



Australian Government

The Treasury

TAX LAWS AMENDMENT (SHIPPING REFORM) BILL 2012

SUMMARY OF CONSULTATION PROCESS

The Government announced on 9 September 2011 that it would deliver a comprehensive package of reforms to the Australian shipping industry to make the Australian shipping industry more internationally competitive and help remove barriers to investment in Australian shipping.

This Bill was included as a part of the broader package of shipping measures, introduced into Parliament on 22 March 2012.

Consultation process

Consultation on a discussion paper entitled *Reforming Australia's Shipping* was conducted between 1 December 2010 and the end of January 2011. Following consultation, a taxation reference group was established to undertake a more detailed review of the implementation arrangements that might apply to the proposed reforms. The taxation reference group met on four separate occasions.

Consultation on the draft legislation was conducted between 20 February 2012 and 5 March 2012. Ten submissions were received. Of these, four are not publicly available as they were marked 'confidential and private'.

Submissions that are publicly available can be viewed by clicking on the following link.

[*Insert hyperlink to submissions page*]

Summary of key issues

The issues raised by the stakeholders were broadly consistent. Overall stakeholders welcomed the income tax exemption, a royalty withholding tax exemption, the capital allowance provisions and the Refundable Tax Offset (RTO), noting how these measures will provide positive benefits to those companies able to take advantage of them. However stakeholders also indicated that in their view, the package would not be as attractive without the addition of key measures.

These key measures, sought by industry, included the need for a dividend withholding tax exemption and a tax exemption for dividends paid to resident shareholders. In respect of the individual tax measures, there was considerable feedback on the RTO. Stakeholders recommended an increase in the rate of the offset, the inclusion of all wages paid in connection with employment, such as leave and for the definition of qualifying voyages to include ballast voyages. Whilst stakeholders welcomed the income tax exemption, there was a strong theme supporting the need for the income tax exemption to be replaced with 'non-assessable non-exempt income' (NANE). Furthermore, stakeholders recommended all proceeds on the sale of a vessel be exempt from tax rather than being given a deferral of tax.



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As a result of consultation, the following changes were made:

- The rate of the RTO was changed from 27 per cent to 30 per cent.
- Gross income in respect of remuneration for engagement on qualifying voyages includes amounts provided for leave and training.
- The definition of qualifying voyage will also include ballast voyages.

Treasury does not support industry's proposed dividend withholding tax exemption or a tax exemption for dividends paid to resident shareholders. Such exemptions do not create capital inflow into companies or industries, rather it encourages share trading between shareholders without necessarily increasing capital amounts invested. Further, there is no precedent for exempting company profits from tax in the hands of shareholders.

There is no policy authority for exempting from tax all sale proceeds on the sale of a vessel. The Bill provides for a partial exemption from tax for sale proceeds of a vessel:

- Exempting such proceeds from tax to the extent the vessel was used in accordance with the proposed shipping income tax exemption regime provides parity with the position in the UK.

There is also no policy authority for treating amounts of exempt income as NANE; the longstanding revenue policy is to treat amounts that are ordinarily taxable as exempt income rather than NANE.

- Amounts are treated as NANE where it is necessary to avoid double taxation or where the amounts have the form of income that does not really represent a gain to the taxpayer.

Industry preferred a NANE over exempt income as a NANE does not waste losses from prior years. Whilst the current tax law has an in-built loss wastage rule which reduces an entity's losses with any net exempt income, an alternative formula for reducing an entity's tax losses has been developed. This current rule would be modified to ensure it wastes fewer losses by disregarding 90 per cent of that part of the entity's net exempt income that directly relates to shipping exempt income.

Feedback

Feedback on the consultation process for this measure can be forwarded to consultation@treasury.gov.au. Alternatively, you can contact Alana Pekar on 02 6263 4456.

Thank you to all participants in the consultation process.