

Economic Development Minister

How prices of goods should be displayed when GST is introduced in Jersey

Introduction

The introduction of a Goods and Services Tax (GST) in 2008 will, for the first time in Jersey, result in a tax element in the retail price charged to consumers for goods. The Treasury and Resources Minister and his department have sole responsibility for developing the legislative framework to enable GST to be introduced. But the responsibility for policy for consumer protection rests with the Economic Development Minister.

The question of how GST will be charged by traders on the goods they sell must be considered and, importantly, how it will be represented in prices displayed to consumers.

Background

Discussions have been held with the Jersey Chamber of Commerce and its views have been published. On balance, the Chamber supports the option for displaying prices which do not include GST, which means that consumers would be charged an additional sum at the till.

Doing this would put Jersey out of step with the price marking requirements which are enforced by law throughout the European Union and in many other countries throughout the world.

If the States do not legislate, there will be a risk of causing confusion for shoppers, because some traders would include GST in their price displays and some would not. Many tourists, particularly those coming from the UK and Europe, might also feel confused because they are used to a price inclusive system: "what you see is what you pay".

This paper seeks to highlight the main issues to inform States members.

UK practice

The UK first introduced consumer protection legislation on price indications in 1968 under provisions written into the Trade Descriptions Act. The purpose was to prevent retailers misleading customers by displaying one price on displayed goods, then charging a higher price at the till having added other compulsory retail costs, such as Value Added Tax. The simple concept was that traders should not falsely describe the price of their goods.

In 1974, further legislation was introduced in the form of the Prices Act and this required that some goods such as meat, fish, fruit, vegetables and fuel must carry price indications for consumers to clearly see and if sold loose from bulk, then a unit

price (price per pound or litre) was mandatory so that customers could make informed price comparisons before they purchased.

In 1987, the UK government strengthened legislation on misleading price indications by including new requirements in the Consumer Protection Act 1987. These are still in force today. The key requirement was that traders must not mislead consumers by indicating one price on goods, signs or shelf edges, and then charge a higher price at the point of sale. In order to give detailed help and guidance to traders, the UK Department of Trade and Industry issued a comprehensive Code of Practice on Price Indications which, if followed, should ensure compliance with the legislation.

EU Harmonisation

In 1998 the European Union decided to harmonise price marking provisions across all member countries and issued a directive on consumer protection in the indication of the prices of products offered to consumers. The directive is commonly referred to either as the Price Marking Directive or the Unit Pricing Directive. The purpose was to stipulate that goods should be clearly priced, inclusive of tax, and also to stipulate the price per unit of measurement (e.g. price per pound, kilo or litre) of products offered must be displayed. This was intended to improve consumer information and enable fair comparison of prices to foster competition.

There are six key requirements in this directive which cover goods but not services and which apply to all traders dealing with consumers.

The key requirements are:

- the selling price of goods must be clearly displayed;
- the unit price (e.g. price per litre or price per kilo/pound) is required for products sold loose from bulk (e.g. fuel, meat, vegetables);
- some pre-packaged products are also required to indicate a unit price (e.g. price per 100g);
- price displays to consumers must be inclusive of VAT and any other applicable taxes;
- price displays must be unambiguous, easily identifiable and clearly legible;
- any postage, packing or delivery charges may be shown separately as long as they are unambiguous, easily identifiable and clearly legible.

Unit pricing of goods

As indicated above, the Price Marking Directive requires that some pre-packaged products must indicate the selling price of a product, including all taxes, and a unit price. In effect this means that an indication of price per kilogram, litre, metre, square metre or cubic metre (or imperial equivalents) must be clearly and legibly available to consumers. The UK has enacted the requirements of the directive by introducing Price Marking Orders. The latest came into force in 2004. This Order has many

detailed unit pricing provisions relating to many different products listed, covering everyday food and non-food items.

