



Petroleum Resource Rent Tax (Instalment Transfer Interest Charge Imposition) Bill 2006

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Petroleum Resource Rent Tax (Instalment Transfer Interest Charge Imposition) Bill 2006

Date introduced: 25 May 2006

House: House of Representatives

Portfolio: Treasury

Commencement: 1 July 2006

Purpose

To impose, as a tax, the instalment transfer interest charge that can be imposed under the *Petroleum Resource Rent Tax Assessment Act 1987*.

Background

The Petroleum Resource Rent Tax Assessment Amendment Bill 2006 seeks to introduce a new interest charge: the 'instalment transfer interest charge'. This charge recoups the time value of money associated with excess transfers of exploration expenditure under the *Petroleum Resource Rent Tax Assessment Act 1987* (the PRRT Act).

Rent is a payment to a factor of production, such as capital, that exceeds the amount necessary to keep that factor in its current occupation. Under the PRRT Act, liability for the petroleum resource rent tax (PRRT) is incurred when all allowable expenditures have been deducted from assessable receipts. Undeducted *exploration* expenditure incurred on or after 1 July 1990 can be transferred to other projects subject to conditions, notably the common-ownership rule.

This rule tests the continuity of common ownership between the source project incurring the exploration expenditure (the non-PRRT paying project) and the receiving project (the PRRT paying project). In particular, the company with unused exploration expenditure (the loss company) must be part of the same group of companies as the receiving project company. In short, the PRRT allows intra-group transfers.

Breaches of the common ownership rule could give rise to situations where taxpayers claim amounts of deductible exploration expenditure that exceed those they can legally claim (companies pay the PRRT in quarterly instalments). The resulting 'excess transfer' of exploration expenditure reduces the amount of PRRT paid below the amount that is legally payable. In effect, the Australian Taxation Office provides an interest-free loan to

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the taxpayer until the excess transfer is reversed. To offset this, the instalment transfer interest charge is imposed on the excessive transfer.

The Petroleum Resource Rent Tax (Instalment Transfer Interest Charge Imposition) Bill 2006 (the Bill) seeks to give constitutional validity to the instalment transfer interest charge. Section 55 of the Constitution states:

Laws imposing taxation shall deal only with the imposition of taxation, and any provision therein dealing with any other matter shall be of no effect.

For more information, see the [Bills Digest](#) for the Petroleum Resource Rent Tax Assessment Amendment Bill 2006.¹

Main provisions

Proposed section 3(1) imposes the instalment transfer interest charge as a tax, while **proposed section 3(2)** states that the instalment transfer interest charge means the charge payable under section 98A of the PRRT Act.

Endnotes

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- 1 Richard Webb and Bernard Pulle, 'Petroleum Resource Rent Tax Assessment Amendment Bill 2006', *Bills Digest No. 154, 2005–06*, Parliamentary Library, Canberra, 2 March 2006. <http://www.aph.gov.au/library/pubs/bd/2005-06/06bd154.pdf>

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