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Exempt - section 22

From: Van de maele, Peter
Sent: Thursday, 20 May 2010 11:02 AM
To: Chalmers, Jim; Barrett, Chris (Treasurer's Office); McDonald, Hamish; Jacobs, Martin
Cc: Parker, David; Henry, Ken; Davis, Graeme; Francis, Geoff; McCullough, Paul
Subject: RE: Note for KR on consultation panel and next steps [SEC~~=PROTECTED:CABINET-IN-CONFIDEN~~CE]

Hi Martin

Please find the note as discussed.

Regards,

Peter

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From: Chalmers, Jim
Sent: Wednesday, 19 May 2010 6:03 PM
To: Barrett, Chris (Treasurer's Office); McDonald, Hamish; Jacobs, Martin
Subject: Note for KR on consultation panel and next steps [~~SEC~~=IN-CONFIDENCE]
Importance: High

Chris, Hamish, Marty

Spoke to Charlton who has Rudd asking him for an indication of the following (ideally in a short note which forms the basis of the next WS-KR discussion as early as tomorrow):

1. Where the panel is up to

2. What kind of compromises we are looking to make and when

3. Whether we'd do them in one hit or piece by piece

4. How we frame them as compromises and not backdowns/backflips

How do you want to go about pulling something together quickly, ie by noon or so tomorrow?

Thanks

Jim

NOTE ON RESOURCE TAX CONSULTATION PANEL AND NEXT STEPS

20 MAY 2010

WHERE THE RTCP IS UP TO (AND WHAT IS NEXT)?

- The Resource Tax Consultation Panel has commenced high level engagement with the industry. In its initial phase of consultation the Panel has already met with 8 large resource companies, 6 industry and taxation associations and representatives of the State Treasuries. While there has been an element of negative commentary from some industry representatives, the Panel discussions have maintained focus on design issues and concerns impacting on industry.

- The Panel is scheduled to meet with another 10 large resource companies and 3 industry and taxation associations over the next week, with the 24th and 25th of May meetings being undertaken in Perth. The outcome of this consultation and the other consultation activities outlined below will be incorporated both into the initial report to Government and the Issues Paper to be released

- Once the initial activity is completed, and the initial report prepared, the intent is for the Panel's role to shift from the current face-to-face consultation to more of an oversight role providing input into the Issues Paper and reviewing the outcomes of the formal submission processes. However, the Panel may be used to meet and discuss further issues with industry as required.

- In conjunction with the Panel meetings, the Resource Tax Consultation Panel secretariat has also been meeting with industry representatives. The secretariat has met with all companies that met the panel, as well as an additional 3 companies. The secretariat has also met with representatives of several specialist taxation and accounting practices.

- The Panel secretariat is about to commence Resource Tax workshops in key capital cities. The workshops will provide a 4 hour introduction to the RSPT and for interested resource companies there will be an opportunity for short individual sessions with the Panel secretariat. To date, over 300 people have nominated to attend the open workshops and around 70 companies have nominated for the individual sessions. Sessions are scheduled for the following:

  Sydney: Monday 24th May and Tuesday 25th of May

  Brisbane: Thursday 27th and Friday 28th of May

  Melbourne: Monday 31st May and Tuesday 1st of June

  Perth: Tuesday 8th and Wednesday 9th of June

  Adelaide: Thursday 10th and Friday 11th of June

WHAT KIND OF CHANGES COULD BE MADE AND WHEN?

Transitioning existing projects and book value

- Consultation has raised concerns with the book value concept of valuing the assets of a project as a means to transitioning existing projects into the Resource Super Profits Tax (RSPT). This is on the basis that the book value methodology may not be a fair representation of a project's assets at the time the valuation is undertaken, such as where an asset has been impaired but is likely to recover in value.

- While the book value is a sound starting base, this methodology could be augmented to adjust for impairments or where the valuation does not properly reflect the asset's value due to a particular requirement under the accounting standards.

