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## **Shipping Australia Ltd.'s (SAL) Submission – Streamlining Excise Administration for Fuel and Alcohol**

### **1. Introduction**

Shipping Australia is an industry association that represents the participants in Australia's international supply chain.

We provide policy advice and information to our 30 full members, which include ocean shipping lines and shipping agents active in Australia. We have over 40 corporate associate members, which generally provide services to the maritime industry in Australia. These services include port and terminal operations, pilotage, insurance, and legal advice among other things.

Our members handle the vast majority of containerised seaborne cargo imports to, and exports from, Australia. They also handle a considerable volume of our car trade and our bulk commodity trade. Our members employ more than 3,000 Australians.

Thank you for the opportunity to respond to the Deregulation Taskforce's consultation paper (the Paper) on how to streamline excise (and excise-equivalent customs duty) administration for fuel, beer and spirits.

Historically, arduous bunker fuel excise administration in the shipping industry has impacted Australian shipping agents. On average, annually there are 25,000 Australian port calls serviced by approximately 14,000 vessel operators. Shipping agents, acting on behalf of these vessel operators are subject to red tape and completion of unnecessary paperwork to pay bunker fuel excise to the ABF and then recover the full excise from the ATO with absolutely no net benefit to the Government. SAL has for many years canvassed for the abolition and simplification of this process and welcomes the government's deregulation agenda and timely review to *inter alia* streamline excise administration of fuel.

### **2. Below are **three circumstances that are causing confusion and increasing paperwork** within the shipping industry.**

- a) Ship operators using fuel in marine transport (on a ship) on an international voyage that becomes a domestic voyage and then reverts again to an international voyage.

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- b) The use of different shipping Agents for the one voyage causes confusion and therefore no duty is collected.
  - c) Some Agents were not paying excise. Also, Agents were unaware that duty paid was recoverable in most circumstances via a refund for international companies, and a Fuel Tax Credit is available for companies that are registered locally for GST.

### 3. **Onerous process associated with Reclaiming Bunker Excise**

Requirements for determining Single Voyage/Continuous Voyage Permits and international voyages are prescribed by the ATO. See Attachment 1 & 2.

All bunkers are dutiable if there is a disconnection from an international voyage and depending on the length of the disconnection, these duties are collected prior to the disconnection commencing (large disconnections) or at the first port after the disconnection is complete (incidental disconnections).

Customs requires a form to be completed for home consumption recovery of the duty payable. This may be via the BAS (Fuel Tax Credits) or via a refund if the company involved is not locally registered for GST.

Our members have expressed frustration with the current processes associated with reclaiming bunker excise. Below are example extracts of some of the feedback received.

#### ***Example Extract 1***

*“Reclaiming bunker excise and GST via Agents (if imported fuel is used during a coastal voyage) is easy enough - we pay the Agents a fee and they lodge this on our behalf.*

*However, it is an entirely different matter when fuel is fully taxed by the bunker supplier and the excise and GST are paid via the mother company OUTSIDE of Australia. The foreign company will need to register for GST in Australia to claim the paid GST back.*

*This registration is far from simple and requires tremendous paperwork. The bunker excise is claimed back by sending a number of papers to an email address and then the waiting game begins. The entire process seems incredibly ineffective.”*

#### ***Example Extract 2***

*Managing the risk as an Agent is proven to be not an easy task:*

- *There are ‘grey area’ rules for claims with the Tax Office, namely who is entitled to claim. The Tax Office doesn’t have the mechanism to stop double claim*
- *As an Agent we can only rely on principal declaration for their GST status which applies to bunker duty as well. We can’t find their tax status details ourselves as this is private/confidential information and the Tax Office won’t disclose it to us.*
- *Set up of master data GST flag errors could be costly. Shipping Operators & Agents like us don’t fully understand these complicated rules, the mistakes made will be costly to rectify, for the Agent only.*
- *The Shipping Operator would almost always prefer not to register for GST and use their local Agent as it is complicated, and they would need to open local bank account.*
- *The Tax Office won’t pay a refund to an overseas bank account. This means that a non-resident shipping operator must register their business in Australia in order to open a local bank account. Not many businesses want to have this registration. Once you are registered, especially with the Tax Office, you have to lodge regular returns irrespective of activity. If there is NIL activity for the period, you will still need to lodge a NIL return.*

