LCR 2018/3 - When is a redeliverer responsible for GST on a supply of low value imported goods?

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When is a redeliverer responsible for GST on a supply of low value imported goods?

Relying on this Ruling

This publication is a public ruling for the purposes of the *Taxation Administration Act 1953.*

This Ruling describes how the Commissioner will apply the law in the *A New Tax System (Goods and Services Tax) Act 1999* as amended by the *Treasury Laws Amendment (GST Low Value Goods) Act 2017*.

If you rely on this Ruling in good faith you will not have to pay any underpaid tax, penalties or interest in respect of matters it covers if it does not correctly state how a relevant provision applies to you.

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What this Ruling is about

1. This Ruling discusses the amendments that make a 'redeliverer' responsible for GST on an offshore supply of low value goods brought to the indirect tax zone.[1] These form part of the amendments made by *Treasury Laws Amendment (GST Low Value Goods) Act 2017* (the Act). In this Ruling, the 'indirect tax zone' is referred to as 'Australia'.

2. This Ruling clarifies:

- who is a redeliverer
- who is not a redeliverer
- when a redeliverer is responsible for GST on an offshore supply of low value goods, and
- who is responsible for GST when there are multiple redeliverers of such supplies.

3. A 'redeliverer' is an entity that assists in bringing goods to Australia by providing either:

- an offshore mailbox service, where it provides or assists in providing the use of an address outside Australia to which goods are delivered, or
- a personal shopping service, where it purchases or assists in purchasing goods outside Australia as the agent of a recipient.

4. A redeliverer will only be responsible for GST on an offshore supply of low value goods when neither the merchant, nor an electronic distribution platform (EDP) operator[2] assists in bringing the goods to Australia.

5. A redeliverer will only need to account for GST on these goods if they are registered or required to be registered for GST. [3]

6. Any reference to the 'merchant' in this Ruling refers to the entity that would be the supplier, except for the provisions that treat either an EDP operator or a redeliverer as the supplier.

7. This Ruling does not discuss GST-free or input taxed supplies. A redeliverer will not have a GST liability if the supply is not connected with Australia[4] or to the extent the supply is GST-free or input taxed.[5]

8. All legislative references are to the GST Act and all currency references are to Australian currency unless otherwise stated.

9. For further information on:

- When GST applies to an offshore supply of low value goods, see Law Companion Ruling LCR 2018/1.
- When an EDP operator is responsible for GST on an offshore supply of low value goods, see LCR 2018/2.

[1] An offshore supply of low value goods is a supply which involves low value goods being brought into Australia where the merchant, or another entity that is treated as the supplier for GST purposes (such as a redeliverer) assists in bringing goods to Australia. See paragraphs 72 to 84 of Law Companion Ruling LCR 2018/1.

[2] An EDP operator is an operator of a service which includes a website, internet portal, gateway, store or marketplace which meets a number of criteria. For further information, see Law Companion Ruling LCR 2018/2 *GST on supplies made through electronic distribution platforms*.

[3] Paragraphs 25 to 28 of LCR 2018/1 *GST on low value imported goods* explain this further.

[4] A supply will not be a taxable supply under section 9-5 unless the supply is connected with Australia.

[5] For GST-free supplies see Division 38 and for input taxed supplies see Division 40.

Date of effect

10. The amendments for GST on low value imported goods apply in working out net amounts for tax periods starting on or after 1 July 2018.

11. This Ruling applies from 1 July 2018.

Early engagement

12. We would like to work with entities affected by these amendments, to provide greater certainty on the operation of the law.

13. If, after considering the legislation and this Ruling, you think that you need to register for GST, we are available to answer any queries and discuss your circumstances. The key point of contact, should you wish to discuss further, is AustraliaGST@ato.gov.au

Who is a redeliverer?

14. An entity is a redeliverer in relation to a supply if:[6]

(i) the entity does one or more of the following:

- provides the use of an address outside Australia to which the goods are delivered, or
- procures, arranges or facilitates the use of an address outside Australia to which the goods are delivered, or
- purchases the goods (as an agent of the recipient), or
- procures, arranges, or facilitates purchase of the goods;

and

(ii) the entity either:

- delivers the goods into Australia, or
- procures, arranges or facilitates the delivery of the goods into Australia,

and

(iii) the entity both:

- undertakes these activities as a result of an arrangement with the recipient (or an entity acting on the recipient's behalf), and
- undertakes these activities in the course of carrying on an enterprise.

