



## **SUBMISSION**

Prepared by the  
**New Zealand Retailers Association**

For the  
**New Zealand Customs Service**

In respect of  
**De Minimis Discussion Paper**

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# 1. The New Zealand Retailers Association

The New Zealand Retailers Association (NZRA) is the most significant body in the country representing the interests of retailers. Across all store types and areas we have some 6,000 members and they in turn operate some 14,000 shop fronts. These stores range from the majority of large national retailers to thousands of owner operators.

Our membership would account for 65% – 70% of total retail expenditure (excluding the motor vehicle sector).

Within the New Zealand Retailers Association structure we also have a number of specialty groups and in the main these include retailers, importers, and suppliers of a specific product type. The specialty groups we operate are:

- Bicycle Industry
- Sporting Goods
- Jewellery
- Plumbing Distributors
- Pets/Pet Products/Equestrian Suppliers

Many of the retailers we represent are impacted by the regulations pertaining to the de minimis value and the advantages this gives consumers at the expense of the domestic economy.

It is in the interests of all of these retailers and the New Zealand economy overall that we make these submissions.

## 2. The Changing Market

The total retail market in New Zealand is valued by Statistics New Zealand at in excess of \$65b (including the hospitality and motor vehicle sectors). If we eliminate these latter two categories we arrive at a retail market that is valued at \$51.6b (12 months ending September quarter 2010) and this was up 1.6% on the prior 12 month period.

The market is certainly going through a period of rapid change with much more business being conducted on the internet. This area of trading comes under a range of different approaches:

- i) Sales by 'bricks and mortar' retailers through their own web sites (NZ based).
- ii) Sales by 'bricks and mortar' retailers through their own web site based outside of NZ.
- iii) On-line only operators in NZ.
- iv) On-line only operators, outside of NZ.
- v) Consumer to consumer transactions (e.g. TradeMe).
- vi) Business to consumer via sites such as TradeMe.

It is our belief that this type of retailing will continue to grow and we need to ensure that the tax/customs structure put in place now is appropriate for a future that will be different from today.

### 3. The New Zealand Taxation System

In 1986 the taxation system in New Zealand underwent a fundamental change. We saw the removal of product specific sales taxes, a reduction in the rate of direct tax on income and the introduction of a goods and services tax based on consumption (GST).

Initially the rate of GST was 10.0%; this moved to 12.5% in 1989 and recently in October 2010 it increased further to 15%.

GST applies to the purchase of all goods and services with the exception of financial transactions. Unlike some other countries (e.g. Australia and U.K) there are no product exemptions from GST.

In 1985/86 the collection of tax was as follows:

	<b>\$m</b>	<b>%</b>
Income Tax (salaries & wages)	7,463	53
Income Tax (self employed and FBT)	1,833	13
Company Tax	1,207	9
Withholding Tax on Residents	-	-
Withholding Tax on Non-Residents	-	-
<b>Total Direct Taxes</b>	<b>10,503</b>	<b>74</b>
Goods and Services Tax	-	-
Sales Tax	1,553	11
Excise Duty	647	5
Customs Duty	742	5
Other Duties	723	5
<b>Total Indirect Taxes</b>	<b>3,665</b>	<b>26</b>
<b>Total Taxes</b>	<b>14,168</b>	<b>100%</b>

*(Source: NZ Year Book)*

Thus at an individual level the 1985/86 (pre GST) picture was as follows:

	<b>\$m</b>	<b>%</b>
Income Tax – (total)	9,296	76
Sales Tax	1,553	13
Excise & Customs Duty	1,389	11
	<b>12,238</b>	<b>100</b>

That is, at the individual level 76% of the tax we paid was based on our income and 24% was based on what we consumed.

How has this changed?

On an individual basis the figures for the 12 months ending June 2009 showed the following:

	<b>\$m</b>	<b>%</b>
Income Tax – direct income	25,859	59
Income tax on interest/dividends	2,637	6
GST	11,551	27
Excise & Customs Duty	3,449	8
<b>Total</b>	<b>43,496</b>	<b>100</b>

Direct tax has fallen from 76% to 65% and tax on consumption has risen to 35%.

