

HUNT PARTNERS SUBMISSION

TO THE AFTS Secretariat

AUSTRALIA'S FUTURE TAX SYSTEM REVIEW

on behalf of

**BINDAREE BEEF PTY LTD
ACN 056 599 163
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BACKGROUND

Hunt Partners have prepared this submission to AFTS Secretariat Review Australia's future tax system on behalf of Bindaree Beef Pty Limited.

Bindaree Beef

Bindaree Beef Pty Ltd:

- operates beef abattoirs in New South Wales;
- slaughters approximately 800 head of cattle a day;
- has 600 employees.

Approximately 65% of Bindaree Beef's production is exported and 35% sold on the domestic market.

Hunt Partners

Hunt Partners:

- is a Sydney law firm specialising in a range of rural and regional issues with particular emphasis on the beef, wool and sheep meat industries;
- has made submissions to, and appeared before, the Standing Committee on Rural and Regional Affairs and Transport. Inquiries into: the EU quota; the introduction of a US beef quota allocation system; and the Australian Meat Industry consultative structure;
- has made submissions to, and appeared before, the Federal Standing Committee on Rural and Regional Affairs and Transport into beef marketing;
- was appointed to and prepared the report of the NSW Safe Food Truth in Labelling Cow/Beef Working Group by the new New South Wales Minister for Primary Industries in the year 2000;
- was a delegate to the Red Meat Advisory Council Limited (RMAC) Truth in Labelling Beef Grading Round Table Forum in May 2003 and were appointed to RMAC legislative task force on Truth in Labelling.

THE PROBLEM

The problem arises as a consequence of changes that were made to the New Tax System (Goods & Services Tax) Bill in 1999 shortly before it was enacted which had the effect of excluding food for human consumption from the definition of Taxable Supply, but did not exclude the sale of live animals to the abattoir from the Taxable Supply definition

Consequently the sale of animals to the abattoir by the livestock producer is a Taxable Supply and GST is added to that sale price and paid to the ATO by the livestock producer when the producers lodge their quarterly BAS Statement.

The abattoir owner then applies for a refund of the GST paid by them to the livestock producer when the abattoir lodges its monthly BAS Statement and the abattoir receives the GST refund approximately 10-14 days later.

The abattoir is thus out of pocket for the GST paid to the livestock producer until the date the refund is received from the ATO which is a period of at least 4 weeks.

The cash flow effect from this anomaly on an abattoir with an annual turnover of around \$400M at the end of the GST/refund cycle may be as high as \$4M (See Annexure 1). We understand that the cash flow effect on Australia's largest sheep and mutton abattoir, Fletcher International may be in the order of \$5M.

Given the number of sheep and cattle slaughtered in Australia each year, the cash flow effect for the cattle and sheep meat processing sector as a whole is therefore likely to be in the order of \$90-100M per year.

The Australian Government obtains no financial benefit from this round-robin. Significant administrative costs are incurred by the Australian Government, the abattoirs and the livestock producer in lodging and processing a chain of BAS Statements and refund applications.

An outline of the relevant legislation which gives rise to the cash flow anomaly can be found at Annexure 2.

THE SOLUTION

The problem would be resolved if the New Tax System (Goods & Services Tax) Act, 1999 was amended so that:-

- the Supply of livestock sold for slaughter is GST free, **provided** that;
- the livestock are slaughtered within 14 days of the date of the sale from the producer to the abattoir, and **provided** that;
- if those livestock are not slaughtered within 14 days, then GST will be payable by the abattoir on the Supply of those livestock.

THE RESULT

The proposed Amendment would remove:-

- the anomaly of the round-robin payment and refund of GST, with no financial benefit to the Government;
- the administrative cost to the Government and industry of processing the chain of round-robin payments;
- The unnecessary cash flow burden placed on the abattoir.

ANNEXURE 2

LEGISLATION OUTLINE

The relevant sections of the New Tax System (Goods & Services Tax) ACT 1999 are:-

S. 9.5 – The definition of Taxable Supply;

S. 9.10 – Meaning of Supply – which states that “for the avoidance of doubt that delivery of livestock for slaughtering or processing into food when the entity making the delivery only relinquished after food has been produced is the supply of livestock....”

S. 11.5 - defines a creditable acquisition

S. 11.10 - defines the meaning of acquisition

S. 11.15 - defines the meaning of a creditable purpose

S. 11.20 - states that the tax payer is entitled to an input tax credit for any creditable acquisition

S. 11.25 - defines how much the input tax credits are for a creditable acquisition

S. 38.2 - states that the supply of food is GST free;

S. 38 (4) - defines food amongst other things as food for human consumption but specifically excludes live animals (other than crustaceans or molluscs);

S. 38.3 - states that the supply of food for consumption on the premises and hot food for consumption away from the premises is not GST free; and

S. 38.185 - Division E - states that the supply of goods for export within 60 days of the supplier receiving payment for the supply are GST free.