Example 1 – overseas mailbox provider who is a redeliverer

15. *Fernando wishes to order a jacket and pants from a United States store, Hextall. However, Hextall does not offer shipping to Australia. Therefore, Fernando contacts Take-it-Home, which carries on an enterprise of arranging for goods from the United States to be brought to Australia.*

[6] Subsection 84-77(4).

16. *Take-it-Home provides Fernando with an address in the United States which he uses when ordering the goods from Hextall's website. Hextall is only involved in the transaction to the extent that it delivers the goods to the address that Take-it-Home provided to Fernando. When the goods are delivered to this United States address, Take-it-Home arranges for a shipping company to deliver them to Fernando's address in Australia.*

17. *Take-it-Home is a redeliverer because it:*

- *provides the use of an address outside Australia to which the goods are delivered, and*
- *arranges the delivery of the goods to Australia, and*
- *as a result of the arrangement with Fernando, Take-it-Home undertakes these activities, which it does in the course of carrying on an enterprise.*

18. *If Take-it-Home is registered or required to register for GST, it would be liable for GST unless the supply is GST-free or input taxed.*

Example 2 – overseas personal shopper who is a redeliverer

19. *Miranda operates an enterprise in the UK that provides a personal shopping service to customers in Australia. Imogen uses Miranda's personal shopping service.*

20. *Miranda buys clothes as an agent of her Australian customers, by purchasing them in person or via the internet from UK stores. She purchases the clothes that Imogen requests from stores in London as Imogen's agent. The UK stores have no role in bringing the goods to Australia. Miranda arranges for a transport company to deliver the clothes to Imogen's address in Australia.*

21. *Miranda is a redeliverer because she:*

- *purchases the goods as an agent for Imogen*
- *arranges the delivery of the clothes to Australia, and*
- *has an arrangement with Imogen under which she undertakes these activities, which she does in the course of carrying on an enterprise.*

When are you not a redeliverer in relation to a supply of goods?

22. Below are examples of entities who do not fall within the definition of redeliverer in relation to a supply of goods.

Transporters or freight forwarders

23. Transport or freight forwarding providers who bring goods to Australia for the purchaser do not fall within the definition of redeliverer, unless they also do one or more of the following:[7]

- provide the use of an address outside Australia to which the goods are delivered
- procure, arrange or facilitate use of an address outside Australia to which the goods are delivered
- purchase the goods (as an agent of the recipient)

[7] See paragraph 84-77(4)(b).

- procure, arrange, or facilitate purchase of the goods.

24. Even if a transporter or freight forwarder falls within the redeliverer definition, they will not be responsible for GST if the merchant or EDP operator assists in bringing the goods to Australia (see paragraphs 30 to 31 of this Ruling). For example, if a merchant, on behalf of the purchaser, was involved in engaging the transporter to bring the goods to Australia, the merchant (or an EDP operator, if applicable) would be responsible for GST.

Entities that buy and resell goods

25. An entity cannot be both a redeliverer and the merchant in relation to goods. If the entity is purchasing goods as an agent of a consumer, they are a redeliverer (provided the other requirements in paragraph 14 of this Ruling are met). If the entity is purchasing goods and then reselling the goods to a consumer (rather than being reimbursed for their purchase of the goods as the consumer's agent), they are the merchant. An example of this is provided at Example 6 (see paragraphs 64 to 65 of this Ruling).

26. Regardless of whether the entity is the merchant or a redeliverer, the amount of GST payable will be the same. This is illustrated in Examples 5 and 6 below (see paragraphs 59 to 65 of this Ruling).

Entities that are not carrying on an enterprise

27. Overseas relatives or friends who assist in purchasing low value goods, or arranging for the goods to be sent to Australia are not typically redeliverers for these purposes, as they are not carrying on an enterprise.

