



## **Inquiry into legislation on the petroleum resource rent tax and ‘phoenixing’ that avoids payment of employees’ superannuation**

The House of Representatives Economics Committee will inquire into and report on the Tax Laws Amendment (2011 Measures No. 8) Bill 2011 and the Pay As You Go Withholding Non-compliance Tax Bill 2011.

The Bills clarify that the petroleum resource rent tax (PRRT) applies when a product is in its intended final form, rather than the earlier point in the production process when the substance first meets the definition of a marketable petroleum commodity. A later taxing point implies a higher tax liability.

The legal interpretation of this part of the PRRT has been the subject of a long running legal dispute between Esso and the Tax Office, with the most recent decision supporting the later taxing point. The Explanatory Memorandum to the Bills states that the Federal Court’s decision affirms ‘the long established application of the PRRT’. An appeal on the decision is scheduled for November.

Secondly, the Bills extend the director penalty regime to make directors personally liable for their company’s unpaid superannuation guarantee amounts. This is designed to prevent a business ‘phoenixing’ to avoid its superannuation obligations for employees. The Bills also allow the Tax Office to commence proceedings without issuing a 21-day notice to the relevant directors. This prevents a company going into liquidation before the Tax Office starts legal proceedings.

The Bills also make consequential amendments for the taxation of gaseous fuels and provide the Tax Office with discretion to disregard certain events that would otherwise trigger the assessment of certain income for a primary production trust.

The Chair of the Committee, Julie Owens, said that the committee will examine the adequacy of the bills in achieving the policy objective and where possible identify any unintended consequences.

The Bills and the Explanatory Memorandum are available from the committee’s website.

Submissions should be sent to the committee by close of business on Wednesday, 26 October 2011. A public hearing is scheduled between 9.15 am and 3 pm on Thursday, 27 October 2011 in committee room 2R1 at Parliament House, Canberra.

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