TAKING RETAIL FURTHER //

Retail NZ

26 January 2016

David Bennett
Chairperson, Finance and Expenditure Committee
Parliament Buildings
WELLINGTON 6140

Dear Mr Bennett,

TAXATION (RESIDENTIAL LAND WITHHOLDING TAX, GST ON ONLINE SERVICES, AND STUDENT LOANS) BILL

Recommendation

1. Retail NZ supports the sections of the bill that require offshore suppliers of services and intangibles to register for GST - but recommends that the bill be amended to require those selling goods to New Zealanders from offshore to register as well.

Introduction

2. Retailers around New Zealand employ around 200,000 New Zealanders. Retail NZ is a trade association representing the interests of retailers. We have around 5,000 members, ranging from small family businesses through to major retail chains, and includes both e-commerce retailers and traditional bricks and mortar stores. Together, our members account for around two-thirds of New Zealand's total retail sales revenue.

3. Our submission is supported by Booksellers NZ, and relates to the 'GST on online services' clauses of the bill only.

Background

4. Retail has changed significantly with the shift online and our members have embraced the new opportunities it brings. Customers want to shop online, and they make their online purchasing decisions on the basis of price, convenience and range. GST (and duty) is not charged on cross-border goods that fall under the de minimis threshold of $60. This exacerbates any price differentials, and is out of line with most developed countries. It effectively allows tax free sales to New Zealanders of up to $400 depending on the product. This incentivises consumers to buy from foreign competitors and as a result is seriously impacting New Zealand businesses, towns and communities, especially in heartland New Zealand where small businesses are increasingly under pressure and being driven out of business. It is also depriving the Crown of a significant amount of revenue every year.

5. The online GST loophole also threatens the integrity of New Zealand's GST system. Until the advent of internet commerce, consumption tax was paid on all goods and services consumed in New Zealand with very few exceptions. It was celebrated because of it broad-based and fair approach which made it simple for consumers to understand and for business to administer. While offshore suppliers and low-value goods remain excluded GST is not a universal tax and, in fact, acts as a reverse tariff on local suppliers. It also has a negative impact on government revenues: we estimate that the government foregoes at least $200 million a year in GST revenues that would otherwise be paid - and this is growing substantially year on year.

6. We have been working for many years on behalf of our members to level the playing field for domestic suppliers of goods. Most recently Retail NZ made a submission on the government discussion paper, 'GST: Cross-Border Services, Intangibles and Goods', and on the draft VAT/GST guidelines published by the OECD. In our submissions we have supported the proposed registration system for collecting consumption tax on cross-border trade of services and intangibles but stated that it should be extended to include goods at the same time.

7. Retail NZ is working with Customs and other stakeholders in a process to consider the practical issues associated with collecting GST at the border - but we believe an amendment to the current bill is nonetheless urgently required.

Low-value goods

8. The previously mentioned discussion paper noted that the government intends to align where possible the collection of GST on imported goods with services and intangibles. We strongly support this approach but it is not borne out by this bill.

9. In principle there should be no difference in the tax treatment of services and goods. All purchases should be treated the same way for consumption tax purposes regardless of what they are or where they are bought.

10. We are pleased that the bill applies GST to services and intangibles bought from offshore suppliers. This is great news for big New Zealand firms like Spark, who will no longer face a competitive disadvantage against foreign firms like Netflix and Amazon - but retailers face the same competitive disadvantage, and the bill does nothing to resolve the competitive disadvantage faced by Kiwi firms that sell goods to New Zealanders.

11. We know that the government is considering the practical issues around collecting tax at the border separately, but this work needs to be undertaken in tandem with registering at least the largest offshore etailers for GST.

12. We strongly urge the Committee to amend the bill to extend the offshore supplier registration model to goods at the same time as services and intangibles.

13. Including goods in an offshore supplier registration system would require minimal amendments to the Goods and Services Tax Act 1985, and would prevent Parliament from having consider the same issues again in the short to medium term. Most stakeholders agree that offshore registration is the preferred model but there are practical issues around how it would be monitored at the border and compliance assured. We acknowledge that there are some practical considerations that need to be worked through - but the fact that implementation may be imperfect is no excuse for inaction.

The bill effectively creates a voluntary compliance regime for services and intangibles - why not for goods?

14. It has been asserted that the bill should not include provisions for the GST registration of suppliers of low value goods because the New Zealand government has no ability to enforce domestic law on suppliers located overseas. Technically, this may be correct, although we believe that reputable firms will seek to comply with domestic laws in order to preserve and further its reputation and licence to operate. This rationale is inherently accepted by the present bill - because the government has no particular ability to compel foreign firms supplying services to register for GST any more than it does for those selling goods here. However, the government clearly expects that firms will comply for services - and the same is true of goods.

15. Although there are some practical issues to be resolved, we envisage that those firms that choose to comply with the registration requirements would have a streamlined flow of goods across the border. This would effectively create a competitive advantage for those firms - and therefore give them a greater incentive to comply with registration requirements.

OECD work on low value goods

16. It has also been argued that it is too early to require foreign goods-suppliers to become GST-registered because the OECD has not provided guidance on this. We do not consider this argument to be remotely valid. The OECD has considered the question of VAT (GST) on cross-border services because many countries (mainly in the EU) have been concerned about this. There has been little interest internationally in low-value goods because most other countries have a Customs threshold that, at least in theory, ensures VAT/GST is charged at the border. Most jurisdictions have thresholds set at between NZD20 and NZD40. New Zealand (and Australia), with our very high border de minimis thresholds, are significant outliers internationally. Simply put, GST/VAT on goods is not seen as important abroad because of low Customs thresholds. Here, the issue is critical because it is directly impacting retail sales, costing jobs and hurting business

Implementation date

17. We recommend that the new supplier registration rules come into effect for both goods and services at the same time. However, if the same implementation date for goods and services and intangibles is not possible, the clauses relating to goods could be adopted as part of this bill but with a later commencement date. The level of the de minimis is set by regulation (Customs and Excise Regulations 1996 s.70) and could be simply amended.

18. Offshore registration will not capture all international retailers selling into New Zealand for goods, or for services and intangibles. It would be very difficult and costly to ensure that New Zealand GST is paid on every offshore transaction at the point of sale. However, this should not deter us from establishing a simple system whereby large retailers that want to provide and improved customer services can register for and collect GST. For smaller retailers that do not register, goods could be stopped at the border (as they are currently) until the GST and duty is paid. Offshore retailers would be incentivised to register because goods would get to customers faster and more easily. It would also send a clear message that GST is a universal tax that is applied fairly.

19. We were very pleased to learn that our neighbours in Australia recently committed to this approach, and to reduce their de minimis threshold to zero, and we strongly encourage the government in New Zealand to do the same. It does not make sense to require large suppliers like Amazon to collect and pay New Zealand GST for supplying an intangible, such as an e-book, but not for a physical book.

Comment

20. There is an opportunity for New Zealand to lead the world and close the GST loophole for services, intangibles and goods using the offshore supplier registration model with minimal compliance costs and minimal costs to government. Online shopping continues to grow, and so does the pressure on local retailers. It is essential that the government takes action on the tax loophole for goods as soon as possible.

Appearance before the Committee

21. We would appreciate the opportunity to appear before the Committee to present this submission in person.

Yours sincerely,

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