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Senate Economics Legislation Committee
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Committee Secretary

Inquiry into the Fuel Indexation (Road Funding) Bill 2014 and related bills

The Minerals Council of Australia (MCA) welcomes the opportunity to comment on the package of bills which propose amendments to the *Excise Tariff Act 1921* and the *Customs Tariff Act 1995* to index the rate of excise and excise-equivalent customs duty applied to fuels (the bills).

The MCA is the peak industry organisation representing Australia's exploration, mining and minerals processing industry, nationally and internationally. MCA member companies represent more than 85 per cent of Australia's annual minerals industry production and a higher share of minerals exports.

Fuel is a vital business input for a range of businesses. Mining is particularly fuel intensive because diesel fuel is a critical input for off-road vehicles and heavy mining equipment used by the industry and in power generation where mine sites are situated in remote areas not connected to the electricity grid. As a result, the mining industry is a large 'recipient' of Fuel Tax Credits (FTCs), commonly referred to as the 'Diesel Fuel Rebate', which refunds excise paid by mining companies for fuel used as a business input in off-road vehicles and for power generation.

The MCA does not proffer a view in this submission on the merits or otherwise of the current rate of excise or on the question of the applicability of indexation generally. The minerals industry emphasises to the committee the policy principle underpinning Australia's FTC arrangements which ensure excise is not imposed on business inputs. The *Fuel Tax Act 2006* automatically operates to ensure FTCs are available at the excise rate to fully offset excise for fuel used off-road by the mining, agriculture and other industries (less the current carbon charge applying to mining). The legislation before the committee, as currently drafted, appropriately does not propose any change to these arrangements on the basis of sound tax policy.

Policy principle

Fuel Tax Credits are consistent with the tax policy principle that business inputs should not be taxed. This is the same principle that applies in the GST system which provides input tax credits for business to business transactions. FTCs simply reimburse businesses for excise

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tax paid on business inputs. Taxing business inputs is economically inefficient as it distorts production and consumption decisions.

Claims that FTCs are a 'subsidy' ignore this most fundamental tax policy principle. Rob Heferen, Executive Director of Revenue Group Treasury, recently stated at Budget Estimates hearings in relation to FTCs that:

> *'It is there to ensure that the double taxation does not occur. So the tax that is on the business input is relieved from the business activity. It is particularly important from a tax policy point of view. Certainly, with export competing industries, that double taxation obviously would be problematic.'*

Treasury has previously stated in briefs released under Freedom of Information that:

> *'Fuel Tax Credits are not a subsidy for fuel use, but a mechanism to reduce or remove the incidence of excise or duty levied on the fuel used by business off road or in heavy on-road vehicles.'*

FTCs are not considered a 'tax expenditure' by Treasury, nor are they considered as assistance by the Productivity Commission with its latest report on industry assistance concluding that:

> *'the estimated effective rate of assistance from tariff and budgetary assistance for mining has been negligible.'*

Further, off-road mining activities do not use publicly funded roads. Fuel excise was introduced in the 1920s for the specific purpose of road funding and extended to diesel in the late 1950s to help cover the cost of road building and maintenance. While revenue raised from fuel excise is no longer directly tied to road funding, the mining industry builds and maintains its own roads in remote areas and therefore historically has not paid an effective user charge for roads through fuel excise.

Fuel Tax Credits

Rebates for fuel excise are a long standing feature of Australia's tax system, existing in various forms for diesel since 1957. The current fuel tax credit scheme commenced in 2006 to create a single and administratively simple system of fuel tax credits.

FTCs are available to heavy vehicles used by any business and vehicles used off-road in a number of industries including agriculture, forestry, fishing, manufacturing and construction. FTCs play an important role in underpinning production of goods and services in regional and remote Australia. There were 690,000 separate claims for fuel tax credits in 2012-13, the largest single share by agriculture, forestry and fishing operations while mining accounts for just under 40 per cent of claims by value.

Any move to reduce FTCs would introduce a tax distortion by imposing a tax on industries that are reliant on the use of diesel fuel because they operate large equipment off-road and generate their own power off the electricity grid in remote areas. Limiting fuel tax credits for diesel use would constitute a new tax on every mine in an industry where diesel can account for up to one quarter of operating costs at some mines. Taxing such a key business input would impact the most marginal and remote mines making Australian mining projects less competitive. Importantly, a number of Australia's competitors do not levy taxes on fuels used in mining and agriculture.

Recommendation

Should the Senate decide to support the bills to index fuel excise, the minerals industry strongly recommends that the existing linkage between fuel excise indexation and fuel tax credit rates should remain intact – no changes should be made to sever the existing automatic indexation of FTCs in line with movements in excise rates.

The MCA appreciates the opportunity to provide these comments to the Committee. Should you require any further explanation of the issues raised in this submission, please contact me

Yours Sincerely

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