GST : Review of the Taxation of the Importation of Unaccompanied Parcels by Private Individuals

Report to the Minister for Treasury & Resources (June 2021)

1. This is the Final Report of the Review Team to inform your decisions ahead of the next draft Government Plan. Given the speed with which we have been able to engage some of the key stakeholders – and based on their responses - we consider we can now provide you with sufficient information on which to determine the way ahead.

2. The Terms of Reference agreed with you for engaging stakeholders are attached **(Annex A);** the key representative bodies engaged are set out at **Annex B**. Additionally, we engaged, on a confidential basis, some of the larger offshore retailers and carriers.

Background

3. "Low-value consignment reliefs" such as Jersey's Import GST "de minimis" level are accepted to be discriminatory and are only justified on "value for money" grounds.

4. It has been the long-standing policy of this and previous Governments that Jersey's GST de Minimis Level would be reduced - or removed - as Jersey became a "fast follower" of long-expected changes now being implemented by the EU (from 1 July 2021) and the UK (from 1 January 2021). These involve the abolition of their versions of low-value consignment reliefs and (for the EU) obligations on retailers in one Member State to charge VAT at the rate prevailing in the Member State of destination of goods sold.

5. Following the UK's changes, the Minister for Treasury & Resources published terms of Reference for this Review (Annex A).

Aims of the Review

6. The primary aim of the Review was to establish a more level playing field in terms of GST between goods sold on the high street in Jersey and those imported via online sources. The Review was about how to tax offshore retailers - not whether to tax them; and, strictly, the existing GST de minimis level is not a tax allowance but a value-for-money administrative easement only legally justified on grounds of the cost/benefit ratio of collecting GST on imported lower-value consignments.

7. The Review involved examining the potential for requiring offshore retailers to register for GST on a mandatory basis (a few already register voluntarily) so they can charge Jersey GST at the point of sale. This would benefit the Exchequer while at the same time making the importation of goods bought online less troublesome for islanders.

8. Additionally, dependent upon progress with that, the Review Team was asked to consider the scope for a reduction in (or elimination of) the de minimis threshold for GST which applies to unaccompanied imports - currently £135.

9. Any amendment to this de minimis threshold needed to be considered in the context of the potential for additional administration costs if there was a sharp increase in the number of parcels which would require to be detained by Customs, as well as the additional workload which would be placed on carriers, including Jersey Post.

10. A subsidiary aim of the Review was therefore to examine the scope to have more goods imported into Jersey "manifested" – that is to say, listed with details of the goods and their values by exporters/carriers – to improve the collection of Import GST and assist the movement of parcels into the Island.

Focus of the Review

11. The focus of the Review was to identify a way to collect more GST on personal importations while, at the same time, not burdening Customs and carriers with significantly greater workloads. This would be achieved through the implementation of two significant changes to current GST law and practice.

12. The first would be to register for Jersey GST the principal overseas suppliers of goods to Jersey individuals (including the "hosts" of virtual marketplaces). The second would be to reduce, or eliminate, the de minimis level. Both of changes need to be implemented to achieve the objectives of the Review.

Compulsory GST Registration for Offshore Retailers

13. A major initiative to alleviate the pressure, referred to above, on Customs and carriers is to legislate for major online sellers into Jersey to register for GST on a mandatory basis. Some offshore retailers do already voluntarily register for GST and remit the taxes collected to our Exchequer. It is anticipated that the GST registration threshold for such businesses would be the same as for domestic suppliers, ie turnover above £300,000 per annum.

14. The effect of this would be that such sellers would charge GST to the customer at the point of sale. In this way, when the goods arrive on the island, GST will already have been paid by the customer and no further import formalities will arise. The seller will account for the GST to Revenue Jersey in the normal way through their quarterly GST return.

15. A general concern in requiring mandatory registration of offshore retailers is that some retailers may choose not to supply goods into Jersey. The risk of this occurring has always been the rationale for not acting ahead of the EU/UK. Once large retailers had introduced systems to satisfy the requirements of the EU and the UK, it was increasingly likely that the benefits of selling into Jersey would outweigh the marginal cost of adjusting systems to cater for Jersey's GST requirements (which are inherently simple compared to other jurisdictions).

16. The Review Team has engaged with a selection of Offshore Retailers, focusing on the largest. The reaction has been overwhelmingly positive with retailers signalling preparedness to make the necessary changes. Assuming Ministers wish to proceed, we will continue actively to engage offshore retailers as the draft legislation is developed. Their key requests have been that Jersey seeks to mirror EU/UK legislative terms and definitions to enable the smoothest operation of their systems; and that we give at least one year's legislative notice of change so that they can invest and implement change with legal certainty.

Smaller Offshore Retailers

17. It has not yet been possible to engage many smaller retailers but, having ascertained the likelihood that the largest offshore retailers will be content to register for GST and will continue to supply Jersey, we consider this a secondary issue. It is open to smaller offshore retailers, trading in Jersey below the annual threshold of £300,000 to register voluntarily for GST.