Example 3 – arrangement with recipient not in the course of an enterprise

28. *Kyle sees some running shoes he likes advertised on a United States website. The store does not offer shipping to Australia. He arranges for his cousin Ethan, who is visiting the United States, to purchase the shoes and send them to his address in Australia.*

29. *Ethan is not a redeliverer in relation to the supply because his arrangement with Kyle is not in the course of carrying on an enterprise.*

When is a redeliverer responsible for GST on a supply?

30. The redeliverer is last in the hierarchy of entities that can be responsible for GST under the Act. If an EDP operator or the merchant is responsible for GST on a supply, a redeliverer will not be responsible for GST.

31. If a redeliverer is the entity that is responsible for GST, it is the redeliverer who will need to determine if the supply is a taxable supply. They will need to account for GST if:

- the supply is connected with Australia as it is an offshore supply of low value goods made to a consumer,
- they are registered or required to be registered for GST.[8] A redeliverer is required to register if its current or projected annualised GST

[8] Section 9-5 details all the elements of a taxable supply and subsection 84-81(4) allows paragraphs 9-5(a) and 9-5(b) to be satisfied by the redeliverer.

turnover equals or exceeds the $75,000 threshold (or $150,000 for non-profit bodies)[9], and

- the supply is not GST-free or input taxed.[10]

32. For a redeliverer, an offshore supply of low value goods will not be connected with Australia where the redeliverer:

- takes reasonable steps to obtain information about whether or not the goods will be imported into Australia as a taxable importation, and
- after taking those steps, reasonably believes that the goods will be imported as a taxable importation.[11]

33. This exception can only apply where the total customs value of the goods that will be sent in a consignment is over $1,000. Redeliverers relying on this exception should keep records that set out the process through which they determine whether the exception applies to supplies of low value goods, including what information is gathered and used to apply the test. Information concerning the basis for the reasonable belief is not required to be provided with the goods that are sent to Australia.

34. If a redeliverer repeatedly applies this exception to goods that are later, in fact, not a taxable importation, this is an indicator that the ATO may use in considering whether the exception was applied correctly. More information is provided in Law Companion Ruling LCR 2018/1.[12]

Example 4 – redeliverer working out the customs value of goods

35. *In Example 1, Take-it-Home determined it was a redeliverer in relation to goods that it assists in bringing to Australia as a result of its arrangement with Fernando.*

36. *Take-it-Home is responsible for any GST on the supply because the merchant selling the jacket, Hextall, does not assist in bringing the goods to Australia.*

37. *Take-it-Home needs to work out the customs value of the goods to determine whether it is making a supply that is connected with Australia.*

38. *To determine the customs value of the goods, Take-it-Home must identify the transaction between Fernando and Hextall.*

39. *Fernando pays US$510 for the jacket and US$350 for the pants. The total amount he pays is US$900, which includes a shipping charge of US$40 for the goods to be delivered to the address in Oregon.*

40. *The customs value for each of the goods is the price that Fernando paid, converted into Australian dollars. There are no amounts to deduct from the total price to reach the customs value. The US$40 shipping cost is a foreign inland freight charge and is not deducted when determining the customs value of the goods. Similarly, taxes included in the purchase price, such as a state sales tax, are also not deducted.*

[9] See Goods and Services Tax Ruling GSTR 2001/7 *Goods and services tax: meaning of GST turnover, including the effect of section 188-25 on projected GST turnover* for more information on how to calculate the GST turnover.

[10] See section 9-5. For GST-free supplies see Division 38 and for input taxed supplies see Division 40.

[11] See section 84-83.

[12] In particular, see example 15 of LCR 2018/1 which relates to redeliverers and the exception in section 84-83.

41. *To apply the exception, Take-it-Home must consider whether the goods will be sent to Australia in one consignment with a customs value over $1,000. Take-it-Home expects to ship the goods in one package to Australia.*

42. *Take-it-Home converts the US$900 into Australian dollars (using either the Department of Home Affairs[13] rate for the day when the consideration is agreed between Hextall and Fernando, or an alternative method provided for under a legislative instrument). Using this method, it arrives at a customs value of $1,300.*

43. *As the customs value of the goods is greater $1,000, it is reasonable for Take-it-Home to believe that the importation of the goods will be a taxable importation and rely on the exception. The supply is not connected with Australia, so Take-it-Home will not be liable for GST on the supply.*

How does a redeliverer calculate the GST payable on a supply?