Given that we have now moved to 15% GST (an increase of 20% from the 12.5% days) the pendulum will have swung even further. Our estimate for 2011/12 would be that at least 40% of the tax we pay as individuals would be based on what we consume and not what we earn.

Consumption based taxation has been further reinforced by the recommendations of the Savings Working Group released recently. They advocated increasing GST to 17.5%. While the Government has shied away from this at the moment ( political expediency) it indicates possible, future direction.

Question... where is the fairness and equity in allowing purchases made from outside of New Zealand (under \$400) to come into the country free of GST?

Answer... we believe there are two key aspects to this answer:

- 1 If Government policy is to shift the focus of individual taxation from a tax on income to a tax on consumption then this should be applied to **all** consumption. The excuse in the past has been about the 'cost of collection'. However, as far as we are aware no serious review of the options available has been undertaken (more on this later).
- 2 There are estimates offered by a variety of researchers that on-line purchasing is between 2.5% and 3.5% of total retail sales. However, the sales we are talking about are not recorded anywhere as long as the declaration is under \$400 the goods simply flow straight through to the consumer. As far as we are aware no one has set out to quantify this.

However, what we do know is that every item that comes into the country potentially denies a New Zealand retailer the opportunity to make that sale, make a profit and pay tax, employ staff in New Zealand who in turn pay tax, and the GST isn't collected. The flow to the government isn't just about the GST.

It isn't just an issue for NZ Customs – there is a significant issue for IRD that goes beyond the de minimis. The Customs regulations relate to “goods” only – GST relates to “goods and services”. For the purposes of this debate there are a whole raft of services that should be attracting GST – e.g. music downloads, software downloads, etc.

So... why is it only now that this problem is emerging?

## **4. GST Free Access to New Zealand**

As a variety of commentators have already indicated the problem has been with us for some time (and we have been fighting the issue for some time).

What makes it more of an issue now is that:

- a) GST has gone up to 15%.
- b) Internet buying of goods and services from off-shore sites is reported to be growing at a significant rate.

These two factors combined are creating a significant issue and one that will grow bigger over time.

One Australian commentator recently suggested that any saving in GST would be largely 'eaten up by the shipping costs'. This simply highlights the stupidity of some commentators and the lack of thought through argument.

The price of an item on the shelf in New Zealand in general terms includes four components – the imported cost of the item, the freight to get it here, GST, and the retailers' margin. In the case of the on-line purchase we still have the cost of the goods, the on-line traders' margin and the freight cost. To simply write off the freight cost against GST is not a valid argument.

We want fairness and equity in Government policy and a level playing field for all participants. Why should a retailer in New Zealand have to compete with both the overseas retailers and the New Zealand Government?

OK... but just how big is the problem?

## **5. Scoping Out the Problem**

As far as we are aware there are only limited statistics available on the number or value of parcels entering the country with an individual value of under \$400 (Customs and/or NZ Post might have that data).

While some volume data would be available, the total value and therefore the GST lost is unable to be calculated. The NZ Customs discussion paper does look at some of these issues but the option of setting the de minimis to zero does not seem to have been considered.

The justification used for having a de minimis is related to the cost of collection. If collection of GST could be incorporated into the electronic (credit card) transaction process the cost of collection might be substantially less than currently considered.

The NZRA will endeavour to obtain data for credit card transactions related to off shore purchasing of goods and services.

So... what basis of valuation should be used?

## 6. Customs Value – Is This An Option?

We would argue very strongly that freight, insurance and any other cost associated with the importation of product into New Zealand should be included for the purpose of calculating GST.

To ignore these costs would distort the market even further. The New Zealand based retailer has all of these costs to contend with and therefore in the interests of fairness and equity they must be included.

So... if that's how we believe GST should be levied how do we collect it in an efficient way?

This has always been the major argument for not collecting GST/Duty under \$50 (now \$60). The issue is not unique to New Zealand and quite a number of countries like New Zealand operate a de minimis system. However having said that the level of the de minimis is quite varied.

For example the value of goods that can enter various countries without tax (GST or Sales Tax or Duty) being levied is highly variable.

	<b>\$NZ</b>
Australia	1316
USA	274
Canada	27
Japan	163
Korea	177
Singapore	417
UK	38
New Zealand	400

As this indicates New Zealand (with the exception of Australia) is right up at the top end.

