

Senate Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

2017 - 2018

Division/Agency: Corporate and International Tax Division

Question No: 194

Topic: Foreign owned multinationals

Reference: Written

Senator: Hanson, Pauline

Question:

Foreign owned multinationals pay little if any corporate income tax (and this has been the case for decades)

1. Is it the case that foreign owned multinational petroleum are compliant with a poorly designed tax system or is it the case that these petroleum companies are non-compliant with a well-designed tax system?
2. Foreign owned multinational petroleum companies own most of the natural gas off the coast of Western Australia. Has consideration been given to production based taxes for the petroleum companies? If not why not?
3. Prelude FLNG is the first floating LNG production and storage facility in Australian waters. The WA Domestic Gas Reserve Policy was factored into the Final Investment Decision made by these companies but it will not apply as the LNG does not come on shore. Prelude FLNG required NOPSEMA approval to be based in the Browse Basin. One of the conditions for approval by NOPSEMA could have been the provision of 15% of the gas for domestic Australian supply. Was consideration given to that proposal?
4. What is the likely effect on revenue of ring fencing PRRT credits as proposed in the recent PRRT Report published in April 2017?
5. There are about 750 foreign owned multinational companies operating in Australia. Given the poor compliance patterns of these companies over a long period of time, have other ways of taxing these companies been considered and if so what are they?
6. Profits based taxes simply encourage foreign owned multinational companies to make paper losses. What harm would there be in taking foreign owned multinational companies out of the current taxing regime and putting them in a new regime based on observation transactions?
7. The Petroleum Resource Rent Tax (PRRT) legislation was introduced to attract exploration in areas which otherwise might not have been explored and at a time when the worldwide oil price was low and so little incentive to explore. The legislation was intended as a secondary tax. The real problem is the PRRT is creating tax credits in an explosive way and cancelling any possible payments of tax in the future. Given the purpose of the PRRT legislation when enacted what was the purpose of framing the reference of the Callagan PRRT Review in terms of 'working as intended' rather than in terms of the dismal collection of tax from the foreign owned multinational petroleum industry?
8. The Reserve Banks says those who have shares in the foreign owned multinational petroleum companies will benefit from the LNG boom in Australia. Should the Future Fund buy Chevron, Shell, BP and ExxonMobil shares as a way to get something for Australian natural gas?

9. The Japanese Government is reportedly making more from the import duty on our natural gas than the Australian Government is being paid. Should we taxpayers be concerned and if not why not?
10. The large foreign owned multinational petroleum companies say they have spent billions of dollars in Australia to set up under their natural gas projects. Most of the equipment is imported so very little value added by Australia. Can you provide a breakdown of the kinds of benefits (and the amount) that accrue to Australia in the exploration stage to the point where sales gas is a feeder gas for LNG production? Can you provide the same analysis of benefits in the production stage?

Answer:

1. The design of taxes on petroleum companies is a policy matter for Government. The Government established an independent review of the Petroleum Resource Rent Tax (PRRT) in November 2016 to examine whether existing arrangements were providing a fair return to Australia without deterring investment. The review identified some areas where changes should be made. The Government issued an interim response to the review on 30 June 2017. Treasury is currently consulting on the recommendations of the review and will report to Government by the end of September. Treasury is unable to comment on individual taxpayer affairs.
2. Australian governments apply a variety of taxes on resource production. In addition to company tax, the Australian Government imposes crude oil excise on eligible crude oil and condensate production from onshore areas and the North West Shelf project. Other offshore projects are generally subject to the PRRT. Companies also pay State and Commonwealth royalties as required. The Review into the PRRT did not recommend any changes to the current excise or royalty regimes. The Government issued an interim response to the review on 30 June 2017.
3. The National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) is Australia's independent, expertise based regulator for health and safety, environmental management, structural and well integrity, for offshore petroleum facilities and petroleum activities in Commonwealth waters. For the purposes of approving permissioning documents related to a petroleum activity, NOPSEMA makes merits based decisions that focus exclusively on the technical and scientific merits of risk management plans. NOPSEMA is not involved in Government policy decisions pertaining to where fossil fuels should be exploited, the selection or release of areas for petroleum exploration and development, or in the granting of petroleum titles. As a matter of policy, the Government does not require 15 per cent of gas to be diverted for the domestic Australian market.
4. Recommendation 2 of the PRRT Review recommended that transitioning projects with a starting base be prohibited from combining with future onshore projects without a starting base. This was intended to prevent existing projects from using starting base deductions as a tax shield for future projects. The PRRT Review did not quantify the impact of this recommendation.
5. Australia has a range of tax integrity measures designed to prevent multinationals from avoiding tax. For example, the Government has built on Australia's already strong tax integrity rules by introducing new anti-avoidance measures, such as the Multinational Anti-Avoidance Law which prevents multinationals from artificially avoiding a taxable presence in Australia if they do business in Australia, and the complementary Diverted Profits Tax (DPT), which commenced on 1 July 2017 and imposes an upfront 40 per cent penalty rate of tax on profits made in Australia but artificially diverted offshore by multinationals to avoid tax.

These measures build on other policies based on recommendations of the Organisation for Economic Co-operation and Development (OECD) Base Erosion and Profit Shifting Project (BEPS) Action Plan, including strengthening the transfer pricing rules and adopting the hybrid mismatch rules. The enforcement of existing laws and new measures introduced by the Government has been supported by additional funding to the ATO to establish a new Tax Avoidance Taskforce.

6. Multinational companies are subject to company tax, GST, excises where applicable and a range of other taxes. Transaction taxes are generally considered to be relatively inefficient forms of taxation, as they encourage companies to structure activities to minimise transactions and favour large vertically integrated enterprises and industries over small businesses and disaggregated industrial structures. The same amount of income may be taxed very differently depending on the number of transactions incurred to earn that income.
7. The PRRT was introduced to capture economic rents from petroleum projects. In this manner, the PRRT is intended to have a non-distorting impact on investment by taxing profits above what is necessary to undertake investment. The tax was intended to strike a reasonable balance between achieving a fair and equitable return to the community from the extraction of petroleum resources while not deterring investment in the petroleum industry. As such, the terms of reference was framed to address these two principles.
8. The Future Fund invests in a broad range of asset classes including commodities. However, specific decisions on investments made by the Future Fund are a matter for the Future Fund Board of Guardians, with the investment activities of the Future Fund being independent and at arm's length from the Government.
9. To examine declining PRRT revenue in Australia, the Government commissioned a Review into the PRRT regime on 30 November 2016. The Government released the report of the Review on 28 April 2017 and provided an interim response on 30 June 2017. Treasury is currently consulting on the recommendations of the review and will report to Government by the end of September.
10. Investment in Australia's oil and gas sector contributed strongly to economic growth over the mining construction boom, with more than \$200 billion worth of investment having been made in the LNG sector alone over the last decade. The gross value added by the oil and gas extraction industry in 2015-16 was around \$31 billion, which is around 2 per cent of total industry value added and around 30 per cent of total mining output. It is expected that the contribution of oil and gas extraction to the economy will increase over time in line with the ramp up in LNG exports. Oil and gas extraction is very capital intensive, and only employs around 0.1 per cent of all workers. Employment in the sector has risen from around 4,000 in 2002 to closer to 20,000 over the past year.