

Summary of Responses – Public Consultation on Draft e-Tax Guides on GST: Taxing imported services by way of reverse charge and GST: Taxing imported services by way of an overseas vendor registration regime

Following Budget 2018, where GST measures to tax imported services were announced, IRAS conducted a public consultation exercise between 20 Feb and 20 Mar 2018 to seek feedback on two draft e-Tax Guides (1) “GST: Taxing imported services by way of reverse charge” and (2) “GST: Taxing imported services by way of an overseas vendor registration regime”.

With respect to the consultation, IRAS received a total of 43 feedback submissions on the draft e-Tax Guides, comprising 177 and 93 comments on the reverse charge and the overseas vendor registration regime respectively. IRAS wishes to thank all respondents for their comments.

A number of the comments received relate to the registration rules and scope of services under the Reverse Charge and Overseas Vendor Registration Regime.

IRAS has considered carefully all the comments received. IRAS will fine-tune the administrative measures, taking into account the comments wherever possible, and publish the two Guides on 31 Dec 2018.

A summary of the key suggestions received and our responses are as follows:

Taxing imported services by way of an overseas vendor registration regime (“OVR”)

A. Registration threshold

Comment: To consider amending the two-tier registration threshold, either by removing the global turnover condition, or increasing the threshold of the value of digital services supplied to customers in Singapore.

IRAS’ response: Under the OVR, the GST registration liability of overseas suppliers and overseas electronic marketplace operators is determined by a two-tier approach based on the annual global turnover and the value of digital services made to customers in Singapore.

To ensure consistency with current GST rules, the global turnover, which is defined as supplies that would be taxable supplies if made by a person in Singapore, is computed similarly to taxable turnover used in determining the registration liability of businesses in Singapore.

To prevent imposing unnecessary compliance burden on overseas businesses which may not have significant business activities in Singapore, a threshold based on the value of digital services made to customers in Singapore is put in place as well. The threshold is comparable with those set for similar purposes in the GST regimes of other jurisdictions.

B. Scope of services

(a) *Comment:* To consider excluding services which are predominantly B2B in nature from OVR

IRAS' response: It is not feasible nor practical to exclude services which are predominantly B2B in nature from OVR. There are significant definitional or classification issues.

(b) *Comment:* To consider excluding services, such as advertising services, from OVR

IRAS' response: To completely exclude services such as advertising from OVR could mean market distortions. In order to maintain parity in GST treatment between services provided by domestic and overseas businesses, services that would have been zero-rated or exempt from GST if made by a supplier belonging in Singapore are excluded from the scope of OVR. For example, advertising services where the place of circulation is wholly or predominantly overseas are zero-rated under current rules, and hence are excluded from OVR, even though these services may fall within the definition of digital services. On the other hand, advertising services wholly or predominantly circulated in Singapore are standard-rated under current rules, and hence are included in the prescribed list under OVR.

(c) *Comment:* To provide more details on support services that are within scope of OVR.

IRAS' response: IRAS will provide more details and examples of the application of OVR on support services to arrange or facilitate, via electronic means, the provision of underlying transactions.

C. Determination of belonging status of customer

Comment: Propose to provide flexibility in requiring two non-conflicting pieces of evidence in the determination of belonging status of the customer.

IRAS' response: To determine the belonging status of customers, overseas suppliers are required to obtain and maintain at least two pieces of non-conflicting evidence based on three proxy categories, namely the payment, residence and access proxies. The information to be obtained under the proxy categories and the requirement to obtain two pieces of such information are similar to that adopted in other jurisdictions. This approach also considers the feedback given by digitalised businesses and addresses situations where conflicting information is obtained.

It is not intended for businesses to obtain evidence beyond what is currently collected under existing business processes. We have also considered that the requirements do not disrupt the customer experience when purchasing from the overseas suppliers.

That said, if businesses are unable to adopt the guidelines due to exceptional business circumstances, you may make an application to the Comptroller for alternative methods.

D. Definition of electronic marketplaces

Comment: More details should be provided on the conditions for electronic marketplace operators to be regarded as the supplier under OVR

IRAS' response: IRAS has accepted the suggestions, and will provide more details and examples of the conditions for a local and overseas electronic marketplace operator to be regarded as the supplier (e.g. what constitutes authorisation of charge and delivery of supply to the recipient). Generally, electronic marketplaces include marketplaces operated via a website, internet portal, gateway, distribution platform or any other types of electronic interface, but excludes payment processors or internet service providers.

