliverer, rather than the supplier, is liable for GST, the pricing of the supply by the supplier will not reflect the application of GST. As a result, consistent with the equivalent rules for supplies that are reverse charged, GST applies to the supply on the basis that the price is GST-exclusive. This means that the amount of GST on the supply in the hands of the redeliverer is 10 per cent of the price set by the actual supplier rather than 1/11th of that price. [Schedule 1, item 38, subsection 84-91]

1.97 The amendments also change the GST treatment for services provided by a redeliverer in relation to goods if the redeliverer is treated
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as the supplier of the goods. See paragraphs 1.172 to 1.176 for more details.

Example 1.13: Supply through a redeliverer - redeliverer 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 a US-based address provided to him by Mailme. Sam has an arrangement with Mailme that Mailme will send the hockey stick to Australia and deliver it to Sam.

The redeliverer, 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;
- Mailme has an arrangement with Sam that includes providing Sam with a mailbox service in relation to the supply; 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 1.24).

Multiple redeliverers

1.98 In some cases more than one entity may meet the requirements to be a redeliverer in relation to a supply. This may occur, for example, if one entity acting as a redeliverer 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 redeliverers to ensure that only one redeliverer is treated as the supplier for each supply.

1.99 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 redeliverer that has the GST obligations for that supply. [Schedule 1, item 38, paragraph 84-81(5)(a)]

1.100 If no redeliverer has entered into an arrangement with the recipient, then the redeliverer 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 redeliverer to enter into an arrangement for the activities that make them a redeliverer is treated as the supplier. In the (unlikely) event that none of these priority rules are satisfied, the redeliverer that is treated as the supplier is the entity determined in accordance with the rules specified by the Commissioner by legislative instrument. [Schedule 1, item 38, paragraphs 84-81(5)(b), (c) and (d) and subsection 84-81(6)]

1.101 The safeguard for suppliers that was previously explained in paragraphs 1.56 to 1.58 also applies to redeliverers that are treated as the supplier. This means that a supply of low value goods for which a redeliverer is treated as the supplier is not connected with the ITZ if the redeliverer:

• has taken reasonable steps to obtain information about whether an importation is a taxable importation; and

• following these steps, when selling the goods has a reasonable belief that the goods will be a taxable importation.

[Schedule 1, item 38, section 84-83]

1.102 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 redeliverer 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 Comptroller-General of Customs in the approved form that the goods were supplied as a taxable supply (see paragraphs 1.60 to 1.84). [Schedule 1, item 19, section 42-15]

Example 1.14: Priority rules for multiple redeliverers

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 a US address provided to him by Mailme. Albert has an arrangement with Mailme that Mailme will arrange for the delivery of the hiking boots to Albert in Australia.
Mailme subcontracts the operation of the mailbox service and the arrangement of the delivery of the hiking boots to Australia to another company, Zippy Services.

The supply is connected with the ITZ. The supply is not made to a business recipient, is not otherwise connected with the ITZ, is a low value good supply and results in the hiking boots being brought to a location inside the ITZ. While the supplier does not assist in the delivery of the supply, Mailme both provides a mailbox service and arranges for the hiking boots to be brought to the ITZ as part of its arrangement with Albert.

As it is connected only because of the redeliverer rules, it is the redeliverer rather than the supplier (the outdoor adventure store) that is liable to pay GST on the supply.

Mailme meets the definition of a redeliverer because they supply Albert with the mailbox service and arrange for the delivery of the goods in the ITZ. However Zippy Services also meets the definition of a redeliverer because they operate the mailbox service and deliver the goods to the ITZ.

As there are multiple redeliverers, the priority rules determine which redeliverer is treated as the supplier of the goods. Mailme is the first of the redeliverers to enter into an arrangement with Albert in relation to the supply – Zippy Services has not dealt with Albert but only with Mailme. Accordingly, Mailme is treated as making the supply rather than Zippy Services.

As a result, 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

1.103 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

1.104 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.

1.105 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.

1.106 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.

1.107 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.

1.108 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.

1.109 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 applies in relation to offshore supplies of low value goods in two circumstances.