If Canada (NZ \$27) and the UK (NZ \$38) can manage a system down to this level how do they do it? How do they collect amounts of GST/Duty/Sales Tax between \$20 - \$400. Could this be applied to all transactions and set the de minimis to zero?

What are the collection options?

## 7. The Tax Collection Options

It is generally agreed that the current collection model for private imports above the de minimis would not be cost effective for those imports below the current de minimis – that is, the cost of collection would be greater than the revenue generated.

Therefore, if the objective is to ‘do away’ with the de minimis and collect GST/Duty on all goods entering the country then we need to find another way. We need a cost effective way of collecting tax.

### Option 1

In some countries the tax (either GST or Sales Tax) is collected by the courier on delivery. This is a possibility but how one manages deliveries through the postal system is a little unclear.

We suspect the courier companies may not favour this approach as not all deliveries require the recipient to be present. A possibility, but probably not totally practical. The courier companies would certainly expect recompense.

### Option 2

Rather than holding up the clearance of goods (and the cost that this incurs) it might be possible to release the goods immediately but send an invoice to the addressee for the GST. There maybe some collection issues (bad debts) but it might be reasonably cost effective. This would depend on all declarations of value being honest and accurate.

### Option 3

For goods coming in through the national mail centre the option might be to have these forwarded to the nearest Post Office and the recipient could pick up from there on the payment of the appropriate GST / Duty. This is similar to the British system. This would require a card going out to the recipient to advise them of the parcel’s arrival. However, this still leaves an issue for the collection of GST on services where a physical product doesn’t enter the country.

### Option 4

The majority of transactions will be paid for by credit card (or a scheme debit card). We have thoroughly investigated the steps that the payment process goes through and believe that it may be possible to include the tax collection as part of this process.

The collection process can only be done through the New Zealand bank that issued the card.

We have reviewed the other end of the transaction (i.e. the suppliers bank who acquires the transaction) and we don’t believe this offers any possibilities for GST collection.

So we could have a process that would follow the steps outlined:

- 1 The customer goes on-line, makes their product selection and opts to pay by credit card.
- 2 They then move to a secure payment site.



- 3 We would need to check the origin of the card (is it a New Zealand card?) and the delivery address (are the goods coming into New Zealand?)
- 4 If the transaction confirms both of the above conditions we shift to a tax calculation (not sure how this might work) and the appropriate GST is charged and the funds debited to the card and credited to the IRD.

This part of the process requires some expert input.

This would also be benefits here for IRD as this would be by far the easiest way of collecting GST on services.

## 8. What Is Best For New Zealand

With a Government focus on consumption tax it is important that **all** consumption is treated **equally**. All purchases made locally are subject to GST, so, why not all purchases made off-shore also?

In the current environment Government is only too well aware of the diminishing tax take. Company profits have taken a beating and therefore tax owing is down. Consumer spending is flat, therefore there is no growth there. Unemployment has increased over the last few years and therefore direct income tax isn't delivering up to expectations.

Surely in this environment the Government must be interested in maximising their tax revenue.

Consider the following...

- 1 Collect the tax on off-shore purchases ... new revenue line.
- 2 By the removal of the exemption off-shore buying becomes less attractive to some resulting in better sales for domestic retailers. More jobs, more profits, more tax.

For New Zealand Inc there are definite benefits in collecting the GST on all purchases being imported privately. This is both a New Zealand Customs issue ( goods) and an IRD issue ( services).

The motivating reason for most to buy on-line is price. However there is a downside in that consumers have no protection from the Consumer Guarantees Act. It is in the best interests of the consumer to purchase locally so they have recourse to both the Fair Trading Act and Consumers Guarantees Act. There is a cost to local retailers in complying with these Acts that is not borne by offshore suppliers.

## 9. What Is Best For the Retailers Of New Zealand

Retailers are not looking for an advantage – what the sector wants is the playing field to be as level as possible.

There are always going to be pricing differences in New Zealand v overseas markets caused by currency changes, competitive pressures, buying strengths etc. But... having to fight against an additional 15% because of our own governments action is not something that the sector wants.

It is a significant amount.

It is beyond the control of the New Zealand based retailer.

It is unfair.