Mature system and the guaranteed government contribution of 40 per cent (refundability)

- Consultation has identified the resource industry is of the view that they would not value the guaranteed government contribution of 40 per cent to the projects costs through a deferred refunding mechanism.
- The announced approach was to provide a refund on a reasonable basis, such as on closure of a mine.
- The delay in the refund is said to raise sovereign risk issues and to not be valued by the miners or investors. However, industry have said they would value the refund (to varying degrees) if it were moved closer to a cash-flow model.
- Alternative mechanisms are available to align the timing of the refund closer to a cash flow tax basis and thereby reduce the sovereign risk issue (and increase the valuing of the guarantee), such as:
  - accelerated write-off of capital expenditure such as from immediate write-off to a 5 year write-off;
  - allow trading in losses between non-renewable resource entities; and
  - allow for the right to the refund to be tradeable (perhaps in the form of a government guaranteed tradeable certificate) akin to a Government Bond.
- This method would allow for the current long term government bond rate (LTBR) benchmark to remain and could leave the key design parameters of the RSPT intact.
- Another means is to remove the refundability and transferability aspect of the RSPT, representing a move closer to the current Petroleum Resource Rent Tax (PRRT).
- This would require a higher uplift rate than the LTBR benchmark and would represent a shift away from the key design parameters of the RSPT.
  - Industry has said they value the transferability of losses and costs in the RSPT. The removal of this feature, which would be necessary if a higher uplift rate was provided, would come under pressure.
  - Removal of the refundability aspect, along with the transferability aspect, would create pressure from industry to provide different uplift rates based on project and commodity profiles due to these having different risk premiums.
- A move closer to a 'cash flow' model by accelerating access to the guaranteed government contribution would allow for less complex and more administrable law as compared to moving to a PRRT model.

PRRT – offshore/onshore

- Representation has been made to allow both onshore and offshore petroleum and gas operations to come within the PRRT and not just the offshore.

- This would allow for onshore operations, such as coal seam gas, to come under the umbrella of the PRRT.

- This would create pressure on the overall design of the RSPT by industry on the basis of the PRRT's higher uplift rates and would make it harder to keep the LTGBR benchmark as onshore mineral operations would request at least parity with the PRRT uplift rates. However, these pressures might be resisted by emphasising parity with offshore gas producers.

Scope

- The announcement paper proposed that all non-renewable resource projects would be within the scope of the RSPT. It also flagged the need to consult with the community on the need for a carve-out of the RSPT based on whether there was no net benefit to society (based on compliance costs) for applying the RSPT.

- Representation from those with low value minerals has been strong on the need to carve them out of the RSPT. Little has been mentioned on the need to carve-out small or micro operations.

- While low value mineral projects and small to micro operations could stand to benefit from the neutral aspect of the RSPT (via the guaranteed government contribution of 40 per cent), a request for carving out low minerals has been made on several fronts.

- While the principle for a carve-out is sound, it would be valuable to obtain more data on the types of operations and how the carve-out could operate via consultation with industry before a precise mechanism was announced.
  - Carve-outs will increase the complexity in the law, such as eligibility rules, moving in and out of the carve-out, and on the need to apportion costs and revenues where a project has both low and high value minerals.
  - Also, a definition of what is a low value mineral, from a threshold point of view, would need to be determined.
  - An alternative could be to insert a threshold carve-out, such as on turn-over. If set at a sufficiently high level, this could potentially deal with both the low value minerals and the small entities.

WHETHER TO MAKE CHANGES ALL AT ONCE OR PIECE BY PIECE?

Book value and scope

- In the interim, changes could be announced on a principle basis with a view to working out the detail through the announced consultation process. In particular, an Issues Paper is to be released publicly in July 2010 with a call for submissions.

- This would be the case for the adjustment to the book value methodology and the scope of the RSPT.

Long term government bond rate

- Increased (earlier) access to the guaranteed government contribution could be announced in principle with a view to consulting on the mechanism. This would increase the chances of the LTBR remaining intact.

- Announcing a move to a PRRT approach would require an increase in the announced LTBR benchmark.

- Any such announcement would have to avoid an outcome that required analysis of different risk profiles on a project and commodity basis, resulting in greater complexity in the design of the policy and the legislation with flow on impacts on its administration.

WHAT DO THE CHANGES MEAN FOR THE 40 PER CENT RSPT RATE AND THE LTGBR?

- The changes to the book value methodology, the scope and greater access to the guaranteed government contribution would not require a change to either the 40 per cent RSPT rate or to the LTGBR benchmark.

- A move to a PRRT model would require the refundability and transferability features of the RSPT to be removed and a need to increase the LTBR benchmark along the lines of the existing PRRT uplift rates. This change would not necessitate a change to the 40 per cent RSPT rate.