1.110 First, a reverse charge applies to offshore supplies of low value goods that are acquired for wholly private purposes, if the recipient wrongly represents that the goods are acquired for the purposes of an enterprise and provides the supplier with their ABN (or equivalent identifier prescribed by the Commissioner) and declares they are registered for GST.
1.111 This outcome is achieved by treating offshore supplies of low value goods that are not connected with the ITZ as taxable supplies that are subject to a reverse charge (taxed in the hands of the recipient) if:

- the supply is connected to the ITZ because of these amendments;
- despite this, the protection for suppliers described in paragraphs 1.56 to 1.58 means that the GST law applies to the supplier as if the recipient was not a consumer of the supply; and
- the importation of the goods is not a taxable importation on which the recipient is liable to pay GST.

\[\text{[Schedule 1, item 29, item 5 of the table in subsection 84-5(1) and paragraph 84-5(1B)(b)]}\]

1.112 In this situation, the information the recipient has provided the supplier has resulted in the supplier reasonably but incorrectly believing that the supply was not made to a consumer. As a result the recipient, not the supplier, bears the GST liability and must deal with any associated compliance costs arising from the misrepresentation.

1.113 Secondly, a reverse charge applies to treat a supply of offshore low value goods that is not connected with the ITZ 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.

\[\text{[Schedule 1, item 29, item 4 of the table in subsection 84-5(1)]}\]

1.114 This ensures that private consumption of low value goods is subject to GST, regardless of whether the goods may also be partly applied for the purposes of an enterprise. This is consistent with the existing reverse charge rules for supplies of things other than goods or real property.

1.115 Consistent with the existing reverse charge rules, neither sort of supply is a taxable supply to the extent that the supply is GST free or input taxed. \[\text{[Schedule 1, item 29, subsection 84-5(1)]}\]
1.116 Generally, these reverse charge rules only apply to supplies that would not otherwise be connected with the ITZ. However, as with all cases where a supply is a taxable supply because of section 84-5, application of these rules overrides any liability that might otherwise exist for the supplier (see section 84-10). This means that to the extent that a supply might be a taxable supply both because of the amendments to the reverse charge rules and under the existing law, only the recipient would be liable for GST on that supply.

**Rewrite of existing provisions for clarity**

1.117 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 1, items 25 to 34, the heading to Division 84, 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 subsections 84-30(1) and 84-30(2))

1.118 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 the existing provisions does not result in any change to their operation or effect.

**GST obligations imposed on electronic distribution platforms**

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

1.120 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)).

1.121 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.
1.122 As a result of the changes made by the amendments, these rules now generally apply to offshore supplies of low value goods in the same way as inbound intangible consumer supplies unless these supplies were already connected with the ITZ under the prior law. [Schedule 1, item 38, subsections 84-81(2) and (3)]

1.123 For such supplies, like other supplies to which the electronic distribution platform rules apply, the operator of the platform, rather than the actual supplier, 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.

1.124 Consistent with the rules for inbound intangible consumer supplies, supplies do not need to be taxable supplies to be treated as being made by the operator of an electronic distribution platform under these rules, but generally there is no consequence for an operator that is treated as making an offshore supply of low value goods that is not a taxable supply (however, see paragraphs 1.156 to 1.160).

1.125 However, unlike inbound intangible consumer supplies, a platform through which offshore supplies of low value goods are supplied can be an electronic distribution platform even if the goods are not supplied 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 1, item 37, paragraph 84-70(1)(c)]

1.126 The rules permitting agreements between operators of electronic distribution platforms and suppliers to extend the scope of supplies for which the operator would be liable also do not apply to supplies of goods. [Schedule 1, items 36 and 38, subsections 84-60(1)(c) and 84-81(3)]

1.127 Part of the requirement for goods to be connected with the ITZ and be offshore supplies of low value goods because of these amendments is that they must generally be delivered into the ITZ with the assistance of the supplier. To avoid uncertainty, the law expressly provides that goods are offshore supplies of low value goods if either the operator of the electronic distribution platform or the actual supplier assists in the delivery of the goods. [Schedule 1, item 38, subsection 84-77(1) and (2)]
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.

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.

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.

Indirectly setting any of the terms or conditions is a wide concept that looks beyond the formal contractual relationship to the influence exercised by the operator of the electronic distribution platform. Examples of circumstances that amount to indirectly setting one or more of the terms or conditions include circumstances in which the electronic distribution platform operator:

- requires the offer, acceptance or payment for the goods to be communicated through the electronic distribution platform service;
- requires a seller to accept one or more specific payment methods or shipping/delivery methods to be used in fulfilling the transaction;
- has or reserves the right to withhold the customer’s payment from the supplier until they confirm they are satisfied with the product;
- provides a grievance or dispute management procedure for the seller and customers;
- influences the price under which goods are sold, such as by offering a discount through a customer loyalty programme;
- requires suppliers to meet particular performance requirements, such as those relating to the quality of the
goods or requiring them to maintain a particular customer rating to use the platform; or

• requires sellers to display a rating based on stipulated behaviours relating to that seller’s conduct on the platform.