44. Where a redeliverer is responsible for GST, they will need to work out the amount of GST on:

- the taxable supply of goods they are treated as making, and
- their taxable supply of services to the consumer.

45. The GST payable by the redeliverer for their taxable supply of goods is 10% of the total amount the consumer paid for the goods.[14] This reflects the fact that the amount charged by the merchant outside Australia did not include GST.[15]

46. The redeliverer is also liable for GST on the amount that the consumer paid for their taxable supply of services. The Act includes an amendment to ensure that the redeliverer's services are taxed in the same way as the goods themselves.[16] The amount paid for the supply of services includes amounts charged by the redeliverer for international transport. The supply of international transport is not GST-free if it:

- relates to a taxable supply of goods, and
- the entity treated as making the supply of the goods is a redeliverer.

47. This means that if a redeliverer is liable for GST on goods they assist in bringing to Australia, the amount of GST will be:

- 10% of the amount the consumer paid for the goods, plus
- 10% of the GST-exclusive value of the amount the consumer paid for the services of the redeliverer. This is equal to 1/11th of the GST-inclusive price charged to the consumer.

Determining the total amount paid for the goods

48. Redeliverers will need to establish the total amount the consumer paid the merchant for the goods in order to determine if there is a supply of low value goods and if so, to determine how much GST is payable.

49. The total amount paid by the consumer may be established by methods that involve obtaining documents that evidence the transaction, such as:

[13] See paragraphs 67 to 69 of LCR 2018/1.
[14] Section 84-91.
[15] Paragraph 1.96 of the Explanatory Memorandum to the Treasury Laws Amendment (GST Low Value Goods) Bill 2017.
[16] Subsection 38-355(3).

- obtaining a copy of the invoice issued by the merchant from the consumer, or
- the redeliverer may be advised of the total price paid directly by the merchant, for example where the redeliverer obtains an invoice when providing a personal shopping service or where an invoice is sent with the goods to their offshore mailbox facility.

50. Redeliverers are required to keep records to substantiate the amount of GST reported, which can include electronic records (for example, where information from a paper invoice is entered into your computer system and stored electronically).

51. On its own a statement by the customer as to the amount paid by it for the goods, without other supporting documentation, may be insufficient to substantiate the total amount paid by that customer. Where the redeliverer relies only upon a statement by the customer as to the total price paid and that statement is incorrect, the redeliverer may be liable for additional GST.

52. Where discrepancies are identified, we encourage you to make a voluntary disclosure to the ATO. If you make a voluntary disclosure, penalties may be reduced.[17]

53. Note that paragraphs 48 to 52 of this Ruling are only relevant to redeliverers determining whether there is a supply of low value goods and how much GST is payable on the supply under the amendments. This does not affect the rules for determining the value of a taxable importation.

Australian consumer law requirements

54. Generally speaking, the Australian consumer law (ACL) requires retailers to provide a price that is inclusive of GST, where GST is applicable. While the exact requirements of the ACL will depend on the relevant facts of each supply, some general requirements are outlined below.

55. Where an entity is aware that GST will apply to supplies it makes to consumers in Australia, the advertised price should include GST.

56. If it is not clear whether the supplies will attract GST, the entity should include a statement noting that GST may apply to avoid misleading consumers. Once it becomes clear that GST will apply, the GST-inclusive price can then be shown.

57. Depending on their circumstances, a redeliverer may not know the value of the goods or of their services until the goods are processed at their warehouse outside Australia. In this case, prior to this point they should display a warning that GST may apply, as they will not be able to display a GST-inclusive price until they have this information.

58. The ACL is administered by the Australian Competition and Consumer Commission (ACCC) and each State and Territory's consumer law agency. For more information, contact the ACCC or visit www.accc.gov.au

Example 5 – redeliverer calculating the GST payable

59. *In Example 2, Miranda is a redeliverer who purchases clothes as an agent for Imogen. Miranda facilitates the delivery of the goods into Australia by arranging for a transport company to deliver the clothes to Imogen's address in Australia. The merchants who supply the clothes (the UK stores) have no role in bringing the goods to Australia.*

[17] Miscellaneous Tax Ruling MT 2012/3 *Administrative penalties: Voluntary disclosures*.