## 10. Recommendations

- 1 Take the policy decision to set the de minimis value at zero and charge GST and Duty on all private imports where the address of the cardholder and the delivery address are both New Zealand. This should apply to both goods and services.
- 2 Undertake an accurate scoping exercise to quantify the real value of the lost GST and Duty on all imports no matter how small. ( including both goods and services)
- 3 Bring together relevant experts (Visa/MasterCard, Paymark/ EFTPOS (NZ), Issuing Banks) to find a way forward.
- 4 Investigate the collection model used by Canada and the UK.
- 5 A joint working party of officials from both Customs and IRD should be formed so that a solution is found that meets the needs of both parties.
- 6 A work programme, with finite time objectives, should be established to conduct the necessary investigations and undertake the development work. In the meantime the current de minimis value should be retained and so should the current method of valuation.

# 11. Appendix I

Responses to specific questions raised in the NZ Customs Service discussion paper:

“Issues Paper: Review of De Minimis”  
December 2010

## **1 *Comment On The Application Of A De Minimis Based On A Minimum Amount Of Duties/Taxes***

- Response:
- a) Our overall recommendation is to set the de minimis at zero.
  - b) Notwithstanding that if there is to be a de minimis it should be based on the value for taxable importation. That is, the GST calculation should be based on the value including duty if any duty is applicable.

## **2 *Trade Off Between Administrative Efficiency And Integrity***

Response: In our view the integrity of the tax system is the most important aspect and this is why we would recommend that the de minimis be set at zero. As the emphasis shifts from tax on earnings to tax on consumption it is really important that the tax system be seen to be fair and equitable.

As far as we are aware the de minimis is the only situation where there is discrimination in the tax collection process.

## **3 *“Do you agree that the nature of trade is such that the basic need for a de minimis remains”***

Response: No, we do not agree. In fact if New Zealand can ‘crack the collection solution’ they will have a very saleable product.

## **4 *Estimates of Volumes/Compliance Costs etc***

Response: It would appear to us that there are some really fundamental gaps in the knowledge base.

We cannot accurately calculate the value of lost GST/Duty as many import shipments (under \$400) come straight through the system without being noted (in value terms).

We would recommend that a comprehensive review be undertaken so that Government can fully understand what is at stake.

**5 “Do you agree that the de minimis is currently set at about the right level and is operating as intended?”**

Response: While the de minimis might be operating as intended it does not take account of the changing market place. We now have New Zealand companies operating in an international retail market and the de minimis gives them a government sponsored price disadvantage.

We would come back to our earlier conclusion and request that the de minimis be set at zero and that the focus goes onto finding an administrative solution.

**6 “Does the current mix of taxes applying at the border mean that the de minimis needs changing in some way to ensure its underlying purpose continues to be met”.**

Response: In principle we would not support varying levels of de minimis value for differing circumstances. This could lead to a situation of regulation dictating behaviour.

It might be best to remove the last bits of tariff duty, set the de minimis to zero and focus on collecting all GST.

The underlying purpose of de minimis is to exempt some from the burden of tax – we disagree with this underlying purpose.

**7 Views On Method Of Calculation Of GST (‘Customs Value’)**

Response: As has already been stated the method of calculation of GST must be fair and equitable. As GST within New Zealand is based on the total price paid by the consumer the same should apply to privately imported goods. (see earlier comment re tariff duty).

**8 “Relationship Between De Minimis And Wider Risk Management Issues Identified By Customs”.**

Response: The focus on compliance costs and the current collection model risks bringing about undesirable outcomes. The greater the level of exemption (de minimis) allowed the more relaxed the system becomes and the greater the risks. These include risks of:

- increasing counterfeit product
- greater use of ‘private imports’ for onwards sale

**9 Alignment with Australia (2 approaches)**

Response: Our views on any increase in the de minimis have been clearly stated in this submission. In fact, it has been our primary argument that the de minimis should be set at zero.

Alignment with Australia makes no sense at all as they are so far out of line with the rest of the world. It reminds one of the proud mother watching the scout troop marching past and remarking ... "My Johnny is the only one marching in time".

Our issue is that all of the other issues go away if the issue of 'efficient collection' can be overcome. We should focus on what will give the best outcome and not on the best compromise.