

GST on Port Services Charges – a practical compliance approach

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Customs brokers and importers currently face delays in statutory reporting and import deliveries as a result of the inconsistent GST treatment of port service charges (PSCs) by freight forwarders. Freight & Trade Alliance (FTA), with the support of the GST experts at Crowe Horwath, provide the following practical guidance to facilitate early completion of import declarations.

Background and Regulations around import declarations

Import declarations must be lodged prior to vessel or aircraft arrival to allow the border and biosecurity agencies to complete their risk assessment. In particular, sec 72 Customs Act / regulation 32 states that import declarations are required to be lodged by the end of the next working day following the day on which the goods were imported.

Importers and customs brokers must provide accurate data when completing import declarations. Any delay will increase likelihood of the consignment being selected for further assessment. In these circumstances there is no recourse to claim any associated storage or container dehire fees caused by the delay in processing.

How is any delay caused by the treatment of GST on port service charges (PSCs)?

In practice, and as a consequence of the ATO Interpretative Decision ATOID 2015/26, shipping lines treat the PSC as GST-free. Consequently, as no GST has been accounted for on the PSC, the Australian Taxation Office (ATO) requires the value of the PSC to be included in the import declaration's Value of Taxable Importation (VoTI). This ensures that the appropriate GST is remitted to the ATO.

While most shipping lines have fixed PSC rates that the customs broker can obtain, others are forced to refer to shipping line invoices that are commonly only available between three days prior to arrival and up to the day of arrival. This causes practical difficulties for customs brokers in completing and lodging import declarations ahead of time.

What is the added complexity of freight forwarding practices?

A significant problem is the inconsistent practice of some freight forwarders charging GST on the PSC component and others treating them as GST-free. As a result, import declarations vary with some including, and others excluding, GST from the VoTI. This delay is further compounded by the time lag in communicating the PSC values from the shipping line, through to the freight forwarder and ultimately to the importer or customs broker.

Can we have different practices for shipping lines as against freight forwarders?

The 2016 ATO guidance "GST and international freight transport" has been the catalyst for shipping lines moving to a policy of treating PSCs as GST-free. While this provides clarity for shipping lines, it has not proven to be as clear for freight forwarders. This has resulted in the above inconsistent GST treatment among freight forwarders on the PSCs.

The ATO does not prescribe how freight forwarders should manage this matter. In essence, the freight forwarder must decide whether the PSC component is included as part of the international transport (and potentially GST-free) or part of its other services provided to the consignee (potentially subject to GST). In reality, the precise legal arrangements, the nature of the services provided and the residency of the freight forwarder will be the key determinants of the correct GST treatment for the freight forwarder.

What is a practical approach?

Ideally, importers and customs brokers would experience a consistent approach from all freight forwarders. To resolve this, a suggested practical and conservative approach, in the context of this uncertainty, is for the freight forwarder to charge GST on the PSC component of its invoices to the consignee.

This suggested approach has the advantage that if GST is paid on the PSC component charged by the freight forwarder, then the ATO has a practical approach (per the 2016 ATO guidance above) that the PSC will not need be declared again in the VoTI. This will avoid the need for customs brokers to wait for the information on the PSC to complete the import declaration, thereby reducing delays in import clearances and avoid potential storage and other associated costs.

From the perspective of the freight forwarder's customer, in most cases, there would be no net GST impact as the importer can be expected to be registered for GST and can claim the GST as an input tax credit.

In addition, to the extent that GST was charged when it could have been GST-free, the GST law nonetheless deems the GST to be payable once charged by the freight forwarder and remitted to the ATO. The importer is still entitled to an input credit in that case. The 2016 ATO guidance above supports this approach.

Therefore, inclusion of GST on PSCs on freight forwarder invoices to the importer will ensure the correct GST is remitted to the ATO and will facilitate timely and accurate import declarations lodgement to support risk assessment by border and biosecurity agencies.

What can customs brokers do to achieve consistency?

Some customs brokers have taken matters into their own hands and charge importers the GST on PSC whether or not the shipping line or freight forwarder has charged GST on PSC to them.

Scenario 1. Shipping line or freight forwarder does not charge GST on the PSC. The customs broker charges GST on the PSC on their invoice to the importer negating the need to add the value of the PSC in the import declaration's VoTI.

Scenario 2. Freight forwarder charges GST on the PSC. The customs broker in turn charges GST on the PSC on their invoice to the importer. This again negates the need to add the value of the PSC in the import declaration's VoTI.

This method takes away any uncertainty from the customs brokerage staff regarding invoicing the customer AND allows the customs broker to lodge the import declaration with only the actual freight component to worry about as a part of VoTI.



Freight & Trade Alliance (FTA) is the leading industry advocate on border related activities representing a cross-section of international freight logistics and import / export trade entities.

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