

**Public Consultation of Good & Services Tax (“GST”) (Amendment) Bill 2018 – Submission of Comments**

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<b>Summary of feedback:</b>	<p>The Asia Internet Coalition (AIC) is an industry association that seeks to promote the understanding and resolution of Internet policy issues in the Asia Pacific region. Our members comprise leading internet and technology companies, namely: Airbnb, Amazon, Apple, Expedia, Facebook, Google, Line, LinkedIn, Rakuten, Twitter, and Yahoo (Oath). The AIC welcomes the opportunity to participate in this consultation and hope that our practical input from an e-commerce and technology perspective is useful.</p> <p><b><u>AIC’s comments pertain to three (3) areas:</u></b></p> <p>1) GST on imported services - Overseas Vendor Registration that requires overseas suppliers and electronic marketplace operators which make significant supplies of digital services to local customers to register with IRAS for GST. Our concern relates to the prescriptive manner in which a non-resident determines where the customer belongs.</p> <p>2) Concerns with new subsection (1B) to Section 46 (Duty to keep records)</p> <p>3) Clarification on terminology requested relating to Proposed Seventh Schedule Section 2(1)(a)(xi) – advertising service on any intangible media platform</p>
<b><u>Details:</u></b>	<b>See next page.</b>

No.	Tax Change (Amendment to GST Act) <sup>a</sup>	Comments <sup>b</sup>	Proposed change to draft GST (Amendment) Bill
1	<p><b>SECTION 1 OF SUMMARY TABLE</b></p> <p><b>Introduce GST on imported services from 1 January 2020</b></p> <p>Overseas Vendor Registration (Main Amendments) Sections 8, 46 and 91 [Clauses 6, 29 and 37] New Sections 28A and 92 [Clause 22 and 37] First Schedule to the GST Act [Clause 38] New Seventh Schedule to the GST Act [Clause 40]</p>	<p>Overall, we feel this prescriptive approach is highly likely to create complications, particularly where information collected from sellers and buyers may be highly contradictory and not definitively enable one to determine the customers' place of belonging.</p> <p><b><u>Specifically:</u></b></p> <p>Practically, it will be very difficult for logic to be developed in existing business systems to automatically identify the different permutations and combinations of proxies to determine whether two non-conflicting pieces of evidence have been collected from the required proxy categories.</p>	<p><b><u>Our proposal</u></b></p> <p>As an alternative, we suggest the "reasonableness test" implemented <a href="#">in section 84-100</a> of the equivalent Australian GST regime for overseas vendors be adopted.</p> <p>This approach provides the greatest flexibility for an overseas vendor to determine whether a customer belongs in Singapore, without imposing a heavy burden on the overseas vendor to significantly develop their business systems and processes to identify the residence of a customer.</p> <p>This is particularly pertinent as most larger overseas vendors will be required to adapt their business systems and processes to comply with multiple VAT/GST overseas vendor registration regimes. (A quick survey within Asia Pacific alone shows similar regimes currently in place in South Korea, Japan, Korea, Australia and New Zealand, with Malaysia and Thailand in active consideration).</p> <p>For this reason, the greater the flexibility afforded to the overseas vendor to determine a customer's residence, the more highly regarded and business-friendly the regime will be.</p>

		<p>Exceptions will inevitably arise where an entity may not hold evidence to conclusively determine whether a customer belongs in Singapore. For example, a customer may have a billing address located in Singapore, but make payment via a credit card issued in Australia. In the absence of additional clarifying evidence, this customer would not be treated as belonging in Singapore, and therefore GST would not apply (assuming that customer is not GST registered). A common scenario could be where a seller may reside in Country A, hold product inventory in Country B, and have a bank account in Country C.</p> <p>Most businesses will be required to comply with similar VAT/GST overseas vendor registration regimes in other jurisdictions. The more Singapore's prescriptive approach differs from those regimes, the more complicated it will be for small businesses to comply.</p>	
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2	<p><b>New subsection (1B) to Section 46 (Duty to keep records):</b></p>	<p>We do not agree to the operator of an electronic marketplace (“the operator”), who is treated as the supplier for GST purposes, to maintain records relating to supplies of digital services made by the overseas underlying suppliers to persons belonging outside Singapore. Such supplies would not be taxed under the proposed Seventh Schedule of the GST Act and accordingly, the operator would not collect GST and report them in the GST return. This requirement can result in the operator breaching their obligations under data privacy laws in other countries.</p> <p>Furthermore, it would lead to increased compliance costs for the operator who will have to assess the feasibility of keeping such records, and put in place processes and measures to safeguard this data.</p> <p>We also note that other countries which have implemented similar taxes do not require overseas operators to maintain records relating to transactions that are not reported in the tax returns.</p>	<p><b><u>Our proposal</u></b></p> <p>To this end, we suggest a reduction in the scope of records the operator is required to maintain. The operator should only be required to keep records relating to supplies taxable under the Seventh Schedule and <u>made to any person belonging in Singapore.</u></p> <p>Our proposed amendment to Section 46(1B) is made below:</p> <p><i>“(1B) Where the taxable person is an operator of an electronic marketplace mentioned in the Seventh Schedule, the duty of the operator to keep records under this section includes records relating to —</i></p> <p style="padding-left: 40px;">(a) <i>where paragraph 3(1)(b)(ii)(B) of the Seventh Schedule applies, all supplies of digital services of the relevant overseas underlying supplier, <del>whether made to any person belonging in Singapore or not belonging in Singapore</del>; and</i></p> <p style="padding-left: 40px;">(b) <i>where the operator makes an election under paragraph 5 of the Seventh Schedule, all supplies of digital services of any local underlying supplier (that are treated as made to the operator), <del>whether in fact made to any person belonging in Singapore or not belonging in Singapore.</del>”</i></p>
3	<p><b>Proposed Seventh Schedule Section 2(1)(a)(xi)</b></p>	<p>In respect to advertising service on any intangible media platform where the Comptroller of GST is satisfied that the advertisement is intended to be substantially promulgated in Singapore.</p>	<p>We would <b>appreciate a clarification</b> on how “...substantially promulgated...” will be determined.</p>

<sup>a</sup> To quote the title of the tax change as well as the relevant section(s) of the draft GST (Amendment) Bill 2018. Please refer to the Summary Table for reference. <sup>b</sup> Illustrations and diagrams could be attached as Annexes