Example 1.15: Supply through an electronic distribution platform

Laurie purchases 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. Electronix arranges for the delivery of the music player to Laurie in the ITZ.

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 through eProcure and brought to the ITZ with the assistance of eProcure or the supplier.

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, subject to eProcure’s terms and conditions. Among other things, eProcure requires sellers to allow certain payment methods and provide refunds in particular situations. 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. eProcure cannot agree with Electronix for Electronix to be treated as the supplier as eProcure has indirectly set terms and conditions of the sale through its requirements about sales through the platform.

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

Currently, entities seeking registration for GST must provide a range of information to verify their identity and entitlement to registration.
Once registered, entities must generally provide monthly or quarterly GST returns, which often require detailed information about business activities. These information requirements play an important role in ensuring the integrity, especially where entities claim ITCs.

1.133 If an entity has no or only a limited presence in Australia, meeting the identity requirements and providing the ongoing reporting associated with GST registration can pose greater challenges than for resident entities.

1.134 The amendments to the GST treatment of inbound intangible consumer supplies permitted non-resident entities making such supplies to choose to be limited registration entities. This provides a simpler registration option for those non-resident entities that are unlikely to ever acquire goods that are subject to Australian GST, or undertake other activities that would entitle them to ITCs.

1.135 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 offshore supplies of low value goods that are connected with the ITZ solely because of these amendments; and

- non-resident entities that are or intend to become redeliverers of such offshore supplies of low value goods.

[Schedule 1, item 49, subparagraph 146-5(2)(a)(ii) and paragraph 146-5(2)(b)]

1.136 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 the new Division 146. This rewrite does not alter the operation of the law in relation to suppliers of inbound tangible consumer supplies. [Schedule 1, items 42 and 49, Subdivision 84-D and Division 146]

1.137 The limited registration rules allow non-resident suppliers and non-resident redeliverers 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 1, item 49, subsections 146-5(1) and (2)]

1.138 Limited registration entities have simplified registration and reporting requirements. However, they:
cannot 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

- cannot elect to pay GST by instalments under paragraph 162-5(1)(f). [Schedule 1, item 49, sections 146-10, 146-15, and 146-20]

1.139 As limited registration entities do not have an ABN, they are also unable to issue tax invoices – see subparagraph 29-70(1)(c)(i).

1.140 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 1, item 49, subsections 146-5(5) and (6)]

1.141 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 commence after the revocation. [Schedule 1, item 49, subsection 146-5(3)]

1.142 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 1, item 49, subsection 146-5(4)]

1.143 An entity that revokes its election to be a limited registration entity and remains registered for GST is entitled to claim ITCs relating to acquisitions made from the start of the financial year preceding the financial year in which the election was revoked. This ensures that entities that opt for limited registration are not disadvantaged if their circumstances change. [Schedule 1, item 49, subsection 146-10(2)]

1.144 Limited registration also does not affect an entity’s entitlement to adjustments, including decreasing adjustments.
Example 1.16: 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 of these amendments and does not make any creditable acquisitions or importations. 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.

Simplified registration arrangements – changes to address creditable importations

1.145 A gap has also been identified in the current framework for limited registration entities.

1.146 As outlined in paragraph 1.138, limited registration entities cannot make creditable acquisitions as they are not intended to be able to obtain ITCs. However, ITCs are available for creditable importations as well as creditable acquisitions. Prior to these amendments, there was no restriction on limited registration entities claiming ITCs for their creditable importations.

1.147 As limited registration entities are expected to be non-residents, it is unlikely in practice that this change would have any impact on them. Allowing potential access to ITCs is inconsistent with the rationale for the limited registration concession.

1.148 These amendments address this issue by preventing limited registration entities from making creditable importations. [Schedule 1, item 49, section 146-15]

Tax invoices and adjustment notes not required

1.149 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.