E. Administrative details

Comment: To ease compliance costs of overseas suppliers, it was proposed to allow suppliers liable for GST registration under OVR to complete and submit the GST registration application in advance, before the implementation date. It was also suggested that GST registration and reporting under OVR should be streamlined and to allow for payment of tax to be made electronically.

IRAS' response: IRAS has accepted the suggestions, and will provide more details on GST registration and reporting under OVR at a later date. Sufficient lead time will be provided for businesses to prepare for the changes and register for GST to enable them to meet their obligations.

Taxing imported services by way of reverse charge ("RC")

A. Persons who would be subject to RC

Comment: To consider exempting certain class of persons and business sectors from applying RC.

IRAS' response: IRAS has set the appropriate thresholds for the application of RC and will not be exempting any specific class of persons or business sectors from applying RC.

To minimise the RC Businesses' compliance costs, IRAS will seek to ensure that RC rules are clear and easy to comply with. In fact, IRAS has refined some policy features and rules based on the feedback received from stakeholders, without compromising fundamental GST principles.

B. Scope of imported services

(a) *Comment:* To consider excluding all inter-branch and intra-GST group transactions from RC.

IRAS' response: While IRAS recognises that there could be bona fide reasons for inter-branch and intra-GST group transactions, our view remains that we need to address the risk of tax planning by businesses to circumvent the impact of RC. Therefore, inter-branch and intra-GST group transactions cannot be excluded from RC.

(b) *Comment:* To consider extending the concession to exclude the salaries, wages and interest cost components of cost allocations in inter-branch and intra-GST group transactions to all related party transactions.

IRAS' response: The concession is granted as it accords with the existing GST principle of disregarding inter-branch and intra-group transactions. It will not be further extended to all related party transactions.

(c) *Comment:* To consider narrowing the scope of imported services that will be subject to RC, prescribe a list of services to be subject to RC and to exclude imported services that have no local equivalent from the scope of RC.

IRAS' response: The policy intent of the RC is to level the GST treatment for services procured from overseas and those procured locally, as GST is to be imposed on all services consumed in Singapore. As to the suggestion of prescribing a list that excludes

imported services with no local equivalent, it is envisaged this may create complex definitional and interpretational issues.

(d) *Comment:* To provide more examples of imported services that will/ will not be subject to RC in the e-Tax Guide and to provide the rationale for their inclusion/ exclusion from the scope of RC.

IRAS' response: IRAS has accepted the suggestions. More examples and details of imported services that will/ will not be subject to RC will be provided in the e-Tax Guide.

C. Time of supply

Comment: To consider allowing RC Businesses to account for GST on their imported services based on either the posting date of the imported services in their business accounts or the date of payment to the overseas supplier, if the method is consistently applied in all his GST returns.

IRAS' response: The policy intent of allowing RC Businesses to account for GST on their imported services based on the posting date of the imported services in their business accounts instead of the date of the supplier's invoice considers the fact that an RC Business, being the recipient of the imported services, will require lead time to receive and post the overseas supplier's invoice in his business accounts before he can account for RC on the transaction.

However, the concession cannot be extended to the date of payment to the supplier because the payment for certain transactions, especially related party transactions, may only be settled after a long time.

D. Registration rules

Comment: To consider granting a waiver of GST registration liability when a non-registered business makes a one-off import of services exceeding the registration threshold, to be consistent with current registration rules.

IRAS' response: GST is being levied on all imports of goods, regardless of whether the imports are one-off. As a general GST principle, similar considerations should also apply to the import of services. Hence, RC will apply even where a non-registered business makes a one-off import of services exceeding the registration threshold. The registration threshold has been set to help ease compliance of businesses.

E. Administrative details

(a) *Comment:* To clarify if the value of imported services should be taken into account for the purpose of determining:

- (i) Liability for GST registration, when computing value of taxable turnover
- (ii) Input tax claimable, when computing the residual input tax apportionment formula
- (iii) Eligibility for exemption from GST registration or Major Exporter Scheme, when computing the percentage of zero-rated supplies to total supplies

IRAS' response: As the RC Business' imported services are in fact supplies made by overseas suppliers, the value of his imported services should not be counted towards his

total supplies for the purpose of determining his registration liability, residual input tax claimable and eligibility for exemption from GST registration or GST schemes.

(b) *Comment:* To allow RC Businesses to maintain alternative documents to support RC transactions (e.g. remittance advices for related party transactions, formal internal memo for inter-branch transactions) and to consider waiving the requirement to translate invoices in foreign language to English when the invoice can be traced to an agreement/ contract in English and the nature and value of the imported services can be determined.

IRAS' response: IRAS has accepted the suggestions and will consider applications for deviating from the prescribed record keeping requirements on a case-by-case basis.