

**Senate Economics Legislation Committee**  
**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Budget Estimates 30 May – 1 June 2006

**Question: bet 72**

**Topic: Shipping and GST**

**Hansard Page: E42-43**

**Senator O'BRIEN asked:**

I have just a couple of quick matters. I am sure you are aware that, under item 5, subsection 38-185(1) of the GST act, when a ship bunkers—that is, takes on fuel—in Australia and is on a voyage that has a destination outside of Australia, the bunker fuel for the ship is considered as ship's stores and thus is GST free. The effect of that provision is that foreign registered ships that are granted a single voyage permit pursuant to section 286 of the Navigation Act, which are competing with Australian registered or licensed ships in the coastal trade, have that tax advantage over Australian registered or licensed ships. What is the government's policy about this lack of competitive neutrality with regard to the tax act?

**Mr Callaghan**—That is a question of government policy.

**Senator O'BRIEN**—Perhaps I will rephrase my question. Isn't that position contrary to the government's policy of competitive neutrality?

**Mr Callaghan**—I am sorry; it is difficult to respond to that question about whether it is contrary or not to government policy.

**Senator O'BRIEN**—It is factual, isn't it, that a ship taking fuel in those circumstances will not pay GST? It may use fuel taken on outside of Australia to complete—

**Mr Callaghan**—I am afraid we do not have our GST experts with us today. I will take your word that that is—

**Senator O'BRIEN**—I am pretty sure that is right. Do you need to check it?

**Mr Callaghan**—What specific aspect? We can confirm whether that is correct.

**Senator O'BRIEN**—I want to know how that fits with the government's policy of competitive neutrality. How can it be competitive neutrality, when a foreign vessel can have the fuel tax free, but an Australian coastal trade vessel must pay the tax?

**Mr Callaghan**—Again, I think you are asking questions of government policy. We can confirm whether they are the actual facts.

**Senator Minchin**—I am happy to take, on notice, on behalf of the government, that question and seek to get you an answer as to the extent to which, if any, there is an apparent or real contribution, but I cannot answer that on the run.

**Senator O'BRIEN**—I am happy for you to take it on notice. My understanding is that it is the fact. Given that we are talking about Australian-flagged vessels—Australian companies operating

## Senate Economics Legislation Committee

### ANSWERS TO QUESTIONS ON NOTICE

#### Treasury Portfolio

Budget Estimates 30 May – 1 June 2006

vessels on the Australian coast which on some voyages must compete with vessels not paying Australian excise or GST—I just wonder how the government views that situation. Does it endorse it?

**Senator Minchin**—I do not want to give an answer on the run. We will confirm the facts and I will give you an answer as to our view on whether or not, if those facts are borne out, there is any contradiction with our competitive neutrality approach.

**Senator O'BRIEN**—And can you find out, if they are the facts, whether the government proposes to take any action to correct the anomaly?

**Senator Minchin**—Sure

#### **Answer:**

In relation to the GST treatment of ships' stores used on domestic and international voyages, there are matters relating to particular voyages which would require interpretation. For example, it would be necessary to determine if a ship with a domestic load was making two identifiably separate voyages – a domestic voyage and international voyage or an international voyage which involved some domestic stops to load and unload goods on the way. If the ship was considered to be making two separate voyages, then fuel for the domestic voyage would not be GST-free. In *Goods and Services Tax Ruling 2003/4*, the Commissioner of Taxation set out his views on what is an international voyage for the purposes of subsection 38-185(1), item 5, which deals with GST-free stores.

In terms of any perceived competitive disadvantage to the operator of a ship on a domestic voyage compared to the operator of a ship on an international voyage travelling between the same Australian ports, the operation of the GST law needs to be considered. In the case of an international voyage picking up and unloading cargo in Australia, the stores (including fuel) for this part of the voyage will be GST-free. However, if a domestic operator carries cargo between the same Australian ports on a domestic voyage, the enterprise operating the ship will be able to claim an input tax credit for the fuel and other stores that the ship uses on this voyage (assuming the enterprise is registered for GST purposes). A registered domestic operator will be required to charge GST on transport to its customer, who in turn, if they are registered, will be able to claim an input tax credit for the transport, provided it is for the purpose of carrying on the customer's enterprise. Whilst an unregistered international operator on an international voyage will not charge GST to the customer for transport between Australian ports, the customer will not be able to claim any input tax credits.