18. For any that do have a turnover exceeding £300,000 or more, another option is to appoint a "fiscal representative" on the island to do the necessary legwork for them. GST law already provides for this.

19. Alternatively – and for much smaller ("niche") offshore retailers whose turnover is below £300,000, the existing arrangements – declaration by the importer in Jersey – will remain available where the value of goods does exceed the de minimis level.

De Minimis Threshold

20. As stated above, the de minimis threshold has always been an administrative easement on costs grounds. It is not a tax relief. With recent developments in technology, the cost of collecting the import tax has been reducing. This allowed Jersey to reduce the threshold last year from £240 to £135, based on an assessment at that time that, at £135, Customs would achieve at least a 4:1 return on investment ratio on this marginal recovery of tax.

21. Given the costs of collection continue to reduce and that these proposed changes would further reduce the costs of collection, we anticipate (based on historic Customs data) that we can re-set the de minimis level in the region of £40 to £60 and still achieve at least a 4:1 return on investment. We do not believe we can follow the UK's and EU's suit in abolishing the threshold altogether – still on value-for-money grounds and because of the risks of slowing down the movement of lower-value parcels into the island.

22. Additionally, a modest threshold will allow for family gifts and so on to be sent to islanders from overseas without incurring an importation cost.

23. It may be necessary to allow offshore retailers to take advantage of the de minimis level if they wish to do so to avoid the creation of a new form of discrimination between different sizes of offshore retailer.

Maintaining Consumer Choice

24. Based on discussions with retailers to date, we have a high degree of confidence that offshore retailers will continue to supply their existing range of goods into Jersey. For smaller retailers (below the £300,000 registration threshold), the existing system whereby the consumer pays any GST due will continue to ensure that smaller retailers continue to sell even if they choose not to register for GST voluntarily.

The Customs "Portal"

25. In the event that the proposed changes (in addition to recent Brexit-related changes) do increase the usage of the Customs system (CAESAR) for islanders to declare duties and taxes, we recommend that you provide some funding to enable Customs to improve its "front-end" customer portal. This reflects views expressed by Jersey Consumer Council; some carriers; and the Chamber of Commerce.

Manifesting

26. We understand that Royal Mail has undertaken to manifest goods coming to Jersey from the Spring of 2022. This is a potential "game-changer" which, if appropriately resourced by Customs, will allow the capture of more GST. It is impossible to quantify the potential revenue yield.

Timetable (Lead-in Times) and Commencement

27. If you are minded to proceed, having consulted offshore retailers and other stakeholders, we recommend that you should make the necessary law during 2021 with a commencement date no earlier than 1 January 2023. This should allow stakeholders sufficient time to prepare for implementation.

Compliance Costs for Businesses

28. Provided that we arrange things to minimise the need for any significant increase in warehousing space in Jersey (for detained goods where payment is required locally), compliance costs for offshore businesses are likely to be limited to the computer changes needed to charge Jersey GST and remit it to the Jersey Treasury. There are likely to be some additional costs for carriers depending upon the administrative requirements established to implement the changes and potentially offset by accelerated clearance of more goods where GST has been taken at the point of sale.

Implementation Costs for Government

29. There will be no significant additional costs for Revenue Jersey from extending the scope of GST registration. The Jersey Customs & Immigration Service (JCIS) will need additional funding to support a number of new officers to administer the lower de minimis threshold and capture of Import GST from manifested goods. Additionally, we will ask you to consider investing in the improvement of the CAESAR's "customer portal". The headline costs currently estimated are as follows.

30.

	2022	2023	2024	2025
Capital	**186,240**	**0**	**0**	**0**
Running	**75,000**	**300,000**	**315,000**	**331,000**

Revenue Benefit

31. We currently estimate the following revenue benefits in terms of increased Exchequer receipts. It should be noted that, post-Covid, we may see a persisting trend of increased online shopping. Any growth is likely to displace domestic sales so is disregarded for this estimate.

	2022	2023	2024	2025
Projected Additional Revenue receipts	**Nil**	**£1,481,909**	**£1,556,004**	**£1,633,804**

The "UK VAT" Issue

32. The Jersey Consumer Council has supported us by garnering consumer feedback on proposed changes. Not surprisingly, many consumers do not relish potentially increased costs from online shopping. An area of concern has been the perception that many offshore retailers keep VAT within their Retail Selling Price when selling into Jersey. If they do, this would be included in the "customs value" of the goods when charging GST.

33. It is certainly possible to find examples where some retailers (usually smaller ones, sometimes selling through marketplaces) do overtly invoice a VAT charge. If challenged, some will refund it. Revenue Jersey has done work in recent years to discourage this practice but, ultimately, the power lies in the hands of individual consumers not to buy at a price they do not want to pay.

34. That said, an examination of the "top ten" offshore retailers by volume (according to Customs information) has demonstrated that currently only one of them does charge VAT and that it does refund it on request. Three of the top ten do already charge GST and remit it to our Exchequer.

