

Corporate Services Scrutiny Panel

Fourth Report

Review of Goods and Services Tax: De Minimis Waiver



Presented to the States on 11th January 2008

S.R.1/2008

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Key Findings and Recommendations

This report on the de minimis waiver is part of the Sub Panel's review of the arrangements for the implementation of the Goods and Services Tax and is the fourth in a series of reports on this issue. The key findings of this review are as follows:

- The Treasury and Resources Minister's proposal to set a de minimis waiver at £12 (which would allow tax free importation of goods up to the value of £400) is based almost exclusively on the issue of collection costs and resource implications. A decision on the de minimis waiver should take into account a broader view of the island's economy.
- Local Retailers play an important role in the Island's economy and they have a strong case for believing that a high de minimis level will give external competition an unfair advantage which will harm their businesses and ultimately harm consumer interests.
- A high de minimis level would provide a further price incentive to consumers to search for cheap options on the internet. There already exist substantial price incentives for local residents to purchase goods off-island. A 3% margin on goods will not by itself create a substantial movement away from local purchasing but is likely to exacerbate an existing trend. It is possible that the introduction of GST will encourage more consumers to investigate options on-line.
- To make a significant difference to retailers the level of de minimis would need to be set in the region of £150 (this would mean the de minimis for GST reduced to £4.50).
- It is not only retailers that would lose out. If a significant amount of retail purchasers switch to off-Island suppliers, the States could lose not only the GST on those sales but also income tax on the lost company profits and reduced employee wages.
- A high de minimis also means that the majority of consumers who continue to purchase goods locally and pay GST on these purchases are effectively subsidising a minority of other consumers who are avoiding GST (legitimately) by buying from off-Island suppliers.
- We recognise that a low de minimis level of £150 would have significant resource implications in terms of additional operatives and storage facilities for the Customs Department, Jersey Post and courier operators.
- We believe that a commercially minded approach to the processes of assessment and collection of the tax, together with the competitive nature of the free market in parcels and packets, would be capable of finding solutions to the logistical issues, whilst minimising the extra resources and costs that carriers might wish to pass on to their customers in their pricing structures.
- For this reason we believe that the assessment, collection and submission to government of taxes and duties on unaccompanied personal imports should be the responsibility of the carriers, with Customs involvement focused on risk based auditing and the monitoring of 'ro-ro' car and van traffic, and airport passenger traffic as at present.

Goods and Services Tax: Setting a De Minimis Waiver

- We believe that a de-minimis level closer to the European norm (equivalent to about £100 at Jersey's 3% tax level) would protect the tax base and ensure greater fairness for retailers and consumers.

Recommendations

We recommend that

- a) the de minimis waiver in respect of the Goods and Services Tax and duty on personally imported goods below which the tax will not be collected should be reviewed within a period of 12 months from the start of GST.
- b) the States request the Treasury and Resources Minister to prepare any necessary legislative changes to allow parcel and packet carriers to calculate and collect GST and duty for items imported unaccompanied by members of the public and other 'non approved' importers.
- c) full and accurate records are kept by value for all incoming personal consignments (at whatever value) so that more accurate statistics on the revenue loss can be built up.
- d) that the Comptroller and Auditor General be requested to undertake an independent process review on the procedures for assessing incoming parcel traffic for GST and collecting the tax, at some point in the near future.
- e) the possibility of having a fixed-amount GST for low-value imports should be given full consideration by the Attorney General, as an alternative to lowering the de minimis waiver.

Introduction

The current proposal: (P.171/2007)

In P.171/2007 the Minister proposes that the de minimis waiver of duty or Goods and Services Tax on imported goods below which the duty or tax due will not be collected should be fixed at £12. This waiver applies to all Customs charges, not just to GST.

This proposal refers to the amount of tax or duty liable to be collected on the goods, not to the value of the goods. The maximum value of goods which could be imported free of GST with this waiver would be up to £400.

Where customs or excise duties are also payable on import, tax will only be waived if the total of GST and other duties is below £12, so the value of goods which could be imported free of GST and other duties will be substantially lower than £400. This most obviously applies to tobacco and alcohol, but there are also import duties on many other goods if they are sent from outside the EU.

Background

In early discussions on this matter the Treasury and Resources Minister indicated to us that he was minded to set a de minimis level in the range £100 to £500. Prior to making a decision on this matter the Minister sought advice from Crown Agents, the GST consultants for the States, and the States Economic Adviser. Both supported a de minimis set at approximately £500 based principally on the administration and collection costs (for Customs, Jersey Post and couriers) but also on potential delays faced by importers

The Minister told us that his decision to opt for a slightly lower de minimis level at £400 in value was an attempt to make a concession to the concerns expressed by retailers:

Almost everything is pointing me towards a higher level of de minimis. The only thing that is pointing me to a lower limit is the concerns of some retailers about competition.¹

As seen below retailers have argued that a high de minimis level would give an unfair competitive advantage to off-island suppliers who would effectively be able to provide a range of goods up to quite a high value free from GST.

Objectives for the review

In our review we have examined the argument that administration and collection costs should be the principal factor in determining the level of de minimis waiver.

We have also studied the retailers' case for a lower de minimis level and asked ourselves whether the concession proposed by the Minister adequately addresses their concerns.

Finally we have sought to identify an alternative to the proposed high de minimis waiver.

¹ Public hearing dated 7th August 2007

Public Consultation - summary

The views of various representative groups are summarised below.

