

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

**Inquiry into the policy, regulatory, taxation, administrative and funding priorities
for Australian shipping**

2020 - 2021

Division: Corporate and International Tax Division
Topic: Incentives to support Australian owned, Australian flagged, Australian crewed tour vessels
Reference: Spoken, 09 September 2020

Question:

CHAIR: Thank you for that. Could you help me out here, because yesterday we had a Cairns based company, but they operate out of the Top End of Australia—Coral Expeditions; I apologise if I've got it wrong. They were very passionate. You wouldn't be aware of them, obviously, because they pay their taxes you don't chase them. But there is a very unlevel playing field. When it comes to cruise or passenger vessels, can you tell me what incentives there are to support Australian owned, Australian flagged, Australian crewed tour vessels? Is that what I'd call passenger vessels? Paying passengers jump on and go from Broome to Darwin or sail around the Great Barrier Reef.

Mr McCullough: I'm just trying to think: cruise vessels?

Mr Winckler: It sounded, Senator, like you were talking about vessels that are conducting tours entirely within Australian waters.

CHAIR: Yes. They're under immense pressure, because it's not an even playing field. They spend a lot of money training Australian seafarers, they pay Australian taxes. The millions they spend on procurement in Australia would far outweigh what the foreign raider do. However, the foreign raiders can come in, offer tours and all that sort of stuff. I want to know what incentives there are for Australian owned operators as opposed to—do the foreigners pay their way? Do they pay more? I think they should pay a lot more.

Mr Winckler: Generally, foreign operators who are operating within Australian waters, as Mr McCullough outlined, would still be subject to some Australian tax on income that they earned from that.

CHAIR: Maybe that one just snuck up on you. If you don't know, please take it on notice. They were adamant that Australian operators are not on the same level playing field and therefore—and I don't know if it's anything that the tax department has. Are you collecting from the foreigners? What are you collecting?

Mr McCullough: We will take that on notice. It's probably something I'll have to take up with the Australian Taxation Office rather than Treasury. But if I've understood your question correctly, it may relate to the way an entirely domestic operator would calculate tax on net profit, whereas the arrangement for the foreign operator, as I talked about, kind of cuts through that and they pay tax on effectively five per cent of the gross receipts for a certain component. And it may be in some circumstances some operators think that that is more or less than calculating it in the way that applies to Australians. But we can have a look into that and get back to you.

CHAIR: And also, if they are procuring in Australia, the wages are paid in Australia, the taxes are paid in Australia; you get the drift of where I'm going on that one. So are there any factors Treasury are considering in assessing the utility and efficacy of a change in the corporate tax exemption so the benefit was not clawed back when paying dividends to non-resident shareholders? Are you doing any work around that?

Answer:

Section 129 of the *Income Tax Assessment Act 1936* deems an amount to be taxable income of a ship owner or charterer in certain circumstances. Where a ship owned or chartered by a person whose principal place of business is outside of Australia, carries passengers, *inter alia*, in Australia, 5 per cent of the amount paid or payable for carrying passengers, irrespective of whether that amount is paid in or out of Australia, will be deemed to be taxable income in Australia.

The *Shipping Reform (Tax Incentives) Act 2012* and the *Tax Laws Amendment (Shipping Reform) Act 2012* provide the framework for tax incentives that may be available in respect of operations associated with the Australian shipping industry. The Department of Infrastructure, Transport, Regional Development and Communications is responsible for certifying vessels and monitoring and reporting on the issuance of certificates and notices.