

Senate Economics References Committee
ANSWERS TO QUESTIONS ON NOTICE

Treasury

Inquiry on Privatisation of State and Territory Assets and New Infrastructure
18 February 2015

Topic: Asset Recycling Fund

Senator: Dastyari

Question:

Would you please provide the Committee with further information on:

- the financial process for making incentive payments associated with the Asset Recycling Initiative to states and territories under the framework established by the Federal Financial Relations Act 2009, including whether the funds would be drawn from the Building Australia Fund or some other source; and
- why the Asset Recycling Fund Bill 2014 was necessary if incentive payments for the Asset Recycling Initiative could already be made in other ways.

Answer:

Payments for the Asset Recycling Initiative can be made to the states under the current Federal Financial Relations framework, as set out in the 2009 Intergovernmental Agreement on Federal Financial Relations, and supported by the *Federal Financial Relations Act 2009* and the *COAG Reform Fund Act 2008*. Under this legislation, funding is provided in the budget appropriation bills. A general drawing rights limit in Appropriation Bill 2 covers payments to states under National Partnership Agreements (NPAs), and the Treasurer credits funds to the COAG Reform Fund via a determination each month. There is no specific appropriation for individual NPAs. This is the same legislative and policy framework for making payments under the majority of other NPAs.

Funding for the Asset Recycling Initiative is being sourced from the proceeds of the Medibank Private sale. Funding may also be sourced from uncommitted funds in the Building Australia Fund and the Education Investment Fund subject to these Funds being wound up.

The Government decided to establish an Asset Recycling Fund to hold the proceeds from the sale of Medibank Private and other privatisations as well as the uncommitted funds from the Building Australia Fund and the Education Investment Fund. The establishment of an Asset Recycling Fund would provide an increased level of transparency on how the Government is funding its infrastructure commitments. It would also enable the earnings on the uncommitted balance of the Fund to be invested into infrastructure.

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Question:

CHAIR: I thought they had the legislative backing to do what they are doing. You are saying they don't. The question to take on notice—and I appreciate this is outside your part of Treasury—is: where there is appropriation that is outside of a legislative framework, to what extent can that still be tied to the intended expenditure simply by agreement? My understanding is that the different payments that are made normally are then presented within some kind of legislative framework which is just an agreement: we will pay this much; they will pay that much. How can these agreements exist outside of a legislative framework? I am not disputing the fact that the federal government can give money to the state government; I am questioning whether, if it is outside an agreement, there is still a legislative framework.

Answer:

No such payments are made outside a legislative framework. Payments can be made to the states in accordance with a National Partnership Agreement (NPA), such as the National Partnership Agreement on Asset Recycling. NPAs are governed by the legislative framework established by the *Federal Financial Relations Act 2009* and *COAG Reform Fund Act 2008*, along with the operation of the Intergovernmental Agreement on Federal Financial Relations. A general drawing rights limit in Appropriation Bill 2 covers payments to states under NPAs. There is no specific appropriation for individual NPAs.

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Topic: Electricity Prices

Senator: Lambie

Question:

Senator LAMBIE: First of all, if there is no watchdog looking at energy prices, I would like to know who is supposed to be doing that job—or, if there is, who it is. Second, who is comparing world electricity prices to Australian electricity prices? They are my questions.

Answer:

State and territory governments have responsibility for retail electricity pricing.

Some states and territories have regulated retail electricity prices where an independent regulator or the state government sets the regulated electricity price. In other jurisdictions, retail electricity prices are deregulated. The final retail price of electricity is comprised of generation costs, transmission and distribution network costs, and retail costs.

The Australian Energy Market Commission (AEMC) publishes an *Annual Residential Electricity Price Trends Report* which provides information on the factors expected to affect the trends in residential electricity prices for each state and territory. The AEMC also conducts annual competition reviews, assessing the state of retail competition in small customer markets in all National Electricity Market (NEM) jurisdictions.

The Department of Industry and Science produces an annual publication, *Energy in Australia*, which provides key facts and figures on Australia's energy sector. The 2014 publication shows that Australian household electricity prices are in the mid-range of electricity prices faced by Organisation for Economic Co-operation and Development economies.

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Topic: Electricity Prices

Senator: Lambie

Question:

Senator LAMBIE: I have one more to put on notice. I want to know whether privatisation will lower electricity prices and where they are going over the next 20 years. I do not want to know in the short term; I do not want to know what they are doing in two years. I want to know what they are anticipating the effects will be in 20 years.

Answer:

There is currently a mix of privately-owned and government-owned electricity network businesses across the NEM. Questions of privatisation are the responsibility of the relevant state or territory government.

In its *2013 Electricity Networks Framework Review*, the Productivity Commission found that the government owned networks in New South Wales and Queensland had significantly higher network costs due to lower levels of operational efficiency than privately owned networks. The key contributor to rising electricity prices in recent years has been increasing network costs.

Modelling undertaken for the *2014 Review of the Renewable Energy Target* by Acil Allen contains projections of retail electricity price outcomes over the period to 2040. The modelling indicates that, in real terms, retail electricity prices are expected to decline initially and then flatten over the medium term before rising slightly in the long term. Such long term forecasts contain a high degree of uncertainty.

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Topic: Tax Equivalence Payments

Senator: Dastyari

Question:

CHAIR: The questions relating to what happens to the New South Wales government losing their current tax equivalent payments—you are not the right person to speak to about that. I can put the questions on notice. There are some fairly technical questions. You are effectively talking about four different assets, one of which will be completely sold, two of which will be sold at 51 per cent and one of which will be completely retained by government. The specific question really is, and I guess this all becomes about initial structure: with the two assets that are at 51 per cent, do you lose the tax equivalent status for the entire asset, or for the portion that has been sold off?

Answer:

The National Tax Equivalent Regime (NTER) is an administrative arrangement under which the relevant Commonwealth income tax laws are notionally applied to State and Territory government owned businesses that are nominated for inclusion in the regime. These entities are listed in the NTER entity register.

In order to be eligible for the regime, entities must be a State/Territory body that is not subject to federal income tax. In other words, they must be exempt from income tax under Division 1AB of the Income Tax Assessment Act 1936 (ITAA36). The most common way for an entity to be eligible for exemption under Division 1AB is that it be a company limited by shares, and that all the shares in it are beneficially owned by the Government (see s24AO of ITAA36).

If the State was to retain part ownership of the corporate business then that business would cease to be an NTER entity (by virtue of not being wholly owned as prescribed under s24AO). However, if the State was to hold its interest in the business through a partnership with the private investor, then potentially the State's share of any partnership might still be subject of tax equivalent payments. This would be dependent on the State nominating the entity that holds the partnership interest on behalf of the State to be a participant in the NTER.

Under the Memorandum of Understanding which governs the operation of the NTER, it is the States and Territories that nominate which businesses will participate in the NTER (i.e. the ATO has no say in regards which businesses will participate in the NTER).