Retailers

Jim Hopley, Chief Executive Designate, Co-operative Channel Island Society, expressed the concerns of many local retailers:

We have been arguing for some time now that the local Island retail scene, especially that of many High Street operators, is extremely fragile and to open them to more pressure from much lower cost based external sellers whether internet based, catalogue based or discount warehouse type retailers could have far-reaching consequences for many and could create unemployment and other problems for the Island.²

Mr. Mike Liston, Chief Executive, Jersey Electricity Company, told us:

In our own market, we already see regular adverts in the JEP from UK based wholesalers able to ship into the Island naturally without VAT. A high de minimis threshold will mean that we will be at a further 3% disadvantage, which will lead to natural concerns about our business, related jobs, etc.³

Malcolm Lewis, Director, Romerils, pointed out that a high de minimis level could lead to a reduced range of goods in local shops:

Without a realistically low level a large part of our retail business is seriously threatened. The areas most at risk are tools, fixings and white goods where there is competition from mail order and e-trading from the mainland. These are low margin sectors that require large capital investment in buildings to display and store the products. Any further reduction in either volume or margin will mean their removal from our portfolio⁴.

The issue of service facilities was highlighted by Alan Smith, Chief Executive of the Channel Islands Co-operative Society Ltd:

A further consideration, sometimes not considered by consumers when purchasing from the United Kingdom, is the ongoing repair service. Many island businesses provide a service department, often at considerable cost, to support their own sales. It is totally unreasonable to expect these businesses to repair products purchased in the United Kingdom due to the unfair tax advantage and not having the cost of supporting ongoing repairs⁵.

Several retailers argued that the de minimis level should be equivalent to the tax generating level which applies currently in the United Kingdom. With a VAT rate of 17.5%, the de minimis level of £18 in the United Kingdom generates £3.15 in tax. To achieve the

² Letter to Sub Panel Chairman, dated 1st August 2007

³ Letter to Sub Panel Chairman, dated 14th August 2007

⁴ Letter to Sub Panel Chairman, dated 6th August 2007

⁵ Letter to Jersey Evening Post, dated 16th October 2007

same level of tax receipts in Jersey, with a GST rate set at 3%, a de minimis level of £105 would be appropriate.

Chamber of Commerce

The Chamber of commerce was reluctant to put a definite figure on the de minimis level. In correspondence Mr. R. Shead, Vice President of the Chamber of Commerce, wrote:

It is important that a reasonable de minimis level is set for imported goods and the challenge will be to agree an appropriate figure. An obvious level would be £100 however we can see reasons why this is both too low and too high. Administratively it does not seem worth the effort to collect £3 of tax. On the other hand a large number of imports would still fall below this figure thereby disadvantaging on-island business.⁶

In oral evidence he said:

The real issue is what is the amount of tax collected, and what is the cost of actual collection? ... it is not for Chamber to suggest what the [de minimis] figure should be. Any figure that makes our retail members more uncompetitive with the current trend to Internet shopping and off-Island shopping is going to be viewed with concern by our retail membership. As Chamber, we do not have the detailed knowledge of staffing costs in the Custom service as to how they would manage that. What it needs is a form of cost benefit [analysis], as to what does it cost to collect?⁷

Air Express Operators Group

The Air Express Operators Group (AEOG) was strongly in favour of a de minimis level as high as £1,000 on the basis that their members would be overwhelmed by the additional administration of dealing with a large number of consignments:

Approximately 800,000 items were transported to Jersey via AEOG members in 2006. This was a 30% increase on the previous year and 2007 is likely to bring the number of imported items to about 1,000,000. Of these goods, we estimate 30% will fall into the category that will require payment of GST prior to release if the de minimis limit is set at £100. This alone will mean 300,000 items having to be stored by our members pending payment. The facilities available to us at the airport do not permit the storage of such a large quantity of goods and consider that this would ultimately result in the flow of goods to the islands being interrupted as there are currently no facilities to hold such a quantity of goods⁸.

AEOG argued that a low duty threshold would lead to delays in delivery of goods as importers would need to be contacted and the tax paid before the goods could be released, thus threatening the concept of a 24-hour delivery service into the Island.

⁶ Letter to Sub Panel Chairman dated 26th July 2007

⁷ Transcript of public hearing dated 7th August 2007

⁸ Letter to Treasury and Resources Minister, dated 22nd May 2007

Furthermore, AEOG maintained that additional costs incurred by the carriers would be passed on to the customers, including retailers, in the price that they were charged for carriage to Jersey. In their view, this increase in costs would counteract the benefit to the retailer of having a low de minimis level on imports

Institute of Directors

The Institute of Directors favoured a simplified approach with minimum impact on business, with low administration costs and the highest possible de minimis level and urged that a thorough cost benefit analysis be undertaken by the Treasury. In their view the current threshold in the United Kingdom was too low and not cost effective:

Recent experience overseas indicates that governments are increasing their thresholds on mail order and personal allowance imports to ensure that the assessment and collection costs, which should include training and information technology, are fully recoverable from tax receipts on each consignment.⁹

Consumer Council

The Jersey Consumer Council said that that a high de minimis would stimulate a competitive edge to locally obtainable prices and enable Jersey consumers to make purchases at favourable prices on the internet, free of United Kingdom VAT¹⁰.

The Consumer Council also referred to the benefits of reducing of red tape and delivery problems, the minimising of customs checks and declaration of personal baggage at ports of entry and finally keeping down the number of staff required to police the Regulations.

Comment

We recognise that finding a correct balance between the administration and collection costs and protecting Jersey businesses from unfair competition from off-island suppliers is a difficult judgement. In terms of ease of administrative arrangements it is hard to argue against the proposal to set a high de minimis. Nevertheless, we believe that it is important to consider seriously the potential consequences of a decline in the local retail market, or at least in sections of the market, as feared by some witnesses. There are several areas to be considered:

- Loss of choice for consumers - Local retailers already have a problem in carrying a wide stock range in some markets, and this already drives consumers to shop off Island. A further incentive to shop off Island runs the risk of imploding local retailing in certain retail markets due to the loss of a critical mass for commercial viability.
- Loss of job opportunities - The retail market currently accounts for one sixth of employment in the island¹¹. If retailing declines sharply in the future, it may not be possible to move workers into other high value sectors such as Finance – at least without major re-training. What's more, the vast majority of retail workers are local

⁹ Letter to Sub Panel Chairman, dated 17th September 2007

¹⁰ Letter to Sub Panel Chairman, dated 7th August 2007

¹¹ Statistics Unit: Labour Market report June 2007

residents – according to the Jersey Labour Market Survey, 87% of retail & wholesale workers have residential qualifications¹².