1.150 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 offshore supplies of low value goods to consumers that are taxable supplies and connected with the ITZ only because of these amendments (described in the legislation as supplier-taxed offshore supplies of low value goods). [Schedule 1, item 38, section 84-87]

1.151 This means that a supplier is not required to issue a tax invoice for a taxable supply if the supply is only connected with the ITZ because of these amendments. [Schedule 1, item 38, subsection 84-87(1)]

1.152 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 connected with the ITZ because of these amendments. [Schedule 1, item 38, subsection 84-87(2)]

1.153 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 at the time the consideration for the supply is agreed. This ensures that consumers have access to this information if it is needed when the goods are imported. [Schedule 1, item 38, section 84-89]

1.154 If this information is not provided in the approved form at the time consideration is agreed and this error is not corrected within five business days (within the meaning of section 995-1 of the Income Tax Assessment Act 1997) of a request by the recipient (or such further time as the Commissioner may allow) the supplier will be liable to an administrative penalty of 20 penalty units. [Schedule 1, item 63, section 288-45 in Schedule 1 to the Taxation Administration Act 1953]

1.155 However, this requirement and the modification to the tax invoice rules does not apply to a supply that is only a taxable supply because of the reverse charge rules. [Schedule 1, item 38, subsection 84-87(1) and section 84-89]

**Duty to provide information**

1.156 One of the main consequences of these amendments is to broaden the scope of Australia’s GST regime to include more supplies of goods where the goods are located in other jurisdictions.

1.157 To monitor and enforce compliance with the new rules, the Commissioner requires additional information about low value goods being brought into Australia.
A small number of minor changes are being made to documentation currently provided through customs processes to allow this information to be gathered while minimising compliance costs.

However, while this will allow reporting of this information, customs brokers and other entities completing this documentation cannot include this information if it is not provided by suppliers.

To ensure that suppliers do what they can to ensure this information reaches the entity responsible for completing the relevant customs documentation, the amendments provide that all entities that are registered or required to be registered and are treated as making an offshore supply of low value goods must ensure that:

- their GST registration number (which for most entities, other than limited registration entities, is their ABN);
- the ABN of the recipient of the supply (if known); and
- the extent to which the supply has been treated as a taxable supply;

are included in the relevant customs documentation. [Schedule 1, item 38, section 84-93]

This obligation applies in relation to all offshore supplies of low value goods, whether or not the supply is a taxable supply or connected with the ITZ.

If another entity is treated as the supplier for the purposes of the GST law, this obligation applies to that entity not the actual supplier. For example, operators of electronic distribution platforms are treated as the supplier of all offshore supplies of low value goods made available through the platform unless the supplies were connected to the ITZ under the prior GST rules, including supplies that are not taxable supplies (such as supplies to entities that are not consumers). If an offshore supply of low value goods is provided through the platform to an entity that is not a consumer, the operator would be required to ensure that the appropriate information was included in the customs documentation.

For most goods the relevant customs documentation will be an import declaration or self-assessed clearance declaration. The amendments also allow for the Commissioner to specify additional forms of customs documentation by legislative instrument, to provide flexibility to accommodate future changes to customs processes. [Schedule 1, item 38, subsections 84-93(3) and 84-93(4)]
1.164 If this information is not provided in the relevant documentation and the supplier fails to take reasonable steps to ensure that this information is included, an administrative penalty of 20 penalty units will apply. [Schedule 1, item 64, section 288-46 in Schedule 1 to the Taxation Administration Act 1953]

1.165 The qualification that the penalty only applies if a supplier has not taken reasonable steps recognises that the supplier is generally not directly involved in completing the customs documentation and therefore may well not be able to ensure the information is included. Instead, they are only required to do what is reasonable in the circumstances.

Penalties for misrepresentations by consumers

1.166 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.

1.167 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 1, items 61 and 62, paragraph 284-75(4)(b) in Schedule 1 to the Taxation Administration Act 1953]

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

1.168 Treating redeliverers 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 redeliverer 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.

1.169 To address this situation, the amendments ensure that the GST otherwise payable on the supply to a recipient in this situation as a result of these amendments, if the supplier had organised or arranged for
delivery to Australia themselves or through a redeliverer, is classified as a GST benefit to the recipient. [Schedule 1, item 53, paragraph 165-10(1)(e)]

1.170 A recipient 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 recipient 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 1, item 53, subsection 165-10(1)]

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

**GST, international transport and redeliverers**

1.172 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).

1.173 Previously, this has meant that the GST on these services has not always been collected in relation to supplies of low value goods, as the importation of these goods was generally not a taxable importation. In particular, GST was unlikely to apply to transport services relating to low value goods that are subsequently provided by a third party, such as a redeliverer.

1.174 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 redeliverers, 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 liable to GST.

