

GSTR 2003/15A3 - Addendum - Goods and services tax: importation of goods into Australia

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Addendum

Goods and Services Tax Ruling

Goods and services tax: importation of goods into Australia

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Goods and Services Tax Ruling GSTR 2003/15 to reflect amendments made to the *A New Tax System (Goods and Services Tax) Act 1999* by the *Treasury Laws Amendment (GST Low Value Goods) Act 2017* in relation to the importation of low value goods that are made on or after 1 July 2018.

This Addendum also makes further minor amendments to GSTR 2003/15 and updates the references section.

GSTR 2003/15 is amended as follows:

1. Paragraph 6

After 'Division 57 - Resident agents acting for non-residents;', insert 'Division 84 - Offshore supplies;'

2. Paragraph 7

Omit 'Division 84'; substitute 'Subdivision 84-B'.

3. Paragraph 11

Omit the paragraph (excluding footnote 1AA); substitute:

11. Changes have been made to this Ruling by Addenda that issued on 2 October 2013, 7 December 2016 and 20 February 2019.^{1AA}

4. Paragraph 12

- (a) Omit the last sentence.
- (b) After the paragraph, insert:

Taxable importations

12A. The term 'taxable importation' is discussed in detail at paragraphs 27 to 45 and 79 to 113.

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5. Paragraph 16

(a) Omit the words 'Chief Executive Officer of Customs (CEO of Customs)'; substitute 'Comptroller-General of Customs^{2D}'.

(b) After 'Comptroller-General of Customs, insert footnote 2D:

^{2D} Comptroller-General of Customs is defined in the *Customs Act 1901* to mean the person who is appointed to act as the Australian Border Force Commissioner under subsection 14(2) of the *Australian Border Force Act 2015*.

6. Paragraph 18

Omit the word 'CEO'; substitute 'Comptroller-General'.

7. Paragraph 19

(a) After the paragraph, insert:

Offshore supplies of low value goods

19A. From 1 July 2018^{4A}, GST is payable^{4B} on offshore supplies of low value goods that are purchased by consumers and brought to Australia.^{4C} Low value goods are goods that have a customs value of \$1,000 or less (excluding tobacco, tobacco products or alcoholic beverages).^{4D}

19B. Where the offshore supply of low value goods is connected with Australia under Subdivision 84-C, and meets the other requirements in section 9-5, the supply is a taxable supply and consequently it is a non-taxable importation (section 42-15).

19C. Prior to the amendments to the GST Act, the supply of imported goods to consumers in Australia was not connected with Australia, unless the supplier was the importer. Imported goods are generally only a taxable importation (and therefore, subject to GST at the border) if imported in a consignment with a customs value exceeding \$1,000.

(b) After 'From 1 July 2018' in new paragraph 19A, insert footnote 4A:

^{4A} Amendments to the GST Act were made by *Treasury Laws Amendment (GST Low Value Goods) Act 2017*.

(c) After 'GST is payable' in new paragraph 19A, insert footnote 4B:

^{4B} Where the supplier is registered or required to be registered for GST.

(d) After 'Australia.' in new paragraph 19A, insert footnote 4C:

^{4C} Subdivision 84-C.

(e) At the end of new paragraph 19A, insert footnote 4D:

^{4D} Subsection 84-79(3).

8. Paragraph 20 and heading

(a) In the heading, omit 'CEO'; substitute 'Comptroller-General'.

(b) Omit all occurrences of 'CEO'; substitute 'Comptroller-General'.

9. Paragraph 24

Omit the word 'CEO'; substitute 'Comptroller-General'.

10. Paragraph 25

(a) Omit the paragraph and footnote 6; substitute:

25. There are certain situations where the Comptroller-General of Customs needs to receive a relevant import declaration for non-taxable importation of an offshore supply of low value good^{5A} where the supply of these goods is a taxable supply and the customs value does not exceed \$1,000. The relevant import declaration must be given by or on behalf of the importer of the goods and is to be made at or before the time by which the taxable importation would have been made.