We also believe that it is important to consider the issue of fairness for the large numbers of local consumers who will continue to purchase goods through local retailers and thus pay the GST due on their purchases. It seems to us that local consumers will in effect be subsidising those who make their purchases off-island.

It should be remembered furthermore that the de minimis waiver is a concession rather than a right for consumers. While it may appear attractive to some consumers to have the ability to avoid paying tax on an off Island purchase we do not believe that it would be a responsible attitude to allow a situation to develop where large numbers of imports arrive in the Island without a requirement for the tax to be paid. If such a trend were to grow following the implementation of GST the Minister might find that the tax base becomes eroded.

¹² Statistics Unit: Labour Market report June 2007

International position

International practice varies considerably with regard to setting a de minimis waiver depending on particular circumstances in different jurisdictions.

Table 1 indicates the current de minimis level in five different countries, showing the value of the tax collected in each jurisdiction and the equivalent threshold if their tax rate was set at 3% as in Jersey.

Table 1: Value of De minimis limit for Customs GST in other jurisdictions

	GST rate	De minimis limit	Value of tax collected	Equivalent threshold at 3%
United Kingdom	17.5%	£18	£3	£100
New Zealand	12.5%	£156 (NZ\$400)	£20 (NZ\$50)	£667
Singapore	7%	£130 (\$400)	£9 (\$28)	£267
Australia	10%	£430 (A\$1000)	£43 (A\$100)	£1,443
Canada	6%	£10 (CAN\$20)	£0.60 (CAN\$1.20)	£20

It is interesting to note that

- Singapore and New Zealand have de minimis values in the region of £130 to £160 in value of goods imported. This would be in the region acceptable to local retailers
- Australia on the other hand has set a relatively high level de minimis at £430, a threshold that is similar to the level currently proposed by the Treasury and Resources Minister for Jersey.
- Canada has set a very low threshold in order to protect domestic businesses from unfair competition from its much larger neighbouring economy. Canada has a relatively low rate of GST together with a very low de minimis threshold, equivalent to just £10 (which would collect just 0.60p in tax). To cover the administration costs of dealing with the volume of parcel traffic Canada Post charges \$5 Customs processing fee for each item. The Canada Postal Guide to Customs Requirements states

*'A handling fee of \$5CDN per dutiable item or taxable mail item is applied. This fee is in line with the government's efforts to help recover costs from those who benefit from services, and is similar to arrangements in the United States and other countries.'*¹³

Comment:

The elements that influence local demand for non local shopping are also relevant in a decision on a personal import de minimis. The greater the demand and the weaker the local retail market relative to its close neighbours, the more governments need to have due regard to protecting the local tax base. Small markets tend inevitably to be weaker than larger ones, but besides size these elements include

- Cost of transport from the nearest 'power retailing' market

¹³ <http://www.canadapost.ca/tools/pg/manual/pdf/PGcustoms-e.pdf>

- Delivery time and delivery infrastructure
- Local market critical mass – level of choice, stock availability, local price
- Computer and internet skills

It is interesting to note that countries that operate a relatively high de minimis usually have a combination of these elements that reduce local demand for non local shopping. When compared to Jersey for example, even relatively small countries like New Zealand still have much larger retailing markets that can sustain the necessary critical mass to offer consumers choice and short delivery times from stock, but in addition their remote location makes carriage of small consignments from other countries expensive and non local shopping less attractive.

Conversely in the case of Canada, this is a country with smaller centres of commerce and population, very closely bordered by perhaps the world's most powerful retailing nation, the USA. It is easy to see that with its close proximity to major centres of population like Detroit, and the cheap and convenient road transport infrastructure that exists, Canada finds it necessary to operate a very low de minimis in order to preserve local retailing as far as possible and minimise loss of tax revenues.

We believe that the Canadian example of an administration charge to recover the high collection costs of a very low de minimis and dealing with the volume of parcels, from those who actually import goods, may provide a potential solution for Jersey. We examine this proposal below (see page 16).

Resource implications

Customs and Excise

With a de minimis charge level of £12, the Customs and Immigration Service consider that five additional staff would be adequate to account for GST on imported goods. The additional staff would be multi-functional Customs and Immigration officers who would be integrated into existing teams: three staff would supplement the Revenue and Goods Control team and two would enhance the freight intelligence capability.

These projected staffing levels for Customs are based on an assumption that the de minimis level on the value of imports will be set at a level which will not require large numbers of parcels to be intercepted and held for payment. Customs have stated consistently that a lower de minimis waiver would result in serious resource implications for the Service.

Any de minimis waiver will apply equally to all goods imported into the Island, whether as normal freight or via the postal service, courier traffic, or new items imported personally by travellers. Items imported by Approved Traders and courier companies will not require a significant level of physical examination to calculate GST liability as they operate with a shipping manifest with a clear disclosure of the nature and value of the goods.

On the other hand, effective checking of large quantities of postal packages and parcels, through Jersey Post, although a relatively small proportion of the overall freight that is imported into the Island, would require a disproportionate number of staff to monitor effectively.

Analysis of postal data

Crown Agents carried out an analysis of the volume of postal traffic arriving through sample tests at Jersey Post and fast courier services. They found that on average 3,000 parcels arrive in Jersey every day (500 through Jersey Post and the rest through couriers). At Jersey Post the vast majority of consignments were low value (below £250 in value). Based on their sample they found that a large number of parcels had no value declaration. Of those which did have a value:

- 70% were below £100;
- 15% were between £100 and £200;
- 11% were between £200 and £500;
- 3% were between £500 and £1,000; and
- 1% were over £1,000

Similar surveys were conducted at courier firms in order to identify trends in terms of volume against value with similar results¹⁴.