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#### 4. **Section 5.1 of the Paper- Bunker Fuel Case Study – Inaccurate**

The case study included in the Paper is incorrect and reflects a misinterpretation of a dutiable voyage. Below is an explanation and interpretation as provided by one of our members.

*“The vessel owned by AKB Shipping discharges a part cargo of import cargo in Brisbane. It then backloads a part cargo of domestic cargo for discharge in Sydney and Melbourne. From Melbourne, it resumes its international voyage with the balance of the international cargo for discharge in Auckland.”*

*In other words, the vessel has two domestic legs of its voyage - Brisbane to Sydney and Sydney to Melbourne.*

*This is deemed as a “Short Term Disconnection from International Trading”.*

*For Short Term Disconnections, bunker excise is payable at the end of the coastal voyage and is based on the bunkers consumed during the coastal voyage.*

*HOWEVER, in the example, the vessel is treated as if it were a Long-Term Disconnection from international trading, with excise paid on all bunkers on board as well as on the bunkers purchased in Brisbane.*

*The ATO regulation states that a Long-Term Disconnection is deemed as a coastal voyage of “more than three coastal segments”. See ATO flow chart at **Attachment 1**.*

***This is a prime example of why we seek a review of the current arrangements.***

In addition:

- the responsibility to pay duty rests with the Master.
- Customs gives the Master of the vessel a package covering procedures on arrival.
- A GST payment must be made on the value of bunkers used for home consumption.
- Overseas shipping companies not registered for GST are able to claim (through their Australian Shipping Agents), a refund of excise duty paid on bunkers for international voyages.
- If the Agent is unable to claim through use of the Agent’s BAS, then a claim for refund may be made by writing directly to the ATO; and
- Operators using fuel on a vessel which was on an overseas voyage and received fuel duty free as ship's stores under the Customs or Excise Act are not entitled to a fuel tax credit.

#### 5. **Responses to Paper’s Consultations Questions (numbering as per Paper)**

Below are responses to the applicable consultation questions included in the Paper. They are based on feedback received from our members and provide a detailed insight into the day-to-day operation of a typical ship’s agent.

##### ***Introduction***

1. ***Could you describe your business and how it engages with the excise system (e.g. manufacturer, importer, customsbroker, distributor, duty-free business)? Do you have any general suggestions for how the efficiency of collecting excise could be improved?***  
A Shipping Agency on behalf of shipowners/time charterers who carry cargoes into, out of and between ports in Australia.

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As part of agency work, Ship Agents must advise foreign shipowners carrying domestic cargoes in relation to the bunker excise regulations and the subsequent full recovery of the excise using the Fuel Tax Credit scheme.

2. *Does your business have experience with or knowledge of overseas excise systems that you would like to share? Do you think Australia should incorporate any aspects of overseas best practice?*

No in-depth knowledge of how this is managed in other countries.

#### **Common issues**

3. *What is your experience with dealing with licensing and permission requirements? Does your business have to deal with both excise and customs licensing? Please provide an indication of how much time or effort is taken up with this aspect of the system.*

A licence is not required. However, to recover the excise using the Fuel Tax Credit Scheme there are two common pitfalls:

- a. A company can only reclaim the excise if they are registered with the ATO and have an ABN.  
Almost all foreign shipowners do not have this registration. Therefore, they rely on their Australian Shipping Agent to recover the excise on their behalf.
- b. In relation to (a) only the company paying the excise is eligible to claim the Fuel Tax Credit.  
Most shipowners use an overseas bunker broker to purchase their bunker requirements on their behalf worldwide. There is the scenario when the Agent doesn't find out about the bunker purchase until it is complete. In this scenario, agents cannot legally claim the Fuel Tax Rebate on behalf of the operator as the Agent was not the party making the purchase.

