

Senate Standing Committee on Economics

Parliament House

Canberra ACT 2600

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Australia's Oil and Gas Reserves

Term of reference

- a. arrangements used by other countries to maximise the benefit to the public of national oil and gas reserves*

This is not a pretty picture: “Governments around the world are estimated to lose between US\$240 to \$650 billion per annum through corporate tax avoidance. It therefore seems logical that this policy challenge is a major political and social issue.”¹

Term of reference

- b. arrangement that could be considered to maximise benefit to the public of national oil and gas reserves*

It is commercial practice that in the leasing of any ‘going concern’ (such as a hotel or other business) that earnings before income tax, depreciation and amortisation are split equally between the landlord (as rental) and lessee (as profit). i.e. EBITDA/50%

In respect of Australia’s oil and gas reserves, Australia is obviously the landlord and the resource operator the tenant.

b. i sovereign risk

The full resource rent is owed to *all Australians* **before** income tax, depreciation and amortisation. Therefore, should the tenant **not** pay the full 50% EBITDA rent as in other commercial arrangements, it should be understood that the nation experiences loss in the sovereignty of its own resources (as mentioned in the opening statement at **a. above**) *to the extent that* the tenant fails to proffer the amount of resource rental thus established.

b. ii existing property rights

The tenant has no sovereign right over in-ground oil and gas reserves, but merely a lessee’s interest in 50% of the net profits (EBITDA). Considerations are therefore ‘going concern’ arrangements as between a landlord and tenant. This fact is commonly disputed by operators.

b. iii federal and state jurisdictions

Any arrangement between States and the Commonwealth as to rent receivable from oil and gas reserves should acknowledge that 50% EBITDA represents the *full* rent of the resource owed equally to all Australians. Therefore, any State royalties received would need to be deducted from the total amount of resource rent.

Term of reference

c. any related matters

The Senate Standing Committee is directed to a 2-minute YouTube video cartoon which references principles involved in private rent-seeking in *publicly-generated natural resource rents* ('super-profits'), as opposed to incomes actually *earned* by companies and individuals. It is not uncommon for such fundamental considerations to be overlooked in public policy-making.²

References:

1. "Killing the Goose that Laid the Golden Egg", Tax and Transfer Policy Institute, 17 September 2019. <https://www.austaxpolicy.com/killing-the-goose-that-laid-the-golden-egg-australian-mining-companies-defence-of-harmful-tax-practices/>
2. https://www.youtube.com/watch?v=S_W7qwtYaL0

END