Based on this survey Crown Agents found that:

¹⁴ Review of the Value de Minimis Limit for Customs GST Charges on Importation of Goods, Crown Agents ref No T23182, June 2007

- If the de minimis were set at £500 in value only a tiny proportion of parcels would require assessment for tax - about ten parcels a day at Jersey Post, or 2% of their parcel traffic. The average tax collected per item would be approximately £20 - £25.
- A similar low proportion of parcel traffic through the five fast courier services would attract GST with a de minimis set at £500 in value.
- If the de minimis were set at £250 the number of daily parcels subject to GST at the Post Office would rise to 35 and the average GST collected would be about £10 per item.

Lack of documentation

There may be a problem, however, in making any firm calculations based on these figures, as Crown Agents found that approximately two thirds of the consignments to Jersey Post do not currently have the documentation needed to even decide whether the package is below the de minimis at whatever level it is set. Previously, although a legal requirement, this has not posed a problem because tax was not applicable on goods imported in this way. A clear and accurate value on imports, however, will be required with the introduction of GST.

We were informed that the Customs and Immigration Service was working with Jersey Post to use their contacts with Royal Mail to try to resolve this problem. To date there has been little change in the number of parcels with a declared value.

A similar proportion of parcels arrive through courier services without value declarations. The Customs Director informed us that these consignments are less problematic to Customs. A large percentage of the fast courier 'parcels' are business documentation that will never be subject to GST whereas the 'parcels' at the post office are more likely to contain goods that may be subject to the tax. There is also the added difference that courier traffic is manifested and therefore requires less Officer intervention than postal traffic that is mostly un-manifested.

Resource implications for Fast Courier Operators

The submission from the Air Express Operators Group¹⁵, referred to above, makes a strong case for a high de minimis waiver based on claim that a low level of waiver would require substantial additional resourcing in terms of warehousing and staffing. They state that a large number of packages (an estimated 300,000 based on 2006 courier traffic) would need to be delayed and stored pending payment of the GST. AEOG said in their submission that the facilities available to them at the airport would not permit the storage of large quantities of goods and they believe that this would result in delays in the flow of goods to the island.

Comment

Submissions from Trade Associations are by default compromised by a conflict of interest. Government agencies accept this situation and make allowance for this when deciding on

¹⁵ Letter to the Treasury and Resources Minister dated 23rd May 2007

policy. A very high de minimis would undoubtedly be in the commercial interests of parcel and packet carriers because it would minimize their operating costs whilst also provide a further incentive for consumers to shop off Island and help to further drive carriage business volumes.

In our view, the courier firms would be capable of finding solutions in order to continue to provide fast throughput into the island. Much of this traffic consists of documents which would not be subject to GST. In addition, much of the high value traffic is directed to local businesses and there is a manifest record of all goods. These customers will undoubtedly make use of the most efficient means at their disposal to ensure speedy delivery of their consignments.

The United States shows how this might be done. Goods shipped by courier, express or other commercial service are usually expedited through Customs Border Protection by a customs broker hired by that commercial service and then delivered seamlessly to the addressee¹⁶.

Here in Jersey, methods are already being prepared in order to avoid unnecessary delays in despatching packages. For example, it will be possible to declare goods on-line direct to the Customs clearance system and there will be a facility for on-line payment using a debit card. It will also be possible for entry and payment of the goods before they arrive in the Island¹⁷.

¹⁶ Source; United States Customs Border Protection: Internet Purchases
http://www.cbp.gov/xp/cgov/import/infrequent_importer_info/internet_purchases.xml#PostalServiceCouriersandFreight

¹⁷ Source: GST Office: Frequently Asked Questions on Importing Goods

Costs of Collection

A proper assessment of an appropriate de minimis level should include detailed calculations of the collection costs and the amount of tax to be collected at various thresholds. Ideally we should also have seen a much more comprehensive analysis of the amount of GST lost at different de minimis levels. However, as we have seen above, there is limited data and only a rough estimate is currently available.

The Customs Director provided the following calculation of the collection costs of GST by his Department related to various levels of de minimis:

Table 2: Cost of collecting each £1 of GST at various de minimis levels

Post Office 13/06/2007						
De-Minimis (GST amount)	Value of goods	Number of parcels	Time to charge @ 15 mins. per parcel	Cost of Officer @ £30.74 per hour ¹⁸	GST collected	Cost of collection each £1 GST
£ 6.00	<£ 200	49	12.25hrs	£ 377	£ 447	£0.84
£ 9.00	<£ 300	23	5.75hrs	£ 177	£ 291	£0.61
£ 12.00	<£ 400	10	2.5hrs	£ 77	£ 174	£0.44
£ 15.00	<£ 500	6	1.5hr	£ 46	£ 126	£0.37

Source: Customs and Excise Department

The following qualifications should be noted:

- The calculation is based solely on the direct staff costs of a Customs/Immigration officer dealing with parcels at the Post office and does not include the costs to the Post Office itself.
- The figures are based on limited data with a simplistic calculation and at best could only be considered an indication
- No data is available on the number of items to be checked if the limit was set at £100
- It was assumed that nearly all the parcels with no declarations were below the value of £200 and so were discounted from the calculation.

The marginal cost and benefit of changing the de minimis are revealed as follows:

- To drop the level from £500 to £400 collects an extra £48, at an extra cost of £21;
- To drop the level from £400 to £300 collects an extra £114, at an extra cost of £100;
- To drop the level from £300 to £200 collects an extra £156, at an extra cost of £200.