1.175 Schedule 1 to the Bill amends the GST law so that a supply of international transport is not GST free as a result of section 38-355 if:

- it is provided by an entity in relation to goods;
- the supply of the goods is a taxable supply; and
- the entity is a redeliverer that is treated as being the supplier of those goods.
Extending GST to low value imported goods

[Schedule 1, item 18, subsection 38-355(3)]

1.176 This ensures international transport provided or facilitated by redeliverers in relation to offshore supplies of low value goods receives equivalent GST treatment to international transport provided or facilitated by suppliers.

Consequential amendments

1.177 Schedule 1 to the Bill makes a number of consequential amendments to the GST law, including revising and adding guide material, to reflect the substantive amendments. [Schedule 1, items 2 to 17, 20 to 24, 38 to 40, 43 to 44, 46 to 48, 50 to 52 and 54 to 61, item 7 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 1AA and 4 in the table in section 25-49, items 1AA and 1C in the table in section 25-99, item 1AB in the table in section 27-99, item 4A in the table in section 29-99, items 18A and 21 in the table in section 37-1, items 6 and 7 in the table in subsection 38-255(1), subsection 38-355(3), subparagraph 48-40(2)(a)(i), subsection 48-45(3), subsections 72-5(2), 72-10(3) and 72-70(4), paragraph 83-5(2)(a), Subdivision 84-C, paragraph 117-5(1)(a), subsection 142-25(2), section 146-1, subsection 153-55(4A), the notes to subsections 153-55(4A) and 153-60(3A) and the definitions of ‘business day’, ‘Comptroller-General of Customs’, ‘connected with the indirect tax zone’, ‘consumer’, ‘limited registration entity’, ‘offshore supply of low value goods’ and ‘taxable supply’ in section 195-1 of the GST Act and subparagraph 284-75(4)(b)(ii) in Schedule 1 to the Taxation Administration Act 1953]

Application and transitional provisions

Application provision

1.178 The amendments apply in working out net amounts for tax periods starting on or after 1 July 2017 and to taxable importations made on or after 1 July 2017. [Schedule 1, item 65]

1.179 However, if an amount relates to both a taxable importation made after 1 July 2017 and to a net amount for a tax period commencing before 1 July 2017, the amendments do not apply. [Schedule 1, item 65]

1.180 This means that the amendments generally apply to supplies where the invoice is issued or payment is received after 1 July 2017. It will not apply to supplies relating to earlier tax periods, even if the goods do not reach the recipient until a later date.
Example 1.17: Application of amendments to sales before 1 July 2017

On 24 June 2017, Lydia purchases a book from Online Bookstore EU, an online retailer with a warehouse located in the UK, paying immediately by credit card. Due to a problem with the shipping information, the book is not sent from the warehouse until 2 July 2017 and only reaches Australia on 15 July 2017.

The amendments do not apply to the sale of the book. The tax period to which any GST attributable to the sale of the book would relate commenced prior to 1 July 2017.

Limited registration entities

1.181 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 1.132 to 1.144 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. [Schedule 1, item 66]

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Applying GST to low value imported goods

1.182 This Schedule is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

Overview

1.183 Schedule 1 to this Bill amends the A New Tax System (Goods and Services Tax) Act 1999 to ensure GST is payable on certain supplies of imported low value goods that are brought to consumers in Australia.
1.184 The reforms:

- make supplies of goods with a customs value of $1,000 or less connected with the ITZ if the goods are acquired by a consumer and brought to the ITZ with the assistance of the supplier. This ensures that such supplies by overseas suppliers are subject to the GST if the goods are acquired by a consumer and are brought to Australia;

- treat the operators of electronic distribution platforms as the supplier. If an offshore supply of low value goods is acquired by a consumer through an electronic distribution platform and brought to Australia with the assistance of the operator or the supplier, for GST purposes the operator of the platform is treated as having made the supply;

- allow non-resident suppliers and redeliverers of low value goods that are acquired by consumers and are brought to Australia to elect to be limited registration entities; and

- prevent double taxation by making importations non-taxable importations if they have had GST paid on them as low value goods supplies.

**Human rights implications**

1.185 This Schedule does not engage any of the applicable rights or freedoms. The amendments are broadly an integrity measure that ensures consumption of low value goods by Australian consumers are subject to comparable rates of taxation, regardless of where the supplier resides.

**Conclusion**

1.186 This Schedule is compatible with human rights as it does not raise any human rights issues.