

Do your clients supply products or services to Australian consumers?

Even if your client does not have an establishment or presence in Australia, under proposed legislative changes, they may be liable to collect and remit Australian GST (10%) on sales to Australian consumers from 1 July 2017.

What has changed?

Proposed changes to Australian GST legislation mean that from 1 July 2017, the 10% Australian GST will apply to companies outside of Australia who provide supplies and services to Australian consumers.

What transactions are covered?

Products and services

Dubbed the 'Netflix tax', the change is targeted at catching transactions for digital products – effectively anything you can download to an electronic device – including:

- Music
- Movies
- Apps
- Games
- E-books
- Digital magazines
- Streaming services.

Practically, however, it also covers a wide range of services and other intangibles – anything other than “physical goods or real property” sold to Australian consumers – such as consultancy and professional services.

What do you need to do?

1 July 2017 seems a fair way off but this is a fundamental change for some businesses and early planning will pay dividends.

On a practical level, off-shore businesses who supply services to Australian consumers should be considering:

- Whether they are impacted
- If so, the impact on pricing and any existing supply agreements
- The best structure to deal with GST obligations, making sure this does not give rise to any other unforeseen taxation obligations.

Non-resident suppliers who will need to register for GST may also benefit from appointing an Australian agent to ensure GST compliance.

We have outlined some of the finer details below, but if you would like to discuss how these changes might affect your business, please contact **Andrew Nutman**, our GST specialist.

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The fine print.

The supplier bears the onus of compliance

Importantly, this proposed change puts the onus of compliance firmly on the supplier, who is liable to:

- Register, collect and remit GST on their sales to Australian consumers
- Take “reasonable steps” to ascertain the recipient’s status as an Australian consumer.

Who is an Australian consumer?

An Australian consumer is:

- An Australian resident (within the meaning of the Income Tax Assessment Act 1936) who is not registered or required to be registered for GST, or
- An Australian resident who is registered or required to be registered, but who acquires the intangible supply other than for the purpose of an enterprise.

Broadly, the draft amendments apply to anything acquired for private or domestic consumption, or anything acquired in the course of carrying on an enterprise in circumstances where the entity is not registered, or not required to be registered for GST (for instance, because its turnover is less than the GST registration threshold of \$75,000).

Electronic Distribution Platform (EDP)

The provisions also include special rules for digital products sold via electronic distribution platforms (websites, internet portals, gateways, stores or market places).

In certain circumstances, platform operators are deemed to be the supplier, and as such are liable for the GST (rather than the actual supplier of the digital product).

Registration requirements

The proposed changes also include provisions for non-residents to operate under a ‘limited registration’ regime, which allows for them to account for GST on supplies without the ability to claim any GST on costs.

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