¹⁸ The hourly rate is for an Officer at the top of Grade 10, inclusive of a shift allowance and is the total cost to the Service inclusive of Social Security and pension payments. Customs Officers will not only assess incoming packages for duties and tax but also prohibited and restricted items.

On the narrow question of collection cost versus revenue, therefore, dropping the de minimis to £400 would be slightly beneficial in revenue terms, dropping it to £300 is marginal, and dropping it to £200 is detrimental, since the extra costs exceed the extra revenue.

It should be noted that the Jersey Post sample represents just one sixth of the total postal and courier traffic into the Island. However, extending this calculation across to the rest of the courier traffic in the Island is not straightforward. A large percentage of the fast courier 'parcels' are business documentation that will never be subject to GST whereas the 'parcels' at the post office are more likely to contain goods that may be subject to the tax. There is also the added difference that courier traffic is manifested and therefore requires less Officer intervention than postal traffic that is mostly un-manifested.

Comment

We initially questioned whether the assessment and collection of GST could be carried out more quickly and cheaply than described above. In our view, a more commercially-minded approach to this process would be capable of establishing a more cost-effective procedure. A full enquiry into the current working practices in the Customs Service is beyond the capacity of the Scrutiny Panel. However, in order to assess the validity of this view, we suggest that the Comptroller and Auditor General be requested to undertake an independent process review on the procedures for assessing incoming parcel traffic for GST and collecting the tax at some point in the near future.

In the meantime, we posed a number of questions regarding the cost-efficient collection of GST on imports.

Firstly, why should the assessment and collection of tax be undertaken by grade ten Customs officers? We believed that this relatively low-level administrative task could be undertaken at less cost to the tax payer by using less costly staffing. We were informed by the Customs Director:

Jersey Customs has for many years had a multi-functional system of working; all Officers are expected to be proficient in the core aspects of Customs work, revenue collection and enforcement of prohibitions and restrictions, (following its implementation this core work will obviously include GST). Customs and Excise duties are administered by grade 10 officers and as GST is to be collected as if it were a Customs duty existing working practices will apply. These officers also work an alternating shift system and are paid the appropriate shift allowance. This working method has regularly been reviewed and remains the most efficient and cost effective system for the Service¹⁹.

Secondly, could the private sector be in a better position than the Customs Services to develop efficient processes for handling and assessing incoming parcel traffic? We suggested that the collection of the tax could be outsourced to the carriers, ie Jersey Post and the couriers, who could recover their administration costs through charging a processing fee on each item.

¹⁹ E-mail dated 4th December 2007

This would mirror the system in many other jurisdictions, including Canada (see page 10 above) the United States and the United Kingdom.

The US Guide to Importing Goods describes how the system operates:

'A Customs Border Protection (CBP) processing fee of \$5 will be assessed on each item of dutiable mail for which a CBP officer prepares documentation. The postal carrier will collect this nominal fee on all dutiable or taxable mail along with the duty owed. There is also a postal fee (in addition to prepaid postage) authorized by international postal conventions and agreements as partial disbursement to the Postal Service for its extra work in clearing packages through CBP and delivering them.'

In the United Kingdom the Royal Mail charges £8 for collecting VAT on packages. HM Revenue and Customs Guide to Shopping on the Internet states:

'The Post Office may charge you for clearing your package through customs. They handle packages for customs examination and, if required, open and re-pack them. The Post Office will also store packages if customs need to make enquiries; for example, when the contents have not been declared properly by the sender. The Post Office fees are collected at the same time as customs charges but are completely separate and customs cannot reply to queries about them.'

Usually the Post Office will collect charges on delivery. A charge label will be affixed to the package at the Customs Postal Depot. This will show the amount of customs charges to pay as well as any Royal Mail fee applicable.'

The Royal Mail Guide to receiving goods from overseas states²⁰:

At Royal Mail we are legally obliged to present HM Revenue and Customs with any items liable for customs charges. If you are expecting a package and aren't sure whether any fees are outstanding, don't worry. Royal Mail will pay the Customs charges on your behalf and send you a 'Fee to Pay' postcard, outlining how much you need to pay before we can release your item from your local delivery office. The customs charges could be made up of excise duty, customs duty and VAT. Any package that attracts customs charges will also incur a Royal Mail handling fee of £8 from 2 April 2007.'

Recommendation

In our view the administrative costs of dealing with low value packages should be covered directly by the persons importing the goods rather than the tax payer.

We also believe that minimising the extent and size of any administrative charge for this service is best left to the laws of competition within the commercial arena to determine. For this reason we believe that the responsibility for the actual collection of customs charges together with any additional administrative charge for that collection should be the responsibility of the carriers, with the Customs Department's role reduced to that of risk based auditors.

²⁰ See www.royalmail.com/customs

We believe that the implications of this proposal deserve further investigation. For this reason we requested the Treasury and Resources Minister to defer the States debate on P.171/2007 to allow us more time to carry out consultation with the principal stakeholders. The Minister, however, refused this request on the grounds that it was essential to settle the question of the de minimis level as soon as possible given the imminent commencement of GST. Our investigations into this suggestion therefore have been limited.

The Customs Director responded to our proposal as follows:

I believe that the introduction of a flat rate administrative charge for imported items would require additional legislation.

Manpower implications for the Customs and Immigration Service are impossible to calculate until it is known which operators will agree to identify consignments liable to the administrative charge and collect and account for whatever charge is to be levied.

In addition I consider that there will be i/t issues as our new Customs computer system for the collection of GST on imported goods is currently well advanced in development and obviously has no facility for the collection of a flat rate charge as this was never in scope²¹.

Recommendation

The possibility of having a fixed-amount GST for low-value imports should be given full consideration by the Attorney General, as an alternative to lowering the de minimis waiver.

