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Dear Sir

Tax Laws Amendment (Tax Integrity" GST and Digital Products) Bill 2015

We thank you for the opportunity to make submissions on the exposure draft legislation and draft explanatory material for the proposed Tax Laws Amendment (Tax Integrity: GST and Digital Products) Bill 2015 (**Exposure Draft**).

We make the submissions below to address what appear to be unintended consequences for intermediaries concerned with financial aspects of cross-border e-commerce.

Electronic distribution service

Liability for GST may attach to the operator of an "electronic distribution service". The reach of this concept therefore assumes some importance. The concept of an "electronic distribution service" is widely defined to include "a service . . . if the service allows entities to make supplies available to end-users", the service is delivered by means of an electronic communication and the supplies are to be made by means of an electronic communication. The concept is widely drafted and taken literally could apply to a wide range of service providers including banks and payment service providers that allow the relevant supplies to occur by providing for payment required to enable relevant transactions to occur. It is understood that the description is intended to have a narrower reach and apply to websites stores and the like.

It is noted that an electronic distribution service may escape the application of the new rules if sec 84-50 applies. This requires knowledge of invoicing details (which an intermediary, bank or payment service provider may not have access to). Escaping the rules also requires that the entity in question does not authorise the charge to the recipient and does not authorise the delivery of the supply.

To the extent that a sale and delivery depends on payment being approved and allowed by a bank and facilitated by a payment services provider, it is not clear how these rules could apply to such entities.

We respectfully recommend that the legislation be expressed not to apply to entities solely concerned with the financial aspects of a supply. We understand that it is not intended that such entities be subject to the rules.

Reasonable steps

We also note that a supplier subject to the rules may escape their application if the supplier takes reasonable steps to obtain information about whether or not the consumer is an Australian consumer and after doing so reasonably believes that the consumer is not an Australia consumer.

To the extent that suppliers believe that such information may be sourced from intermediaries providing credit card services, this may not always be feasible. Information held by intermediaries such as payment service providers may not be sufficient of itself to make a determination to be made.

A payment service provider providing credit card services, the cardholder and merchants typically have relationships with banks. Issuing banks will issue credit cards to consumers and acquiring banks will obtain payment on behalf of the merchant so that personal cardholder data e.g. name, address relating to each payment transaction may not be held by a payment services provider. Therefore, if using information held by intermediaries is contemplated, such intermediaries should not be put in the position of having to produce what information they have to parties liable for taxation as this will place an undue administrative burden on both vendors and intermediaries. The information provided by the customer to the supplier should be the basis on which a determination is made.

We would welcome the opportunity to meet with The Treasury to discuss our recommendations and are prepared to provide additional input as needed.

Please contact the writer for clarification or any further information.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Amrit MacIntyre', with a large, stylized flourish at the end.

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