

Monday, 7 September 2009

Eric Mayne
Chair of Working Group
Review of the application of GST to cross-border transactions
Board of Taxation
C/- The Treasury
Langton Crescent
CANBERRA ACT 2600

Email: taxboard@treasury.gov.au

Dear Mr Mayne

Re: GST and cross-border transactions

We are writing to support a thorough review and change of the Australian Government's approach to GST on cross border transactions.

A combination of structural problems (such as the recent change to the low value threshold limit) and enforcement problems (the current inability to detect the large numbers of commercial sellers masquerading as private sales), are acting to severely damage legitimate Australian businesses.

1. Why a change is overdue and important to all Australians

There are several reasons why an overhaul of GST on cross-border consumer transactions is important and will deliver important benefits for all Australians over and above immediate returns of avoided GST:

- **Australian Business Competitiveness:** Businesses paying GST and income tax (particularly small Australian businesses) are unable to compete with the price-points of those online e-tailers not paying GST and income tax. As the online economy grows, and the global economic climate becomes riskier this is a growing source of frustration and anger for small business nationally.
- **Consumer Protection:** Online sellers avoiding GST are typically also avoiding the entire consumer protection framework. These sellers often are avoiding regulatory frameworks such as the *Trade Practices Act* the various *Sale of Goods Acts* the *Designs Act*, the *Patents Act*, the *Trade Mark Act* and the *Copyright Act* by:
 - Importing illegal goods
 - Selling goods not fit for the purpose for which they were sold
 - Selling grey-market goods with no warranty support; &
 - Making "price claims" in breach of the TPA.
- **Tax Base Protection:** The avoidance of GST by online sellers has broader implications for the tax base. Not only does it facilitate the avoidance of income tax, import tariffs and the like – but it creates longer-term structural incentives to keep online sales infrastructure and accounting offshore. As the online market grows, this problem will only become worse.

2. Tax Compliance

Several elements of the Online Marketplace system facilitate non-compliance with Australia's tax laws:

- Use of non-traditional and offshore payment mechanisms (e.g. PayPal, eGold);
- Ability to "hide" large volumes of sales through the use of multiple accounts (e.g. more than one account on eBay, or accounts across multiple online marketplaces)
- Greater ability to ship directly from third countries, even if masquerading as a local Australian "non-commercial" sale.

2.1. GST

Many goods sold online are sold GST free because they are purchased from an offshore seller or because the seller is in Australia, but masquerading as vending privately owned goods.

For example, there are numerous examples of sellers consistently importing ongoing quantities of "personal goods" (avoiding GST) and which are then resold again as "personal goods" without GST.

2.2. Income tax

The avoidance of GST goes hand-in-hand with the avoidance of income tax. Many non-compliant sellers are not declaring income tax. It is believed that this is being particularly facilitated in the Online Marketplace sector by sellers who operate a PayPal or eGold account, who can buy and sell from that account, without declaring any income in Australia

3. The importance of eBay

As the market leader, eBay is the most complained about site. However, we believe that this is a factor of their size and that in fact they are one of the more responsive participants in respect of regulatory compliance.

We strongly contend that in order to make the significant further investments in tax compliance which are necessary for websites such as eBay, the same rules must apply to all online marketplaces.

4. Conclusion

Our industry, and a number of other industries with which we regularly deal, are happy to see the Australian Government pursue this matter. We are available to provide further detail or other support should that be appropriate.

In the meantime, both you and your office should feel welcome to contact me at any time on ian.harvey@australianmusic.asn.au or (03) 9527 6658 if the Australian Music Association can be of any assistance.

Yours sincerely



Ian Harvey
Executive Officer