(b) Insert footnote 5A:

^{5A} The meaning of offshore supply of low value goods is in section 84-77 and the meaning of low value goods is in section 84-79. The requirement to make a declaration to the Comptroller-General of Customs in regard to the offshore supply of low value goods started from 1 July 2018.

11. Paragraph 43

(a) After the paragraph, insert new paragraph:

43A. Goods, other than tobacco, alcohol and bulk orders, with a customs value of \$1,000 or less are specifically listed as a non-taxable importation.^{17A} However as noted in paragraph 74A below, from 1 July 2018, where offshore supplies of low value goods are connected with Australia under Subdivision 84-C, and where they meet the other requirements in section 9-5, the supply is a taxable supply and GST is payable.

(b) At the end of the first sentence in new paragraph 43A, insert footnote 17A:

^{17A} Table item 26 of Schedule 4 of the *Customs Tariff Act 1995*; subsection 42-5(1).

12. Paragraph 45

Omit all occurrences of 'CEO'; substitute 'Comptroller-General'.

13. Paragraph 74

(a) After the paragraph, insert new paragraph:

74A. From 1 July 2018, an offshore supply of low value goods^{34B} is connected with Australia if the recipient is an entity that is not registered for GST or, if the entity is registered for GST, the entity does not acquire the thing supplied solely or partly for the purpose of an enterprise that the entity carries on in Australia.^{34C} Where the offshore supply of low value goods meets the other requirements in section 9-5 the supply is a taxable supply despite it being a non-taxable importation under Division 42.^{34D}

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- (b) After the first instance of 'low value goods' in new paragraph 74A, insert footnote 34B:
^{34B} Section 84-77 provides the meaning of offshore supply of low value goods and section 84-79 provides the meaning of supply of low value goods.
- (c) At the end of the first sentence of new paragraph 74A, insert footnote 34C:
^{34C} Section 84-75.
- (d) At the end of new paragraph 74A, insert footnote 34D:
^{34D} Table item 26 of Schedule 4 of the *Customs Tariff Act 1995*; subsection 42-5(1).

14. Paragraph 82 and heading

Omit the heading and the paragraph; substitute:

Meaning of indirect tax zone (referred to as Australia in this Ruling)

82. 'Indirect tax zone' is defined in the GST Act as follows:

'**indirect tax zone** means Australia (within the meaning of the ITAA 1997), but does not include any of the following:

- (a) the external Territories;
- (b) an offshore area for the purpose of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*;
- (c) the Joint Petroleum Development Area (within the meaning of the Petroleum (Timor Sea Treaty) Act 2003);

other than an installation (within the meaning of the *Customs Act 1901*) that is deemed by section 5C of the *Customs Act 1901* to be part of Australia and that is located in an offshore area or the Joint Petroleum Development Area.

15. Paragraph 95

Omit all occurrences of 'CEO'; substitute 'Comptroller-General'.

16. Paragraph 104

At the end of the second sentence, insert a fullstop.

17. Paragraph 115

Omit 'CEO'; substitute 'Comptroller-General'.

18. Paragraph 118

- (a) Omit the second sentence.
- (b) Omit 'The paragraph 15-5(b)'; substitute 'This'.

19. Paragraph 119

- (a) In the first sentence, omit 'an importation'; substitute 'a taxable importation'.
- (b) Omit all occurrences of 'the importation'; substitute 'the taxable importation'.

20. Paragraph 123

In the first sentence after 'therefore', insert 'you'.

21. Paragraph 145

In footnote 66 omit 'CEO'; substitute 'Comptroller-General'.

22. Paragraphs 204 to 206

Omit the paragraphs.

23. Paragraph 218

- (a) After the fifth sentence, insert:
'The customs value of each consignment exceeds \$1,000.'^{76A}
- (b) At the end of the new sentence, insert footnote 76A:
^{76A} Accordingly, the supply is not an offshore supply of low value goods under Subdivision 84-C.

24. Paragraph 222

Omit the paragraph; substitute:

222. For supplies of goods to Australia:
- subsection 9-25(3) provides that a supply is connected with Australia if the supplier imports the goods into Australia; or
 - from 1 July 2108, subsection 9-25(3A) provides that an offshore supply of low value goods is connected with Australia if it is connected with Australia under Subdivision 84-C.