60. *Imogen paid $720 for the goods that Miranda purchased as her agent. This included $20 for the cost of shipping from the UK stores to Miranda's address overseas. Miranda charged Imogen $40 (exclusive of GST) for her services as a redeliverer in bringing the goods to Australia.*

61. *As the customs value of the goods is $1,000 or less (being $720), the supply is a supply of low value goods.*[18] *Miranda is registered for GST, and she determines that the supply is a taxable supply.*

62. *Miranda charges Imogen $836, made up of:*

- *$720 to reimburse Miranda for the purchase of the goods (including the $20 fee for delivery to Miranda's UK address)*
- *$72 in GST, which is 10% of the $720 Imogen paid for the goods*
- *$40 for Miranda's facilitation and delivery services, and*
- *$4 in GST, which is 10% of Miranda's $40 GST exclusive fee for her services.*

63. *Miranda returns $76 in GST ($72 plus $4) to the ATO when she lodges her GST return.*

Example 6 – merchant calculating the GST payable

64. *In Example 5, if Miranda instead re-sold the goods from the UK stores to Imogen (purchasing the goods for re-sale instead of purchasing them as Imogen's agent), the amount of GST payable would work out to be the same.*

65. *If Miranda purchased the goods for $720 (assuming that she charges a $40 mark-up, to reach the same outcome as in Example 5), she would sell them to Imogen for a total of $836. This is $720, plus the $40 mark-up, plus $76 of GST. This is because the usual rule is that GST is 1/11th of the total GST-inclusive amount the consumer paid which is $836 x 1/11th (the special rule for redeliverers is described at paragraph 47 of this Ruling).*

Who is responsible for GST when multiple redeliverers are involved in a supply?

66. In some circumstances more than one entity may meet the definition of a redeliverer for a supply. This occurs where more than one redeliverer is involved in an arrangement to bring goods to Australia. For example, if one entity acting as a redeliverer employs another entity to purchase the goods as an agent of the consumer.

67. There are priority rules that apply to ensure that only one of the redeliverers is responsible for the GST.[19] Under these rules, the redeliverer who is responsible for GST will be:

- the first to enter into an arrangement relating to the supply with the recipient, or
- if no such agreement exists, the first to enter into an arrangement with an associate[20] of the recipient, or

[18] LCR 2018/1 explains how to determine the customs value of goods when determining whether there is a supply of low value goods.
[19] Subsection 84-81(5).
[20] Section 318 of the *Income Tax Assessment Act 1936.*

- if no such agreement exists, the first to enter into an arrangement with any other person acting on the recipient's behalf.

68. The Commissioner may also prescribe additional rules by legislative instrument to apply where no entity comes within the order of the priority set out in paragraph 67 of this Ruling.

Commissioner of Taxation
7 March 2018

References

ATOlaw topic(s)	Goods and services tax ~~ General rules and concepts ~~ Supplies ~~ Connected with Australia Goods and services tax ~~ International ~~ Low value importation of goods Goods and services tax ~~ International ~~ Transport ~~ International
Legislative references	ANTS(GST)A 1999 ANTS(GST)A 1999 9-5 ANTS(GST)A 1999 9-5(a) ANTS(GST)A 1999 9-5(b) ANTS(GST)A 1999 Div 38 ANTS(GST)A 1999 38-355(3) ANTS(GST)A 1999 Div 40 ANTS(GST)A 1999 84-77(4) ANTS(GST)A 1999 84-77(4)(b) ANTS(GST)A 1999 84-81(4) ANTS(GST)A 1999 84-81(5) ANTS(GST)A 1999 84-83 ANTS(GST)A 1999 84-91 ITAA 1936 ITAA 1936 318 Treasury Laws Amendment (GST Low Value Goods) Act 2017
Related Rulings/Determinations	GSTR 2001/7 LCR 2018/1 LCR 2018/2 MT 2012/3
Other references	Treasury Laws Amendment (GST Low Value Goods) Bill 2017 Explanatory Memorandum to the Treasury Laws Amendment (GST Low Value Goods) Bill 2017
ATO references	1-B5K6VJ3
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