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Air Passenger Ticket Levy (Collection) Bill 2001

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25 September 2001

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Air Passenger Ticket Levy (Collection) Bill 2001

Date Introduced: 20 September 2001

House: House of Representatives

Portfolio: Transport and Regional Services

Commencement: 1 October 2001

Purpose

To facilitate the collection of a passenger ticket levy on all passenger tickets for regular public transport flights that originate in Australia in order to meet the cost of payments by the Commonwealth under the Special Employee Entitlements Scheme for Ansett group employees.

Background

Basis of policy commitment

On 18 September 2001, the Prime Minister announced that the Government would use a levy on the price of air passenger tickets to fund a free standing Special Employee Entitlements Support Scheme for Ansett group employees (SEESA). The Scheme would guarantee Ansett group employee entitlements, namely all of their statutory entitlements such as unpaid salary, long service leave, holiday pay and redundancy payments up to what is loosely called 'a community standard', ie no more than eight weeks.

However the Prime Minister has indicated that there are some redundancy provisions in the former Ansett group that exceed community standards and the Government's proposals would not meet these provisions. It is open to debate whether eight weeks redundancy pay is 'a community standard'.¹

The Government's proposals for Ansett employees relaxes some of the caps placed on entitlements under the current Commonwealth Employee Entitlements Support Scheme (EESS). However the Government has recently indicated that the EESS is to be terminated and a new more generous scheme will replace it, but not to the standards to be provided under the Government's SEESA arrangements.

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Dr Farmer, acting chairman of Air New Zealand (ANZ), has said that ANZ would not pay for Ansett group employee entitlements. As the issue of Air New Zealand's liability to pay Ansett group employees' entitlements may take quite some time to resolve, funds generated by the levy effectively provide bridging finance to facilitate some payout of entitlements. The proceeds of the levy also provide a guarantee to Ansett group employees that their basic entitlements will be funded even if ANZ is not found liable to fund them over the longer term and if the proceeds of any liquidation of Ansett assets prove insufficient.

Administration of the Scheme

- The levy is to be administered by the Department of Transport and Regional Services (DTRS) and will apply on every ticket purchased on or after 1 October 2001
- Funds raised through the levy will reimburse DTRS for payments in connection with the Scheme and the Government's costs in administering the Scheme
- Collection responsibility will rest with the airlines and the costs of doing so will be absorbed by the airlines
- The levy will continue until it has met the costs of payments made to former employees of Ansett Australia under SEESA and related administration, and
- In the event of the levy generating any surplus, the Government will distribute it in accordance with a scheme prescribed by regulation.

Pros and cons

- **Budgetary issues:** The Government considers that the potential losses from any permanent grounding of the Ansett group could constitute one of the biggest corporate collapses in Australian financial history and in those circumstances, the budget could not bear the cost of the unpaid entitlements of all Ansett group employees. It also believes it would not be fair to impose a tax on the whole community to meet this need.
- **Inbound tourism:** The Government also stresses that the levy does not apply to air travellers who take possession of their ticket outside of Australia so it would not represent an impediment to the inbound tourism industry.
- **Equity issues:** A countervailing argument is that the levy should be imposed on all taxpayers to spread the burden more broadly. The impact of the levy will fall disproportionately on Australians who earn their livelihood from tourism, including many in rural and regional Australia.

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- **Regional impact:** The Labor Opposition has criticised the levy saying it would hurt tourism, cost jobs and further damage regional and rural economies, many of which were wholly reliant on Ansett group air services and so are already suffering disproportionately from the Ansett collapse.
- **Tourism effects:** The tourism industry is and will suffer significantly, not only from the loss of air services as a result of the Ansett grounding, but also from the weakening of the international economy in the aftermath of the terrorist actions in the USA and air passenger concerns about the security and safety of air travel. Mr Christopher Brown, the chief executive of the prominent tourism industry organisation, the Tourism Task Force, is reported to have described the levy as ‘basically bad public policy, because actually deciding to levy a tax without actually knowing the liability, you can’t strike an appropriate rate’.²
- **Impact on hotels industry:** The Tourism Task Force concerns were reinforced on September 24 2001, when the Australian Hotels Association (AHA) asked the Government to delay the ticket levy until next year, arguing that the hotels industry was in enough trouble already. Its spokesman Simon Birmingham said the collapse of Ansett and the uncertainty in the global airline business was enough to cope with, without the Government's planned levy.³
- **Precedent for income tax surcharges:** A more broadly applicable basis for recovering the cost of unpaid entitlements such as an income tax surcharge would be consistent with the Howard Government’s ‘gun buy back’ scheme of 1996 where the scheme was financed through a Medicare levy surcharge, effectively recovering the levy from all income tax payers
- **Alternative sources of funds:** The Opposition Leader has called for the use of a portion of the proceeds of the long-term lease of Sydney Kingsford-Smith Airport (which is scheduled for finalisation later in 2001) to finance the Ansett employee entitlements pay outs. The Sydney Airport lease proceeds (prior to the terrorist attacks in the USA) were ‘guesstimated’ at around \$4 billion to \$5 billion whereas the Ansett entitlements pay out has been reported to be in the vicinity of \$400 million. However the Government has indicated that it will now defer the sale of the Sydney Airport lease in response to the marked contraction of the global aviation industry in the aftermath of the US situation.
- **Concern for welfare of former Ansett employees:** While the Labor Opposition sees the levy as a ‘last resort’ it has indicated that it would vote for the levy legislation. Failure to pass the air ticket levy legislation would further delay the payment of entitlements to Ansett group employees, most of whom are still without alternative employment and are facing an uncertain future.

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Main Provisions

Proposed Section 5

Defines an Australian flight for the purpose of the ticket levy as a flight that takes off from a place in Australia (whether the flight is to another place in Australia or to a place outside of Australia).

Proposed Section 6

Identifies what constitutes one passenger ticket for the purpose of the Act – including circumstances where an air passenger ticket covers flights provided by 2 or more operators; this is treated as one passenger ticket for the purpose of the Act.

Proposed Section 9

Levy is payable on air passenger tickets purchased on or after 1 October 2001 for use on an Australian flight that is operated as part of a regular public transport operation as defined in the *Air Navigation Act 1920*.

Proposed Sections 10 and 11

The passenger is liable to pay the levy while the flight operator is responsible for its collection from passengers

Proposed Section 22

The Workplace Relations Minister may determine the terms of SEESA including the companies to be covered by the Scheme, the entitlements to be covered by the Scheme and the terms on which payments under the Scheme are to be made. It provides that no more than \$500 million in total may be authorised under this section.

Proposed Section 24

Provides for Ministerial reports on the operations of the Scheme to be regularly tabled in each House of Parliament.

Endnotes

- 1 For example, Stephen Long: 'Prime Minister Howard has said throughout the Ansett crisis that, and most people get no more than that. This is at best misleading and at worse plain wrong'. *The Australian Financial Review*, 21 September 2001, p. 17.
- 2 'Kelly to face angry tourism leaders'. *The Canberra Times*, Wednesday 19 September 2001.

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- 3 The AHA claims that hotels had already had \$15 million worth of contracts cancelled in the week following the Ansett collapse and stood to lose \$200 million in business by the end of the year. The AHA considers that by delaying the levy at least until after the peak Christmas school holiday season, the Commonwealth would have a clearer understanding of the amount of revenue required to fund entitlements and what Air New Zealand can and can't contribute. Source: AAP *newswire*, 24 September 2001.

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