We suggested to the Customs Director that if Jersey Post were to fulfil the same function as the Royal Mail in collecting the tax the role of the Customs Department could be limited to a risk based audit check. He informed us:

My initial view is that I see only minor problems to the Customs and Immigration Service associated with this proposal. The problems this proposal would present to Jersey Post and the fast courier companies may be a different thing altogether ... Such a scheme would greatly increase their resource requirements and also their storage space for goods they have been unable to deliver.

The only way that our role would be reduced to a risk based audit check with a very low de-minimis waiver would be to allow the Post Office and fast couriers to calculate the GST liability on each and every parcel that they import and then collect the tax on delivery of the goods. The Post Office and couriers would then remit this tax to the Treasury.

Whilst an audit of the fast courier traffic should cause few problems as there would be a manifest record of all goods imported an audit of the Post Office would be somewhat more problematic.

²¹ E-mail dated 14th December 2007

The Chairman discussed the suggestion of outsourcing with Jersey Post²². Jersey Post stated that they had previously considered the implications of this proposal in discussions with Customs. Jersey Post accepted the Royal Mail charge of £8 as a benchmark but indicated that work would be required locally to establish the actual cost which could be higher: the various processes involved in collecting the GST charge went beyond simply a fee for delivering the item to the customer and collecting the cash.

Jersey Post also stated that there appeared to be little commercial incentive for them to undertake the operation of collecting GST. The majority of high value postal business would be for Approved Traders who will be subject to a registration scheme which allows for charges to be managed through their normal periodic GST returns.

We sought the views in writing of other principal stakeholders who had previously made submissions on the de minimis waiver. At the time of finalisation of this report and due to the intervention of the Christmas break, these views have not been received.

The Sub Panel has learnt that the Customs and Excise (Jersey) Law 1999 places a legal requirement on the 'proper postal officer' to collect any duty due²³.

We would question why the Minister has not followed the practice in the United Kingdom and other jurisdictions by placing the responsibility for collection of the tax on the postal and carriage operators even though they have a natural initial reluctance to take on this function. It appears to us that the Minister has rather too meekly bowed to the pressures from Jersey Post and the courier firms at the expense of tax payers.

Recommendation

We recommend that the States request the Treasury and Resources Minister to prepare any necessary legislative changes to allow parcel and packet carriers to calculate and collect GST and duty for items imported unaccompanied by members of the public and other 'non approved' importers.

²² Meeting with Jersey Post Directors, 6th December 2007

²³ Customs and Excise (Jersey) Law 1999 Article 22 - Powers and duties of postal officers

Revenue loss

The Customs and Excise Director gave us the following estimation based solely on the parcel traffic at the Post Office (It does not therefore include courier traffic or other imports through ports of entry).

Table 3 - Tax foregone at Post Office at various levels of GST

De minimis	Value of goods	GST foregone in 1 day	GST gone in 1 year (300 days)
£6	£200	£578	170,000
£12	£400	£831	250,000

We believe that this calculation significantly underestimates the amount of tax foregone at various de minimis levels. The current lack of data, previously mentioned in this report, makes it impossible to be confident in this estimation. We believe, therefore that it is essential that full and accurate records are kept by value for all incoming personal consignments (at whatever value) so that more accurate statistics on the revenue loss can be built up.

Recommendation

Full and accurate records are kept by value for all incoming personal consignments (at whatever value) so that more accurate statistics on the revenue loss can be built up.

Other potential sources of revenue loss consequent to a high de minimis should also be taken into account, although they are difficult to quantify.

Increased shopping off-shore and on-line

It is likely that a high de minimis level will encourage consumers to turn increasingly to online shopping or other forms of off-shore purchasing (See the next section below for further discussion of this issue.) It is difficult to quantify the precise contribution of GST to this shift towards offshore purchasing as this has already been a trend pre-GST. The tax which the Treasury will forego on such sales is also very difficult to assess at this stage. However, it is conceivable that increased online and offshore shopping will lead to a significant reduction on projected tax revenues.

Freight imports

Our consumer survey (see page 23) shows that significant price savings are possible on relatively high value bulky items such as fridges, washing machines and other household appliances. These will be imported using sea freight carriers as manifested consignments and thus easily identifiable for GST purposes. With a high de minimis level these items will escape the tax and will become even more attractive to Island residents.

Non registered traders

Non registered retailers might also benefit from a high de minimis level which would allow them to import items tax free below the de minimis limit. They would then have the advantage of being able to price their goods at a competitive rate in comparison with registered traders who would have to account for the 3% GST.

Potential Unbundling of Purchases to avoid GST

A further important consideration with regard to setting a de minimis is the potential for importers to 'unbundle' consignments of imported goods to keep the total value below the threshold. For example, pre-GST somebody purchasing several items of electrical equipment would have bought them together. Post GST, if total cost of the items comes to over the de minimis value there will be an incentive to have them delivered separately in order to save paying the tax. Clearly this advantage will have to be balanced against increased the delivery and processing costs of multiple orders. We believe that this incentive may lead to a significant increase in low value consignments from off-Island suppliers to individuals and unregistered traders who will seek to take advantage of the possibility for tax free importation, even at 3%. At a possible higher rate of GST in the future, the incentive for savings will be higher.

Customs have stated that the de minimis waiver is concessionary rather than a right, and so could be withdrawn from importers who are seen to be abusing it in this way. However the practicalities of this are difficult, since proving that someone was abusing the system in this way would involve analysing and logging numerous parcels below the de minimis – precisely the time-consuming process that the high de minimis was designed to avoid..

Impact of increased off-shore shopping on the local retail market

There is no doubt that many islanders pre-GST are already purchasing large numbers of items off-island to obtain cheaper prices. Evidence for this is provided by the AEOG, which has found a 30% increase in 2006 in the number of items transported to Jersey compared to the previous year.