25. Paragraph 225

- (a) After paragraph 225, insert:

Offshore supplies of low value goods

225A. From 1 July 2018, an offshore supply of low value goods^{80A} is connected with Australia if the recipient is an entity that is not registered for GST or, if the entity is registered for GST, the entity does not acquire the thing supplied solely or partly for the purpose of an enterprise that the entity carries on in Australia.^{80B}

225B. Low value goods are goods that have a customs value of \$1,000 or less (excluding tobacco, tobacco products or alcoholic beverages).^{80C} Where the offshore supply of low value goods meets the other requirements in section 9-5, the

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supply is a taxable supply and consequently under section 42-15, it is a non-taxable importation.

- (b) After 'low value goods' in new paragraph 225A, insert footnote 80A:
^{80A} Subdivision 84-C.
- (c) At the end of new paragraph 225A, insert footnote 80B:
^{80B} Section 84-78.
- (d) At the end of the first sentence in new paragraph 225B, insert footnote 80C:
^{80C} Section 84-79.

26. Paragraph 239

At the end of the paragraph, omit the fullstop; insert:

' unless they are an offshore supply of low value goods connected with Australia under Subdivision 84D (this is discussed at paragraphs 225A to 225B above).

27. Paragraph 242

- (a) After paragraph 242, insert new paragraph:
242A. An exception to this rule is low value goods that have a customs value of \$1,000 or less (excluding tobacco, tobacco products or alcoholic beverages). Although they are specifically listed as a non-taxable importation^{84A} as noted in paragraph 74A above, from 1 July 2018 where the offshore supplies of low value goods are connected with Australia under Subdivision 84-C, and where they meet the other requirements in section 9-5, the supply is a taxable supply and GST is payable.
- (b) After 'non-taxable importation' in new paragraph 242A, insert new footnote 84A:
^{84A} Table item 26 of Schedule 4 of the *Customs Tariff Act 1995*; subsection 42-5(1).

28. Paragraph 249

- (a) After paragraph 249, insert new paragraphs:
249A. From 1 July 2018 under section 42-15, an importation of low value goods is a non-taxable importation to the extent that:
 - the supply is an offshore supply of low value goods that is taxable under section 9-5;
 - the supply is connected with Australia only because Subdivision 84-C applied to the supply; and
 - prior to the time by which a taxable importation would have been made, notification is provided to the Comptroller-General of Customs in the approved form that the supply was a taxable supply.^{86A}

249B. If the requirement to provide notification is met^{86B}, section 42-15 will prevent goods from being a taxable importation in situations such as:

- when GST has been charged on multiple low value goods that are imported in a consignment with a customs value exceeding \$1,000 (and the supplier did not apply the exception in section 84-83 as they did not reasonably believe that the goods would be a taxable importation)
- a depreciation in the Australian dollar occurs so that goods had a customs value of \$1,000 or else when consideration was first agreed, so GST was charged, but the customs value of the goods exceeded \$1,000 on the day of export and therefore the goods would otherwise have been a taxable importation.

249C. A taxable importation will not be switched off in situations where a supply has been incorrectly treated as a taxable supply but it is not connected with Australia under Subdivision 84-C, or where the supply is connected with Australia under other provision (for example, because the supplier is the importer).

249D. This means that the taxable importation will not be switched off in situations such as:

- when GST is incorrectly applied to the sale of an item with a customs value exceeding \$1,000 or the sale of tobacco, tobacco products or alcoholic beverages
- when GST is incorrectly applied to the sale of goods to a recipient who is not a consumer in relation to the supply (that is, the recipient is registered for GST and acquires the goods to some extent for use in their enterprise).

249E. In these situations, the supplier (or entity treated as the supplier) can refund the recipient for the GST incorrectly charged on the supply.

(b) At the end of new paragraph 249A, insert footnote 86A:

^{86A} Section 42-15 is discussed in Law Companion Ruling LCR 2018/1 *GST on low value imported goods*. The notification must be provided prior to goods being delivered into home consumption by including the information in the import declaration, or in an amended import declaration.

