

LEGISLATIVE RESEARCH SERVICE
DEPARTMENT OF THE PARLIAMENTARY LIBRARY

PETROLEUM RESOURCE RENT TAX ASSESSMENT BILL 1986

Date introduced: 28 November 1986
House: House of Representatives
Presented by: Hon. Chris Hurford, M.P., Minister
Assisting the Treasurer

DIGEST OF BILL

Purpose

To impose a resource rent tax (RRT) on profits from certain offshore petroleum products.

Background

Crude oil production is subject to Commonwealth excise duty and State royalties. The rate of excise varies on the nature of the field, i.e. if it is an old or new field, but, as with royalties, the amount of excise payable is directly linked to the amount of production. As a result of this link oil producers continue to pay excise though the price of oil has fallen to below profitable levels.

In June 1984 the Government announced plans to introduce a RRT on 'greenfields' projects i.e. areas other than those covered by production licence granted on or before 1 July 1984 and their associated permit areas. The major difference between the existing excise and a RRT is that the latter is based on profits earned and will rise and fall with the level of profits. This will not only redress the situation of unprofitable producers paying excise but will also allow the Government to share in any windfall profits that may arise.

Outline

The major provisions of the Bill are contained in Part V which is titled Liability to Taxation. In short, the tax will apply to the excess of assessable receipts over deductible expenditure. Where expenditure is greater than receipts the Bill will allow for the excess to be carried over to the next year at a premium over the long term bond rate. The rate of tax will be declared at 40 per cent by the Petroleum Resource Rent Tax Bill 1986.

Main Provisions

Part II of the Bill (clauses 2 to 14) deals with interpretation. The more important definitions contained in clause 2 are those for "eligible real expenditure" which means exploration expenditure, general project expenditure or closing down expenditure and "excluded exploration permit", i.e. a permit in relation to which a production licence was in force on or before 1 July 1984.

Clause 4 deals with when licences will be taken to be associated. A production licence will be taken to be related to an exploration licence if due to the issue of the production licence the exploration licence, or a related retention licence, ceased to be in force. A retention lease will be taken to be related to an exploration permit if, because of the granting of the former, the latter ceased to be in force. A production licence will also be related to a retention lease if, because of the granting of the former, the latter ceased to be in force.

The Bill will apply to partnerships (clause 12) and unincorporated associations (clause 13) as if they were people.

The administration of the Bill is dealt with in Part III (clauses 15 to 18). The Commissioner of Taxation will administer the Bill (clause 15) and is to prepare an annual report (clause 16). Secrecy provisions are contained in clause 17.

Clause 20 will allow the Minister to determine during the qualifying period (i.e. generally within 90 days of a licence coming into force) that projects should be treated as combined projects having regard to the nature of the operations, who is conducting the operation and the geological, geophysical and geochemical nature of the areas.

Part IV (clauses 21 to 57) contains the major operative provisions and is titled Liability to Taxation.

A taxable profit will be taken to be made where, in relation to a project, the assessable receipts exceeds the deductible expenditure in a tax year (clause 22).

Assessable receipts are dealt with in proposed Division 2. They will comprise assessable petroleum receipts, assessable exploration recovery receipts,

assessable property receipts, assessable miscellaneous compensation receipts and assessable employee amenities receipts (clause 23) which are explained in latter clauses.

Assessable petroleum receipts

These will be the receipts from the sale of petroleum products produced from a production licence area sold immediately after it's production, the market value of petroleum disposed of otherwise than by sale or destruction and the market value of petroleum not sold immediately after production (clause 24).

Assessable exploration recovery receipts

These will be calculated in the same manner as for assessable petroleum receipts but relate to petroleum recovered from an exploration or recovery area (clause 25).

Assessable property receipts

In this category are included the consideration received for the sale, loss or destruction of property in relation to which eligible real expenditure was incurred; the value of such property when it ceases to be used on the project; any insurance received on such property; any sum received from the hiring or leasing of such property and any sum received for the sale of information gained as a result of such expenditure (clause 27).

Assessable miscellaneous compensation receipts

This category is comprised of insurance, compensation or indemnity payments received for the loss or destruction of petroleum products prior to marketable products being produced or a resulting loss of profit, or such a receipt that relates to the loss of an assessable receipt. The category also includes any amount received as insurance, refund or rebate relating to eligible real expenditure (clause 28).

Assessable employee amenities receipts

The amount received for or in respect of employee amenities where such amenities were the result of the expenditure of eligible real expenditure (clause 29).

Proposed Division III deals with deductible expenditure which will comprise augmented bond rate general expenditure, augmented bond rate exploration expenditure, GDP factor expenditure and closing-down expenditure (clause 32).

