TAX TALKS

Australia's Tax News Podcast - The Podcast for Australian Tax Professionals

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190 | Taxable Importations

You pay GST on taxable importations. But if the import qualifies as a creditable importation you get the GST back.

Taxable Importations

Taxable importations are the base for determining whether an import is subject to GST. It is what you might call the basic rule. Low value goods, electronic distribution platforms as well as the so-called Netflix Tax are just add ons that were bolted onto this basic rule as of 1 July 2018.

In this episode Simon Dorevitch of A & A Tax Legal Consulting in Melbourne explains the finer details of taxable importations. Here is what we learned but please listen in as Simon Dorevitch explains all this much better than we ever could.

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Just Like Customs

It all happens at the border (unless you qualify for the GST deferral scheme). The goods arrive in Australia. And then they are either a taxable importation or not.

And if they are a taxable importation, then the GST is payable to Customs in the same way and at the same time as customs duty.

Importer Pays GST

The importer pays the GST on the taxable importation per s13-15 GST Act.

Taxable Importation

You make a taxable importation if you

1 – import
2 – goods
3 – for home consumption (with the meaning of the Customs Act 1901)
4 – and no exemption applies, ie. the import is not a non-taxable importation.

So there are four factors – import – goods – home consumption – and no exemption.

There is no requirement that the importer must be registered for or be carrying on an enterprise to make a taxable importation. So a private person could make a taxable importation and hence face paying GST at the border.

 # 1 Import

The importer is the entity who

1 – causes the goods to be brought to Australia with the purpose of supplying, using or otherwise applying those goods after importation; and

2 – completes the customs formalities (GSTR 2003/15).

So freight forwarders and international couriers are usually not the importer, since they don't bring the goods to Australia to apply them for their own purposes after importation.

It is common for owners to employ a licensed customs broker or other agent to complete the customs formalities on their behalf. The customs broker or other agent would not normally list their own name on the import declaration, but would list the name of the actual owner. So this actual owner would be the importer.

However, if the agent does list its name on the import declaration, the agent must be able to demonstrate the existence of the agency relationship. Otherwise the agent will be treated as the importer and have to pay the GST.

 # 2 Goods

Goods is any form of tangible personal property. Trading stock, plant, equipment, food, vehicles or raw materials are just some examples.

But goods do not include real or intangible property. So services are not captured by this basic rule, and that is why the so-called Netflix Tax came in as an add-on on the 1 July 2018. We cover Netflix tax in episode 197.

 # 3 Home Consumption

Home consumption just means that the goods have passed out of Customs control and have entered Australia. So it doesn't mean that you need to consume them at your private house. It just means within Australia.

4 No Exemption

An importation is either taxable or non-taxable. An importation is a non-taxable importation if it is a non-taxable importation under Part 3-2 GST Act or it would have been a GST-free or input taxed supply if supplied within Australia.

Examples would be the importation of wheelchairs that are a GST-free medical supply or the return of unaltered goods where the manufacturer sends its goods for sale overseas and they are returned unsold.

And then there is a list of concessional goods in Schedule 4 of the Customs Tariffs Act that are also non-taxable importations. And the most important one of these are low value goods, ie. goods with a customs value of $1,000 or less, other than alcohol or tobacco.

However, these low value goods if sold to consumers are now captured through an additional rule that we will cover in the episode about low value goods.

Taxable Value

GST on taxable importations is 10% of the value of the taxable importation. This taxable value is the sum of:

1 – Customs value of the goods. This is normally the value of the goods at the time they were exported, as determined by Australian Customs. It excludes GST and transport and insurance costs from the place of export.

2 – Amount paid or payable for the international transport of the goods to their ‘place of consignment’ in Australia. The place of consignment depends on how the goods are delivered to Australia. For postal goods it is the place in Australia to which the goods are addressed.

3 – Amount paid or payable to insure the goods for that international transport

4 – Amount paid or payable for loading or handling of the goods, or for facilitation services (such as fumigation), during the course of GST-free international transport. This does not include taxes, fees and charges exempted under s 81-5.

5 – Customs duty payable in respect of the importation of the goods; and

6 – Any wine equalisation tax payable in respect of the local entry of the goods.

Shortcut Method

Rather than calculating the exact total of the six items listed above, the importer can use a shortcut method. The importer can set the total of items 2-4 (transport, insurance, loading or handling and facilitation) to 10% of the customs value.

Creditable Importations

So the first step is making a taxable importation and paying the GST at the border for the goods you bring into Australia. However, the next step is creditable importation. If you meet the requirements for a creditable importation, you get the GST back you paid for the taxable importation through an input tax credit in your BAS.

You make a creditable importation when you

1 – Import the goods solely or partly for a creditable purpose
2 – Made a taxable importation, ie you paid GST for the taxable importation
3 – Are registered or required to be registered for GST

Different to a creditable acquisitions, there is no requirement that you have paid for the goods. And the reason for this is that the GST on importation is based on customs value and the lot, not the price you actually paid.

You don’t need to hold a valid tax invoice to claim the input tax credit but you should retain the customs documentation to show that you actually paid the GST on the taxable importation.

Input Tax Credit

If you make a taxable importation, you can claim an input tax credit for the GST you paid for the taxable importation as long as the importation qualifies as a creditable importation.

However, if the agent lists its name on the import declaration and then pays the GST on the taxable importation, then you no longer meet the condition. You might be bringing the goods to Australia for a creditable purpose, but it is the agent making the taxable importation. And the unfortunate result of this is that neither party can claim an input tax credit for the GST paid on the taxable importation.

Deferred GST Scheme

The deferred GST scheme is all about cash flow. It doesn't save you any tax, but it saves you finance costs.

Without the deferred GST scheme, you would have to pay the GST for the taxable importation at the border but then it might take you a long time until you actually sold the item and got the GST back from the customer.

The deferred GST scheme allows you to overcome this cashflow disadvantage. Under the scheme you pay the GST when paying the BAS. In practice this means that the amount payable on taxable importations will often be fully offset by the amount claimable for creditable importations.

To be eligible for the deferred GST scheme, you must

1 – Have an ABN and be registered for GST
2 – Lodge your BAS monthly and electronically
3 – Pay electronically
4 – Enter goods for home consumption electronically
5 – Have a satisfactory compliance record
6 – Have written approval from the Tax Office

The government estimates that 95% of business importations are covered by this scheme.

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