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# ***Changes to Australian GST for cross-border supplies commencing 1 July 2017: are you ready?***

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## ***In brief***

From 1 July 2017, ‘inbound intangible supplies’ will attract the Australian Goods and Service Tax (GST) where made by non-resident suppliers to Australian consumers.

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## ***In detail***

### ***GST on inbound intangible supplies (including digital products and services)***

The key features for the new provisions are as follows:

- From 1 July 2017 the supplies of things other than goods or real property made to an ‘Australian consumer’ will be connected with Australia and subject to GST.
- The Australian provisions are broader than some other jurisdictions and essentially anything other than goods or real property are caught.
- An ‘Australian consumer’ means an Australian resident that is not registered for GST in Australia.
- If the entity’s GST turnover exceeds the registration turnover threshold of AUD 75,000, it would be required to register for GST in Australia.
- Where supplies of inbound intangibles are made through an Electronic Distribution Platform (EDP), the GST liability on these supplies would shift to the operator of the EDP (i.e. generally, online marketplaces that act as intermediaries). The Australian Taxation Office (ATO) has released a draft Law Companion Guideline (LCG 2017/D4) dealing with the EDP provisions.
- Where there are multiple EDPs for a supply, tie-breaker provisions may apply.
- Suppliers of inbound intangible supplies would not be required to issue tax invoices.
- The GST law contains rules in relation to contracts/supplies that straddle 1 July 2017. Supplies that are made for a period or progressively over a period of time are treated as being supplied continuously over that period. To the extent a supply is taken to be made on or after 1 July 2017 then there is GST payable on the portion that is made on or after that date.

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- The ATO has been, and will be, writing to impacted taxpayers.

### ***Who is an Australian consumer?***

GST will apply on supplies where a supply is made to an 'Australian consumer'. An 'Australian consumer' is an Australian resident who is not registered for Australian GST.

Under the GST law the location of the customer is to be determined by:

- Usual business systems and processes, or
- Taking other reasonable steps to obtain information in relation to whether the customer is an Australian consumer.

The ATO has released Goods and Services Tax Ruling GSTR 2017/1, which sets out the meaning of 'Australian consumer'. The ATO has taken a practical approach and outlined that when determining whether a recipient is an Australian consumer, it is sufficient to satisfy evidentiary requirements from jurisdictions determined by the ATO to have comparable residency elements. The ATO considers countries within the European Union, New Zealand and Norway as examples of jurisdictions with comparable residency elements.

In order to treat a recipient as not an Australian consumer, it is necessary to collect the Australian Business Number (ABN) and information/declaration for the entity that it is registered for GST. The ATO expects some level of verification of the ABN.

### ***Limited registration for GST***

Under these new laws, non-resident suppliers will be able to access a limited & simplified GST registration (they can also register under the full registration). The key features of the new limited registration provisions are as follows:

- Registration will be online, and will be available from 26 June 2017. Non-residents will be able to register via an electronic portal on the ATO website, and the process should not take more than a few days.
- Documentary requirements for registration will be minimal, with no proof of identity documents.
- Registrants will be provided with a 12-digit ATO Reference Number (ARN) as the unique numerical identifier in lieu of an ABN.
- Taxpayers will be able to reserve an ARN prior to 26 June 2017 by filling in a form and emailing the ATO.
- Taxpayers under the simplified registration system will only need to lodge a new, simplified Business Activity Statement (BAS) quarterly through the new electronic portal. The simplified BAS will contain only two items: Total taxable supplies and GST payable.
- The ATO will progressively add functions to the simplified registration system throughout 2017 and taxpayers will be able to lodge and pay using the system from 30 September 2017.
- Taxpayers under the simplified registration system will not be able to claim input tax credits. Furthermore, as an ARN will be used in lieu of an ABN, taxpayers under the simplified registration system will not be able to issue tax invoices.

### ***Next steps for affected suppliers***

- Identify supplies to Australian consumers
- Review agreements to ensure appropriate GST clauses are included

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- Communicate with affected consumers
  - Assess pricing changes required for imposition of GST
  - Check that systems can account for GST on relevant sales from 1 July 2017
  - Implement process to identify B2B supplies separately from B2C
  - Identify all transitional contracts for inbound intangible supplies
  - Consider whether the EDP, or industry-specific rules apply to your inbound supplies
  - Register under the full or limited registration

### ***GST on low value goods - update***

In addition, under proposals still before Parliament (the *Treasury Laws Amendment (Goods and Services Tax (GST) Low Value Goods) Bill 2017*), low-value goods (AUD 1,000 and under) supplied by overseas retailers to Australian consumers would become taxable supplies beginning 1 July 2017. The Bill was referred to the Senate Economics Legislation Committee which recommended that the implementation of the measures be delayed to 1 July 2018. The Bill is listed to be debated in Parliament in June 2017.

### ***The takeaway***

Sellers of digital content and service providers into Australia who have not already done so should consider the impact of these rules on their businesses and current arrangements to be ready for the changes when they take effect on 1 July 2017.

### ***Let's talk***

For a deeper discussion of how these issues might affect your business, please contact:

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