Augmented bond rate general expenditure

This category will comprise the sum of actual project expenditure incurred, including expenditure incurred in the five years prior to the production licence coming into force, and any amount carried forward from the previous year in accordance with the formula contained in sub-clause 33(3). The formula relates to any excess of general expenditure over receipts and the long term bond rate in force during the year (clause 33).

Augmented bond rate exploration expenditure

This category is similar to that for augmented bond rate general expenditure but the expenditure relates to exploration (clause 34).

GDP factor expenditure

This category relates to expenditure incurred more than five years before the production licence came into force. In calculating the amount, if any, that is to be carried over due to expenditure exceeding receipts, the difference between the GDP deflators in the financial year and the preceding year is to be used (clause 35).

Exploration expenditure is defined in clause 37 and includes the cost of operations in an eligible exploration or recovery area, transport and storage costs before any marketable product is produced, employee amenities and any payment for an exploration permit or retention lease.

General project expenditure will include payments for the carrying on or preparation to carry on the operation and will include any payment for a production licence (clause 38).

Closing-down expenditure

Any payments relating to the closing-down of a project including any environmental restoration costs (clause 39).

Clause 41 will allow for the apportionment of expenditure when it does not relate solely to the project.

Excluded expenditure is listed in clause 43 and includes interest payments, dividends, the repayment of equity capital, payments to acquire an interest in a permit or licence other than such expenditure that relates to the issue of the permit or licence, payments under the **Income Tax Assessment Act 1936** or the **Fringe Benefits Tax Assessment Act 1986**, expenditure on wage or accounting costs indirectly incurred and payments in respect of land and buildings not located on site.

Proposed Division 4 deals with tax credits. Where the sum of closing-down expenditure and other deductions exceeds assessable receipts, the person will be entitled to a credit that will be the lesser of 40 per cent of the excess up to the level of closing-down expenditure and the total tax paid in respect of the project less any previous credits (clause 45).

The Commissioner will be able to apply the credits to discharge any liability arising under any law administered by the Commissioner (clause 46).

Proposed Division 5 will deal with the acquisition of an interest by another. In such circumstances the relevant proportion (i.e. the same proportion as purchased) of expenditure and receipts will be deemed to be associated with the purchaser (clause 47).

Anti-avoidance is dealt with in proposed Division 6. Arrangement is defined in clause 49 to be an agreement, arrangement, understanding or undertaking whether enforceable or not.

Tax benefit is defined in clause 50 to be where an arrangement results in receipts not being included or a deduction being included that might reasonably not be so included.

The proposed Division will apply to arrangements entered into on or after 1 July 1984 where a tax benefit results and, having regard to the matters listed in the clause, it can be concluded that the sole or dominant reason for the entering of the arrangement is to secure the tax benefit (clause 51).

Where such an arrangement is found the Commissioner will be given power to reverse the benefit (clause 52).

Similar provisions will apply for non-arm's length transactions (proposed Subdivision B).

Part VI deals with returns and assessments and contains provisions relating to annual returns (clause 58), the amendment of assessments (clause 63) and the payment of interest on amended assessments (clause 64).

Objections, reviews and appeals are dealt with in proposed Part VII. The provisions are similar to normal taxation procedures and allow for objections (clause 70), and appeals to the Administrative Appeals Tribunal or the Federal Court (clause 75). Part VII deals with the collection and recovery of tax. Tax will be payable within the period specified in the assessment notice which is not to be within 21 days of the issue of the notice (clause 81), though the Commissioner may extend the time for payment (clause 83). Penalty for unpaid tax will generally be at the rate of 20 per cent per annum (clause 84). Proposed Division 2 deals with instalments of tax. The tax is to be paid by instalments for the year 1987-88 and later years (clause 93), and the instalments will be payable on 21 October, 21 January and 21 April (clause 94).

Penalty tax is dealt with in proposed Part IX. A failure to furnish a return will result in a penalty of additional tax equal to double the tax payable (clause 100). Similar penalties will apply for false or misleading statements (clause 100) and arrangements to avoid tax (clause 102).

Records will be required to be kept for seven years (clause 111) and the Governor-General will be able to make regulations to enforce the Bill (clause 113).

For further information, if required, contact the Economics and Commerce Group.

23 February 1987

Bills Digest Service
LEGISLATIVE RESEARCH SERVICE

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

© Commonwealth of Australia 1986

Except to the extent of the uses permitted under the Copyright Act 1968, no part of this publication may be reproduced or transmitted in any form or by any means, including information storage and retrieval system, without the prior written consent of the Department of the Parliamentary Library. Reproduction is permitted by Members of the Parliament of the Commonwealth in the course of their official duties.