

## ***Demurrage and dispatch -***

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# Mining and Energy Industry Partnership

## Demurrage and dispatch

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## Demurrage and dispatch

### Overview

1. This chapter focuses on the GST implications of demurrage and dispatch with regard to the Mining and Energy Industries.

### **Demurrage: Contract of sale**

#### *What is demurrage?*

2. Demurrage is the rate or amount payable to a shipowner by a charterer for failure to load or discharge a ship within the time allowed.

#### *GST on demurrage*

3. Where an Australian supplier makes payment to an overseas customer for demurrage under a free on board FOB contract, the overseas entity surrenders the right to recover money from the Australian supplier. The surrender of the right (a supply) happens upon acceptance of the consideration (the penalty for time delay).

4. The supply (of the surrender of the right by the offshore entity) would not be connected with Australia under paragraph 9-25(5)(a) of the GST Act, if the acceptance takes place outside Australia (which is usually the case). On the basis that the supplier does not make the supply through a permanent establishment in Australia, the supply would not be connected with Australia under paragraph 9-25(5)(b) of the GST Act.

**FOB:** free on board- a price quoted for goods including placing them on board ship. Delivery is complete when the goods are on board. (Latimer. P. *Australian Business Law. 13th edition* CCH Australia. 1994).

*Example*

5. If an Australia supplier sells goods FOB, and is a day late in loading those goods aboard ship, the overseas entity will be entitled to receive an agreed amount, stipulated in their sales contract for the delay. This payment will be GST-free.

***Dispatch: Contract of sale****What is dispatch?*

6. Dispatch is a term used in exporting that describes the money received (bonus) for loading a vessel earlier than specified in the contract.

*GST on dispatch*

7. Where an Australian exporter receives payment for dispatch, the Australian entity surrenders the right (a supply) to recover money from the overseas supplier. The surrender of the right occurs when acceptance of the consideration (the bonus for timely delivery) takes place.

8. The supply in this circumstance would be GST-free on the basis that the supply (of the surrender of the right by the Australian entity) is to 'an entity that is not an Australian resident and is outside Australia when the thing supplied is done' pursuant to paragraph 38-190 Item 4(b) of the GST Act.

*Example*

9. If an Australian supplier sells goods FOB, and is a day early in loading those goods aboard ship, the overseas entity will be liable to pay a dispatch fee. The sales contract will usually stipulate the amount, \$10,000 per day for example.

The receipt of the \$10,000 (dispatch) by the Australian company, is a surrender of a right to recover the money from the overseas entity (a supply). As the supply is to a non-resident entity, and the entity is outside Australia when the supply takes place, the dispatch is GST-free. (Paragraph 38-190(1) Item 4(b) of the GST Act).

***Demurrage and dispatch in a charter party contract****GST on contract of affreightment*

10. **Demurrage** and **dispatch** amounts are considered to be additions or refunds of the charter rate under contract. Therefore, these additions and refunds are adjustment events under GST legislation. However, as the adjustment events are against a GST-free supply (international transport) the adjustments will also be GST-free.