This means retailers must indicate a unit price for a product based on, for example, a price per 100 grams or per 100 millilitres. The reason for this is to provide consumers with enough unit price information to enable them to ascertain which products offer the best value for money regardless of the variation in pack sizes. The concept of unit pricing is best explained by looking at an example. A supermarket stocks a selection of baking flour. As well as the better known brands the retailer has its own brand flour, luxury, organic and locally produced flour. To complicate matters further, they sell some of these flours in different sized bags. How can the consumer compare price, quality and value? Is one large bag cheaper than buying two small bags? If the shelf edge label indicates unit price, the consumer can simply look at the price per 100g of the various sizes and brands and make a direct comparison very easily.

The European Directive gave an option to member countries to exempt small businesses from only the unit pricing requirements as it was accepted that the burden of compliance was not proportionate to small business resources. The UK legislation defines a small business as those with a floor area not exceeding 280 square metres.

Practice in Non-EU Countries

As far as we can tell, only two industrialised countries do not require retailers to display prices inclusive of taxes. These are the United States and Canada. In those countries, one price is displayed to the customer and, after taxes have been added another price is charged at the till. The difference between what is displayed and what is actually paid by the consumer can be significant. The effect is that goods can appear attractively cheaper than they actually are particularly to European tourists, who would be more familiar with the tax inclusive pricing system.

Practices in a Similar Small Jurisdiction

It might be useful to look at how a similar small jurisdiction has dealt with the price marking issue. One does not have to look too far to find that the Isle of Man, which is part of the UK VAT system, regulated price marking of goods as far back as 1976 with the introduction of their own Price Marking Act which followed similar provisions to that already existing in the UK. The most recent changes to legislation in the Isle of Man, in 2005, was a new price marking order which brought the island into line with the UK. Looking at the broader picture of consumer protection it is worth noting that, in two instances, the Isle of Man has differed from the UK.

The first of these relates to unit pricing which applies only to some food products but, where it does apply, small businesses are not exempt from the unit pricing requirements. The second relates to fuel retailers who must display the unit price for liquid fuel “in such a manner that it is easily read by a person in a motor vehicle on the highway from whichever direction he may lawfully approach and enter the premises”. Research has shown that this is a continuation of a requirement introduced some years ago when some fuel retailers were apparently misleading consumers with confusing discount prices. The effect is that motorists are able to clearly see fuel prices before driving into a forecourt to check the prices at the pumps.

Goods pre-priced by the manufacturer

The majority of goods imported to Jersey do not carry any price indications on the packaging. Therefore they do not present any problem for retailers deciding what price they will charge to consumers. It follows that when GST is introduced there should not be any problem in building GST into the prices displayed to consumers.

However, there are some goods which are pre-priced on packaging by the manufacturer and these will probably require re-pricing if price marking legislation is introduced. This assumes that a retailer will not wish to absorb GST on the pre-priced products. Well known popular goods which carry printed UK prices are newspapers, books and magazines. Some packaged food items are pre-priced by the manufacturer and would not include GST. For example, a fresh pre-packed chicken which is priced by the UK packer at £5 would have to be re-priced by the retailer at £5.15 after the addition of 3%. To comply with any legislation, the requirement will be to ensure that only the correct selling price is displayed to consumers.

Options

A number of options are available to the States for consideration. They are:

- do nothing and let traders do as they choose;
- do nothing prior to the introduction of GST but monitor how traders indicate prices and assess the position after one year;
- legislate, but with as light a touch as possible with, for example, no requirement for detailed unit pricing;
- legislate with a full range of controls.

Conclusion

On balance, it appears that to avoid confusing the shopping public in Jersey, there are strong reasons supporting legislation for GST inclusive price marking. It is important to note that this would be a consumer protection measure which is not related to the name of the tax - whether it is GST, RST or VAT. The overriding aim of legislation would be to ensure that consumers are not misled or confused over price indications and that the price which is advertised is the price which is paid at the till.