LCR 2017/D5 - When is a redeliverer responsible for GST on a supply of low value imported goods?

This cover sheet is provided for information only. It does not form part of *LCR 2017/D5 - When is a redeliverer responsible for GST on a supply of low value imported goods?*

This document has been finalised by LCR 2018/3.

There is a Compendium for this document: **LCR 2018/3EC** .

Treasury Laws Amendment (GST Low Value Goods) Act 2017 has been enacted. The new law will apply in working out net amounts for tax periods starting on or after 1 July 2018 and to taxable importations relating to supplies made on or after 1 July 2018.

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

Relying on this draft Ruling

This Law Companion Ruling is a draft for consultation purposes only. When the final Ruling issues, it will have the following preamble:

This Ruling describes how the Commissioner will apply the law in Treasury Laws Amendment (GST Low Value Goods) Bill 2017 (the Bill) when it comes into effect. If Treasury Laws Amendment (GST Low Value Goods) Bill 2017 is enacted without amendment, this Ruling will be a public ruling when the Bill comes into effect to entities that rely on it in good faith.

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 covered by the Ruling if it does not correctly state how a relevant provision applies to you.

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What this draft Ruling is about

1. This draft Ruling discusses the amendments that make a 'redeliverer' responsible for GST on an offshore supply of low value goods.[1] These form part of the amendments proposed by *Treasury Laws Amendment (GST Low Value Goods) Bill 2017*.

2. This draft 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 who 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. Any reference to the 'merchant' in this draft 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.

6. This draft 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[3] or to the extent the supply is GST-free or input taxed.[4]

7. In this draft Ruling, the 'indirect tax zone' will be referred to as 'Australia'. In this draft Ruling, all legislative references are to the GST Act and all currency references are to Australian currency unless otherwise stated.

8. For further information on:

- When GST applies to an offshore supply of low value goods, see Draft Law Companion Ruling LCR 2017/D2: *GST on low value imported goods*.
- When an EDP operator is responsible for GST on an offshore supply of low value goods, see Draft Law Companion Ruling LCR 2017/D4: *GST on supplies made through electronic distribution platforms*.

[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 62 to 74 of Draft Law Companion Ruling LCR 2017/D2: *GST on low value imported goods*.

[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 Draft Law Companion Ruling LCR 2017/D4: *GST on supplies made through electronic distribution platforms*.

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

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

Date of effect

9. It is proposed that when this draft Ruling issues in final form, it will apply from 1 July 2017 if the Bill is enacted as introduced. If so, the new law would apply in working out net amounts for tax periods starting on or after 1 July 2017 and to taxable importations relating to supplies made on or after 1 July 2017.

Early engagement

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

11. If, after considering the new law and this draft 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?

12. An entity is a redeliverer in relation to a supply if:[5]

(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

13. *Fernando wishes to order clothes from a United States department 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.*

14. *Take-it-Home provides Fernando with an address in the United States which he uses when ordering the clothes from Hextall's website. Hextall is only involved in the transaction to the extent that it delivers the goods to the United States address that Take-it-Home provided to Fernando. When the clothes are delivered to this United States*

[5] Subsection 84-77(4).

address, Take-it-Home arranges for a shipping company to deliver the clothes to Fernando's address in Australia.

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

- *provides the use of an address outside Australia to which the goods are delivered*
- *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.*

16. *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

17. *Miranda operates an enterprise in the United Kingdom (UK) that provides a personal shopping service to customers in Australia. Imogen uses Miranda's personal shopping service.*

18. *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.*

19. *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.*

Who is not a redeliverer?

20. The following gives example of entities who do not fall within the definition of redeliverer.

Transporters or freight forwarders

21. 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:[6]

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

22. 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

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

goods to Australia (see paragraphs 28 to 29 of this draft 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

23. 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 12 of this draft 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 5 (see paragraph 38 to 39 of this draft Ruling).