35. Furthermore, it is now clearer from this review that some retailers do seem to set a Retail Selling Price across the British Isles sterling zone which encompasses delivery costs and local taxes. This ensures that goods are sold at the same price whether bought in St Helier or Lerwick (in the Shetland Islands) – and reduces business costs by obviating differential pricing. This may well indicate that the introduction of Jersey GST at the point of sale is likely to absorbed within that British-Isles-wide pricing approach and may therefore not necessarily result in increased retail prices.

Disaggregation

36. Disaggregation is the practice of seeking to evade taxation by disaggregating purchases to keep below the de minimis threshold.

37. On review, the Team considers that the existing provisions prohibiting disaggregation of consignments received on the same day from the supplier for the same importer are sufficient for the future. Charging at the point of sale by larger retailers should reduce the currently problems currently associated with the practice of disaggregation.

Conclusion

38. It now seems entirely feasible to mandate GST registration for offshore retailers (with Jersey turnover exceeding £300,000) and, at the same time, further to reduce the GST de minimis level – to somewhere between £40 and £60, while still achieving at least a 4:1 return on investment on the marginal recovery of tax. This will further reduce the inherent discrimination between goods bought online (offshore) or domestically. It is also projected to generate additional annual revenues in the order of £1.5 million in 2023 at an additional annual cost of around £300,000 (a 5:1 return on investment in respect of marginal recovery of tax).

39. In implementing such changes, we must seek to ensure we introduce no new form of discrimination between offshore retailers and give them sufficient notice to make changes to their systems and procedures in an orderly fashion.

40. The current system whereby islanders can account for Import GST locally would be maintained for those supplies of goods where GST is not charged at the point of sale.

Revenue Jersey

June 2021

Terms of Reference – Review of the Administration of the Collection of Import GST in respect of Unaccompanied Goods for Personal Use.

<table>
<tr><td>Background</td><td>
Long-standing Government policy is to be a “fast follower” of EU and UK developments which are, inter alia, likely to lead to a system where retailers based in one jurisdiction (the country of origin) are obliged to charge the VAT/GST prevailing in the country of destination (the home of personal importers) and remit it to the Treasury of the country of destination.
EU changes are expected in summer 2021 and there is a high level of expectation that Jersey will act quickly to “level the playing field” for domestic retailers.
This will involve, potentially, the further reduction - or complete abolition - of the GST “de Minimis level” and its replacement (possibly) with an appropriate level of relief for genuine gifts.
It is unlikely, for Jersey, that “one size will fit all”. For example, some offshore retailers already have arrangements to pay GST in Jersey by being registered. It is likely we would want to retain those arrangements and possibly extend them in some circumstances – possibly by mandation.
Equally, some smaller (particularly non-European) offshore retailers would be unlikely to be captured in such systems (which suit major offshore-retailing models) and domestic action would still be needed to collect taxes from islanders.
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<tr><td>Objectives</td><td>
To review emerging plans in the EU and the UK; and existing practice in Jersey with a view to modernising the systems for collecting import duties (including Import GST) for goods for personal use, from 2023 at the latest:

to reduce costs of collection and free up the time of Customs officers in the post-Brexit environment
to secure Import GST on most retail sales in and into Jersey, to improve the revenues available to Government and create a “level playing field” for domestic retailers
to reduce the compliance burden on islanders and enable the widest possible consumer choice

To make recommendations for change that are legally viable and politically acceptable.
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<tr><td>Issues</td><td>
Whether to act early to secure change in respect of major offshore retailers. On the 80/20 principle, this would significantly deliver expected benefits and alleviate pressures on JCIS.
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	• The proposed changes/strategic consequences in other jurisdictions such as the UK and Europe and consider any local impact. • Whether to oblige all large offshore retailers to appoint a Jersey agent to account for GST versus risk of reductions in consumer choice. • Legal considerations and policy drafting • Timing of any changes to current GST de-minimis level • Whether a "gifts relief" is needed and how to administer it. • The scope of any anti-avoidance or disaggregation provisions. • IT (CAESAR) considerations. • How to minimise the role of Customs' resources in future systems and processes. • The scope and opportunities for greater use of agents and intermediaries in Jersey as "agents of first or last resort" for offshore retailers. • Forecast costs of systems change and increased revenues
Methodology	The Review Team will be led by Revenue Jersey but will be a joint endeavour with Jersey Customs & Immigration Service. The Review Team will conduct desk research; establish contact with EU and UK tax administrations and key offshore retailers; identify and seek views from local stakeholders and form findings and recommendations for change.
Reporting	A Steering Group will be chaired jointly by the Comptroller of Revenue and the Agent of the Impots. ✓ Early Findings by 28 February 2021. ✓ Emerging Findings by 30 April 2021. ✓ Final Report to Ministers by 30 June 2021. Political oversight will come from the Treasury Ministerial team and the Revenue Policy Development Board.

Annex B

Representative Bodies Consulted

Jersey Consumer Council

Jersey Chamber of Commerce

Jersey Business

Citizens Advice Bureau

The Review Team also consulted a range of offshore retailers and carriers.