

VAT/GST on Digital Services to Australia

The first quarterly Activity Statement for suppliers of digital services to Australia is due on 25 November 2017. It is therefore timely to remind digital product suppliers who have customers in Australia of the need to ensure they are complying with the new rules.

Background

As with many other countries, Australia has introduced measures to subject to tax supplies of digital products and services to Australia. These measures commenced on 1 July 2017 and are commonly referred to as the “Netflix Tax”.

Similar to other countries, Australia has designed the tax through extension of the definition of when a supply is considered connected with the recipient’s country, and therefore subject to tax.

Australia’s regime only taxes supplies made to Australian consumers as opposed to businesses who are registered for GST. There are guidelines on acceptable methods for the suppliers of digital services to identify when a recipient is Australian and when they are not registered for GST.

Of note is that Australia’s regime potentially exposes the operators of electronic distribution platforms to tax on the supply where they control any key elements of the supply (e.g. delivery and payment).

This measure is designed to provide an additional motivation for suppliers to register more than any streamlined collection mechanism.

Registration for GST is only necessary where taxable supplies to Australia are in excess of \$75,000. This turnover test excludes various non-taxable supplies including supplies of digital products and services to Australian businesses.

The new rules have resulted in a wide range of web-based suppliers of digital services being required to register in Australia and charge GST to customers.

Compliance

A streamlined registration process has been created for non-resident suppliers, known as “limited registration”. Limited registrants only require minimal proof of identity and can utilise simplified activity statements, however they are not able to claim any GST credits for costs within Australia.

It is necessary for limited registrants to lodge activity statements on a quarterly basis setting out the total supplies and GST liability.

Strategies

Due to difficulties in determining if a customer is a business, and therefore whether the supply might be free of GST, many suppliers have taken the approach to simply charge GST to all customers in Australia. Because GST-registered businesses are able to claim a credit for any GST charged to them, it is of nominal consequence to most customers (being limited to the time value of 10% of the charge until the refund is received, being usually two months after the end of a quarter). It is noted however that complications can arise where business customers make individual acquisitions over \$82.50 and request a Tax Invoice to support their claim as a limited GST registrant cannot technically issue a Tax Invoice. In these circumstances, full GST registration may be preferable.

Further, due to the inability to claim GST credits some non-resident businesses are choosing to complete full GST registration to enable access to credits for GST paid in Australia where expense levels in Australia justify the effort. In practice this merely delays the registration process due to proof of identity requirements as the ongoing compliance is not significantly more onerous, particularly when completed online.

To discuss the VAT/GST on Digital Services to Australia with one of our directors, please contact Prosperity Advisers.



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