24. Regardless of whether the entity is the merchant or a redeliverer, the amount of GST payable will work out to be the same. This is illustrated in Examples 4 and 5 below (see paragraphs 33 to 39 of this draft Ruling).

Entities that are not carrying on an enterprise

25. 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, as they are not carrying on an enterprise.

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

26. *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.*

27. *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?

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

29. A redeliverer will not need to account for GST on a supply unless it is registered or required to be registered for GST.[7] An entity is required to register if its current or projected annualised GST turnover equals or exceeds the $75,000 threshold (or $150,000 for non-profit bodies).[8]

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

30. 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

[7] 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.

[8] 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.

- their taxable supply of services to the consumer.

31. The GST payable by the redeliverer for their taxable supply of goods is 10% of the amount the consumer paid for the goods.[9] This reflects the fact that the amount charged by the merchant outside Australia did not include GST.[10]

32. Further, the redeliverer is liable for GST of 1/11th of the amount that the consumer paid for their taxable supply of services. The Bill includes an amendment to ensure that the redeliverer's services are taxed in the same way as the goods themselves.[11] 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.

Example 4 – redeliverer calculating the GST payable

33. *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.*

34. *Imogen paid $720 for the goods that Miranda purchased as her agent, which 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.*

35. *As the customs value of the goods is $1,000 or less (being $720), the supply is a supply of low value goods.[12] Miranda is registered for GST, and she determines that the supply is a taxable supply.*

36. *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.*

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

Example 5 – merchant calculating the GST payable

38. *If instead of Example 4, Miranda 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.*

39. *If Miranda purchased the goods for $720 (assuming that she charges a $40 mark-up, to reach the same outcome as in Example 4), 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*

[9] Section 84-91.
[10] Paragraph 1.96 of the Explanatory Memorandum to the Bill.
[11] Subsection 38-355(3).
[12] LCR 2017/D2 explains how to determine the customs value of goods when determining whether there is a supply of low value goods. See Example 2 of LCR 2017/D2.

usual rule is that GST is 1/11th of the amount the consumer paid which is $836 x 1/11th (the special rule for redeliverers is described at paragraph 32 of this draft Ruling).

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

40. 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.

41. There are hierarchy rules that apply to ensure that only one of the redeliverers is responsible for the GST.[13] 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[14] of the recipient, or
- if no such agreement exists, the first to enter into an arrangement with any other person acting on the recipient's behalf.

42. The Commissioner may also prescribe additional rules by legislative instrument to apply where no entity comes within the order of the hierarchy set out in paragraph 41 of this draft Ruling.

43. We invite your submissions, particularly if there are practical situations in which further certainty may be required which would require the use of the Commissioner's legislative instrument or where you would like further guidance on which of the redeliverers involved in a supply is responsible for GST.

Commissioner of Taxation
8 June 2017

[13] Subsection 84-81(5).
[14] Section 318 of the *Income Tax Assessment Act 1936.*

Your comments

44. You are invited to comment on this Draft Law Companion Ruling. Please forward your comments by the due date.

45. In particular, we seek your comments in relation to:

- if there are practical situations in which further clarity may be required which would require the use of the Commissioner's legislative instrument in relation to the hierarchy rules (paragraph 41 of this draft Ruling).
- about whether there are practical scenarios on which you would like guidance where more than one redeliverer is potentially liable, that is, scenarios where the hierarchy rules may apply (paragraphs 39 to 42 of this draft Ruling).

Due date: 10 July 2017

Contact officer details have been removed following publication of the final ruling.

Amendment history

Date of amendment	Part	Comment
19 February 2018	Title (including headers and footers)	Remove references to 'Law Companion Guideline LCG 2017/D5'; substitute 'Law Companion Ruling LCR 2017/D5'.
	Entire document	Remove references to 'Guideline'; substitute 'Ruling'.
	Entire document	Remove references to 'LCG'; substitute 'LCR'.

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
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Related Rulings/Determinations	GSTR 2001/7 LCR 2017/D2 LCR 2017/D4
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