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Air Passenger Ticket Levy (Imposition) Bill 2001

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Air Passenger Ticket Levy (Imposition) Bill 2001

Date Introduced: 20 September 2001

House: House of Representatives

Portfolio: Transport and Regional Services

Commencement: At the same time as the Air Passenger Ticket Levy (Collection) Act 2001

Purpose

To impose a levy on air passenger tickets purchased in Australia on or after 1 October 2001 in order to fund a Special Employees' Entitlements Scheme. The levy will offset the costs to the Commonwealth of paying out Ansett employees' entitlements pending action against Air New Zealand to recover amounts attributable to Ansett group employees' entitlements.

Background

Basis of policy commitment

On Thursday 13 September 2001, Air New Zealand, the owner of the Ansett group of airlines, announced a write-off of Ansett's book value to \$1; the Ansett group of airlines was subsequently put into administration and all of its scheduled flights were grounded from close of its operations on Friday 14 September.

Among the immediate public concerns of Ansett's 16 000 plus employees has been the payout of their entitlements. This concern has no doubt been highlighted by the loss of significant entitlements by employees of other collapsed Australian firms in recent years, in part because other non-employee creditors have had preferential access to liquidation proceeds.

Two days after the Ansett failure, the Minister for Workplace Relations, the Hon Tony Abbott MP, announced a proposal for a levy of around \$10 on each air ticket purchased in Australia and used to board a flight starting its journey at an Australian airport. It is not intended that the levy would apply to the second leg of a return ticket nor would it be

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applicable to tickets for Australian domestic travel purchased offshore. It would apply however to tickets purchased in Australia for outbound international travel.

The levy is to finance Ansett group employees' entitlements if Air New Zealand (ANZ) does not fund the entitlements and if the proceeds of any liquidation of Ansett assets prove insufficient. Dr Farmer, acting chairman of ANZ, has said that ANZ would not pay for Ansett group employee entitlements.

On 18 September 2001, the Prime Minister announced that the Government would use the levy proceeds to fund a free standing Special Employee Entitlements Support Scheme. 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. However 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 provided to be provided under the Government's Ansett scheme.

Action against Air New Zealand

The Government maintains that ANZ has a moral and a legal responsibility to meet Ansett employee entitlements and accordingly, has committed itself to vigorously pursue ANZ to recover the amount represented by the entitlements owing. Towards this end, the Australian Securities and Investment Commission (ASIC) is investigating the collapse of the Ansett group, focussing on possible breaches of directors' duties under the *Corporations Act*.

The case for the Levy versus other options

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.

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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.

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.

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.

The tourism industry is and will suffer heavily, 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.

A more broadly applicable basis for recovering the cost of unpaid entitlement 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.

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 entitlements payout. 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 may 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.

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

Commencement

Section 2 provides for the Act to commence on 1 October 2001.

Imposition of levy

Section 6 provides that the rate of levy on an air passenger ticket is \$10.

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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