(c) After 'notification is met' in the first sentence of new paragraph 249B, insert footnote 86B:

^{86B} It is expected that the requirement to notify the Comptroller-General of Customs for the purposes of section 42-15 will be met where the relevant fields are completed on the import declaration for the goods.

29. Paragraph 267

In the first sentence, omit:

' , with some notable exceptions (such as low value imports),'

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30. Paragraph 269

After the first sentence, insert:

'The bicycle frames have a customs value exceeding \$1,000.'

31. Paragraph 276

Omit 'Chief Executive Officer of the Customs'; substitute 'Comptroller-General of Customs'.

32. Paragraph 281

Omit 'infoal'; substitute 'in foal'.

33. Paragraph 297

Omit footnote 118; substitute:

¹¹⁸ Subsections 9-25(3) and (3A) deal with supplies of goods to Australia. A supply of goods to Australia is connected with Australia where either the supplier imports the goods in Australia or, from 1 July 2018, it is an offshore supply of low value goods connected with Australia under Subdivision 84-C. Low value goods are goods with a customs value of \$1,000 or less (excluding tobacco, tobacco products or alcoholic beverages).

34. Paragraph 298

After 'order for a', insert '\$20,000'.

35. Paragraph 300

After the last sentence, insert:

'As the supply of goods is over \$1,000, the supply is also not an offshore supply of low value goods (subsection 9-25(3A)).'

36. Paragraph 301

In the second sentence after 'price', insert '*of \$5,000*'.

37. Paragraph 305

After the first sentence, insert:

'The customs value of each crop duster exceeds \$1,000.'

38. Paragraph 307

(a) In the second sentence, omit '*or 9-25(3)*'; substitute '*, 9-25(3) or 9-25(3A)*'.

(b) In the last sentence, omit '*and the supplier*'; substitute '*the supplier*'.

- (c) At the end of the last sentence, insert:
'and the value of the good is above \$1,000 (subsection 9-25(3A))'.

39. Paragraph 308

- (a) In the second sentence, omit *'or 9-25(3)'*; substitute *',' 9-25(3) or 9-25(3A)'*.
 (b) In the last sentence, omit *'and the supplier'*; substitute *'the supplier'*.
 (c) At the end of the last sentence, insert:
'and the value of the good is above \$1,000 (subsection 9-25(3A))'.

40. Paragraph 323

Omit the paragraph, heading and the detailed contents list; substitute:

Appendix 2 - Detailed contents list

323. Below is a detailed contents list for this ruling:

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41. Related Rulings/determinations

After 'TR 2006/10', insert 'LCR 2018/1'.

42. Subject references

Omit all subject references, including the heading.

43. Legislative references

- (a) After ANTS (GST)A 1999 9-25(3), insert:
 - ANTS (GST)A 1999 9-25(3A)
- (b) After ANTS (GST)A 1999 42-10(2), insert:
 - ANTS (GST)A 1999 42-15
- (c) After ANTS (GST)A 1999 84, insert:
 - ANTS (GST)A 1999 84-C

44. Case references

After the second case reference, insert:

- Chief Executive Officer of Customs v. Granite Arms Pty Ltd [2004] FCAFC 81
- The Chief Executive Officer of Customs v. Granite Arms Pty Ltd [2005] HCA 51

45. Appendix A

(a) Omit table item 14; substitute:

14	(Repealed by No 82 of 2002)
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(b) Omit table item 16; substitute:

16	Goods not entered for home consumption when required	Goods not covered by any other item of this table are imported into the indirect tax zone, and: (a) if they are required to be entered under section 68 of the Customs Act - they are not entered in accordance with that requirement; or (b) in any other case - a requirement under that Act relating to their importation has not been complied with.	The person who fails to comply with that requirement
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46. Appendix B

In footnotes 122 to 130, omit all occurrences of 'www.comlaw.gov.au'; substitute 'legislation.gov.au'.

This Addendum applies on and from 1 July 2018.

Commissioner of Taxation

20 February 2019

ATO references

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