Online sales in particular have grown in recent years. Buying online has a number of potential advantages: generally lower prices, free of United Kingdom VAT, convenience, wide choice and quick delivery. In a national context the IMRG (Interactive Media in Retail Group) reported for July 2007

'a massive spike in online sales, up 80% on last year to a new all-time high. The IMRG Index burst above 4000 for the first time (4111), indicating that UK e-retail sales had exceeded £4 billion in a month for the first time (£4.2bn). Sales for the month were £1.86 billion higher than in July 2006.

The highest sales growth was in electrical goods (Digital Cameras, MP3s, Laptops) 102% higher than a year earlier. Clothing sales were also particularly strong.

There is no precise data for the volume of online sales in Jersey. However there are certain indications that online purchasing is already both popular and on the increase in the island:

- The Household Expenditure Survey 2004/05²⁴ shows high levels of home internet access in the Island. Increasingly computer access and computer literacy is becoming the norm across age groups and resistance to online purchasing is fading accordingly.
- The HES found that 20% of electrical equipment and 7% of recorded material (CDs and DVDs) were bought on line.

The last two sets of figures could also be taken to indicate that, by a large majority, Islanders continue to buy recorded material and electrical equipment through local retailers despite the significant price advantages of purchasing online. It would appear therefore that non price issues (such as the ability to see a product before purchase, the ease of returning goods, pre-and after sales service etc) continue to be important factors for local consumers.

The question is whether 3% GST saving on prices will add a significant new factor in driving purchasing trends away from the local retail market.

A further danger for Jersey retailers is that the publicity surrounding GST and the de minimis may encourage more people to investigate on-line prices and so discover the high level of savings that can be made.

²⁴ Chapter 7: Households in Jersey

Goods and Services Tax: Setting a De Minimis Waiver

In order to better understand the factors involved we decided to undertake two local surveys.

Survey 1: Price differentials on a range of electrical goods:

Table 4 shows the results of our survey on price differentials on a range of electrical goods. We compared prices for a random selection of electrical goods in Jersey stores with online prices ranging from £100 to under £500 (within the range of possible de minimis levels). We have factored in a 3% GST charge above current prices in Jersey stores. The prices quoted include delivery charges where applicable.

Table 4 Price comparison (as at 03/08/07)

Item Make & Model	Jersey Price (£)	+3% (£)	Online Price (£)	Inc Delivery	Price differential (Pre-GST) (£)	Price Differential (post GST) (£)	GST
Toshiba LCD 20"TV	259.99	267.79	186.38	√	73.61	81.41	7.80
Panasonic Mini Hifi -	139.99	144.19	119.35	√	20.64	24.74	4.10
Panasonic Microwave -	234.99	241.99	212.72	√	22.27	29.27	7.00
Dyson Ball Animal	329.99	339.89	259.14	√	70.85	80.75	10.00
Cuisinart Food Processor	199.99	205.99	187.23	√	12.76	18.76	6.00
Bosch Tumble Dryer -	214.99	221.39	222.76	n/a	(7.77)	(1.37)	6.40
Indesit Vented Dryer	149.99	154.49	148.97	n/a	1.02	5.52	5.50
White Knight Tumble Dryer	110.60	113.91	107.15	√	3.10	3.45	0.35
Sharp 26" LCD TV	429.00	441.87	347.89 (inc VAT)	√	81.11	93.98	12.87
Bosch Compact Dishwasher	269.00	277.07	300.00	√	(31.00)	(22.98)	8.02
Bosch Classixx Dishwasher	269.00	277.07	247.97 Sale	n/a	21.03	29.10	8.07
Bosch Garden Shredder	229.95	236.85	225.52	√	4.43	11.33	6.90
Kenwood Chef Food Mixer	269.99	278.08	219.99	√	50.00	59.09	9.09
Candy Larder Fridge -	257.99	265.72	239.98	√	18.01	25.74	7.73
Sony LCDTV	579.99	597.38	442.54	√	137.45	154.84	17.39
iPod nano 4GB any colour	114.99	118.44	88.99	√	26.00	29.45	3.45
Casio Digital Camera -	199.99	205.98	145.99 155.14	√	54.00 44.85	59.96 50.85	5.96 6.00
Draper Battery Charger -	124.21	127.93	134.42 174.68	√ ?	(10.19) (50.47)	(6.49) (46.75)	3.70 3.72

The majority of the electrical goods we surveyed are priced between £100 and £300. In most cases, United Kingdom online prices for electrical goods are already considerably

cheaper than local retail prices (although it is worth noting that there are still possibilities of finding cheaper prices locally).

The additional saving GST, due to the proposed de minimis waiver, is relatively small for items below £400 in value (generally between £5.50 and £10). There are relatively few items above £400 in value where savings of between £12 and £18 are possible.

Survey 2: trends towards use of online shopping:

In order to determine whether this level of saving would have a strong influence over consumer choice we commissioned the Marketing Bureau to undertake a consumer survey. The full report on this survey is available on the Scrutiny website (<http://www.scrutiny.gov.je/>) or on request from the Scrutiny office.

The survey gives an indication of the possible trend towards greater use of online purchasing. The principal findings were

- 69% of people surveyed used the internet for shopping (Question 3)
- The majority of goods purchased (60%) are under £100 (Q6)
- 34% of people gave price as an important factor when choosing to shop on-line, Other factors were convenience (32%) and larger selection (23%). (Q8)
- The most popular items for purchase on line were clothing (30%), electrical goods (16%), computing (12%) and household (10%). (Q7)
- The most important factors encouraging people to shop at a local retail store rather than online are the ability to have your product immediately after purchase (24%), closely followed by convenience (22%) and having the product displayed and demonstrated (17%). (Q10)
- Only 7% said that shopping locally was their only option. (Q10)
- Just under half of respondents (46%) said that would be encouraged to search the internet for items rather than shop locally in order to make a tax saving of £2.55. (Q12)
- If the tax saving was in the region of £12.00, approximately two thirds of respondents (67%) would be encouraged to search the internet rather than shop locally. (Q13)

Comment

The most significant finding from the survey was that, with the possibility of saving up to £12 in tax with a high de minimis level (£400) an additional 21% of respondents said that they would be more encouraged to shop on-line rather than use local retailers.