4. *Would you benefit from entity-level licensing and a longer or ongoing licence period? Are there any other suggested approaches to help streamline licensing requirements from business's perspective?*

Not relevant to bunker excise.

5. *Does your business engage both the ATO and the ABF as part of the excise system? If so, are there any ways in which your experience could be improved? Has engaging multiple agencies caused friction for your business? If so, how?*

Agents who act on behalf of international shipowners are required to pay the bunker excise to ABF via a Customs Broker. Once payment is made, we must recover the excise in full, from the ATO by means of the Fuel Tax Credit Scheme.

The entire process should be removed as it brings no revenue to the Australian Government.

6. *For imported fuel and alcohol, is there a product pathway that could reduce duplication and inefficient interactions with the two regulators?*

Not relevant for bunker excise.

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7. *Would a different frequency of reporting and payment be a benefit for your business? Should there be different frequencies depending on business turnover, amount of excise liability, or alternative criteria?*  
Most coastal cargoes are carried based on Short-Term Disconnections from international trading. Ships usually only do 1-2 coastal voyages to avoid issues with the Fair Work Act. Therefore, each Short-Term Disconnection voyage has to be treated individually.
8. *Would greater alignment to GST and WET reporting be desirable?*  
Not applicable.
9. *In the longer term, would you like to see excise reporting incorporated into the BAS?*  
If both Bunker Excise and Fuel Tax Credits could be combined and offset to simplify matters, this would provide a benefit. Abolishing these would be the simplest solution.
10. *How could indexation arrangements be better aligned with other business reporting processes? Would a longer notice period be beneficial to your business? If so, how much notice would be ideal?*  
Not applicable.
11. *Are there any other areas of misalignment between the excise and customs refund provisions that create a regulatory burden?*  
Not applicable.

#### **Alcohol – Questions 12-22 – Not applicable**

#### **Fuel**

23. *Would taxing at the point fuel is supplied from the following locations (only) reduce the number of licenses and permissions required by your business?*
- *refineries*
  - *other premises where fuel products are manufactured*
  - *premises receiving bulk fuel products (via a direct ship or pipeline transfer).*
- Not applicable.
24. *Does there need to be a differentiated approach to taxing point depending on the type of fuel e.g. for gaseous fuels for use in transport (Liquefied Petroleum Gas, Liquefied Natural Gas and Compressed Natural Gas)?*  
Not applicable.
25. *Do you envisage any difficulties for your business with removing bunker fuels from the excise (and fuel tax credit) system?*  
Our members fully support removing bunker fuels from the excise (and fuel tax credit) system”.  
A quote from one of our members. “If duty is eliminated, it will be the best news for Agents....
26. *Are there ways that the administrative cost and complexity of the excise on gaseous fuels can be reduced?*  
Not applicable.

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**27. *Would any changes specific to onshore crude oil and condensate reduce the regulatory burden on business?***

Not applicable.

**28. *Are there any concerns or issues with removing the excise licensing requirements for onshore producers of crude oil and condensate where production is below the 30-million-barrel threshold?***

Not applicable.

**29. *Are there any concerns or issues with eliminating the double taxation of lubricants used in further manufacture?***

Not applicable.

**30. *Would the establishment of a single rate or percentage for Vapor Recovery Unit refunds reduce complexity and cost for business and the ATO? If not, are there alternatives that would deliver this outcome?***

Not applicable.

## **6. Conclusion**

As mentioned, and confirmed above, it is clear that the current process of payment and subsequent recovery of bunker fuel excise is onerous and adds no value to the Australian Government. We strongly urge that this review streamlines the excise administration for fuel by cutting this regulatory overhead for the shipping industry, thereby enabling the relevant government agencies to focus on higher-value and high-risk activities.

Authorised by:

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