Goods and Services Tax: Setting a De Minimis Waiver

It would seem from our survey that the Minister's proposal to set the de minimis level at £400 rather than £500 is of little material consequence to retailers as a large number of popular items would remain tax free.

To make any real difference in terms of protecting the retailer from unfair external competition a de minimis of closer to £150 would be necessary.

Recommendation

We recommend that the de minimis waiver in respect of the Goods and Services Tax and duty on imported goods below which the tax will not be collected should be reviewed within a period of 12 months from the start of GST.

Retail sector and economic growth

The retail sector in Jersey has been in competition with cheaper options off-island for a number of years. Retailers believe that a high de minimis level will only increase this pressure and could lead to a loss of jobs in this sector.

We looked therefore for indications of whether there has been a decline in the retail sector over the last few years. Most recent statistical information on the economy²⁵ shows that, measured in terms of GVA (Gross Value Added), the wholesale and retail sector suffered a decline for the years 2000 to 2004, in line with the rest of the Island's economy. However, in the two most recent years for which information is available, 2005 and 2006, the sector has begun to show real gains as people have more disposable income allied to recent growth. The main features are

- In 2006 the wholesale and retail sector recorded annual increase of 6.5%
- Over the two year period 2005 -2006 real term growth of 2% was recorded in this sector
- Over the period 1998 to 2006, the GVA for the wholesale and retail sector is still marginally below the level recorded for 1998

Other sectors of the economy saw the following real-term growth in GVA between 2005 and 2006: Agriculture +2%; Manufacturing -6%; Electricity, gas & water -3%; Construction +7%; Hotels, restaurants & bars +3%; Transport, storage & communications + 3%; Financial intermediation +12%; Other business activities -2% (of which business activity -3%); Public administration +3%.

In terms of the labour market, the last three years has seen an increase of some 500 employees in the overall wholesale and retail market. (See Table 5)

Table 5 Employment in the retail sector 2004-2006

	<u>Jun-04</u>	<u>Dec-04</u>	<u>Jun-05</u>	<u>Dec-05</u>	<u>Jun-06</u>	<u>Dec-06</u>	<u>Jun-07</u>
Wholesale & retail	8,050	8,513	8,404	8,643	8,431	8,687	8,440
Wholesale	1,829	1,738	1,764	1,762	1,852	1,888	1,920
Retail	6,221	6,775	6,640	6,881	6,579	6,799	6,520
of which fulfilment	430	630	650	860	650	910	560

Source: Statistics Unit: Labour market reports

Clearly, the pattern is likely to vary for different retail sectors (for example in electrical goods which are particularly subject to trends in online purchasing). This is more difficult to determine as there is no sector specific data available at this level. The closest fit to the area in which we have focussed (electrical goods) would be "other retail sale of new goods in specialised stores"²⁶. Employment in this sector over the last three years has decreased by 58 from 2,356 as at 30/06/04 to 2,298 (30/06/07), a 2.5% reduction in staffing levels. In the non specialised retail area, i.e. general / department stores,

²⁵ Statistics Unit: GVA and GNI report 2006

²⁶ as classified by the Regulation of Undertaking Department

employment has increased by 310, from 2,186 in June 2004 to 2,496 in June 2007. Both these sectors therefore appear relatively healthy or, at least, not in decline.²⁷

Comment

These figures appear to show that the retail sector as a whole has been relatively successful in meeting the challenge of external competition. It might be argued therefore that the retail sector is performing strongly enough at present does not require a lower de minimis level in order to protect them from unfair competition offshore.

This argument, however, must be qualified by the consideration that current performance levels are being sustained during a period of high general business growth in the Island which may be masking the effects of increased uses of internet shopping.

A thorough investigation of the potential consequences of the loss of employment opportunities is beyond our capacity. These issues should be more properly addressed by the Economic Affairs Panel as part of its review of the Retail Strategy.

²⁷ Source of Information: Population office

Appendix

Panel membership

The Corporate Services Scrutiny Panel is constituted as follows –

Deputy P. J. D. Ryan, Chairman
Connétable J. Le Sueur Gallichan
Connétable D. J. Murphy
Deputy C. H. Egré

Officer support: Mr M. Haden and Miss S. Power

For the purposes of this review the Panel formed a Sub Panel, which was constituted as follows –

Deputy P. J. D. Ryan, Sub Panel Chairman
Connétable J. Le Sueur Gallichan
Connétable D. J. Murphy
Connétable M.K. Jackson

Independent expert adviser

The Panel engaged the following adviser to assist it with the review –

Mr. Richard Teather, BA, ICAEW, a senior lecturer in Tax Law at Bournemouth University; a Freelance Tax Consultant and a writer on Tax Law and Policy

Hearings

The Sub Panel held public hearings with the Treasury and Resources Minister and the Chamber of Commerce on 7th August 2007.

Consumer Survey

The full report of the Consumer Survey commissioned by the Sub Panel is available on the Scrutiny website (<http://www.scrutiny.gov.ie/>) or by request from the Scrutiny office

Submissions

The following written submissions were considered and are available on the Scrutiny website

S1	M.J. Liston, Chief Executive, Jersey Electricity Company
S2	SA. Radford, Chairman, Institute of Directors, Jersey Branch
S3	J W Huelin
S4	J. Hopley, Chief Executive Designate, Channel Island Co-operative Society Limited
S5	R. Shead, Vice President, Jersey Chamber of Commerce and Industry Incorporated
S6	P. Searle, Managing Director, Tech Computers Ltd
S7	M. Lewis, Director, Romerils
S8	Air Express Operators Group
S9	Deputy A Breckon, Chairman, Jersey Consumer Council