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TREASURY LAWS AMENDMENT (2019 PETROLEUM RESOURCE RENT TAX REFORMS NO. 1) BILL 2019.

SUMMARY OF CONSULTATION PROCESS

On 2 November the Government announced its final response to the Callaghan Petroleum Resource Rent Tax (PRRT) Review.

The Government is implementing its response in two tranches of legislation. The *Treasury Laws Amendment (2019 Petroleum Resource Rent Tax Reforms No. 1) Act 2019*, which received Royal Assent on 5 April 2019 includes the announced changes to lower the uplift rates that apply to certain categories of carried-forward expenditure and remove onshore petroleum projects from the scope of the PRRT. A separate bill will deal with the remaining law changes.

Consultation process

On 30 November 2016, the Government announced an independent review into the operation of the PRRT, crude oil excise and associated Commonwealth royalties. The Review released an issues paper for public comment between 19 December 2016 and 3 February 2017. It received 77 submissions and held meetings with 37 interested parties.

Consultation on the discussion paper *Options to address the design issues raised in the Callaghan Review* was conducted between 30 June 2017 and 28 July 2017. Consultation roundtables were held in Brisbane on 1 August 2017 and Perth on 8 August 2017. In addition, meetings were held with individual companies, the industry association, APPEA and an academic. 25 submissions were received. In response to information received in the public consultation, Treasury also undertook subsequent targeted consultation on a confidential basis with industry on more refined design options. This involved an industry roundtable held in Canberra on 13 September 2017.

Consultation on the draft legislation was conducted between 14 December 2018 and 15 January 2019. Nine submissions were received.

Submissions can be viewed on the Treasury website www.treasury.gov.au.

Summary of key issues

Callaghan PRRT Review

The key task of the Callaghan PRRT Review was to assess the operation of the PRRT, crude oil excise and associated Commonwealth royalties and advise on whether it was operating as intended. Industry largely emphasised to the Review that the current design of the PRRT was appropriate. In contrast, a number of other bodies raised concerns with aspects of the design of the PRRT.

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The overall assessment of the Callaghan Review was that while the PRRT remains the preferred way to achieve a fair return to the community without discouraging investment 'changes should be made to the PRRT arrangements to make them more compatible with the developments that have taken place in the oil and gas industry'. The Review's key recommendation was for a process involving consultation to update the PRRT in the areas: uplift rates, gas transfer pricing rules, outcomes of transferred exploration expenditures. The outcome of such a process could result in substantial changes to the PRRT regime.

Options to address the issues identified in the Callaghan PRRT Review

Treasury's consultation on the discussion paper *Options to address the design issues identified in the PRRT Review* undertook the detailed consultation anticipated by the Callaghan Review. There were two concerns relayed with respect to regulatory impacts:

Recommendation 1 of the Callaghan Review envisaged that PRRT design settings be updated and apply to new projects only. There was a preference expressed in consultation that rather than having a 'bright line' between existing and new projects, that the PRRT regime remain interoperable, and allow exploration expenditure transfers between existing and new projects. The Government's response provides an interoperable PRRT regime.

Recommendation 2 was to introduce an integrity measure to prevent onshore projects with a starting base combining with future onshore projects without a starting base. This was to address the integrity and revenue risk posed by new onshore projects combining with projects that benefited from the generous 2012 transition arrangements when PRRT was extended to onshore projects. Consultation revealed that this option was not workable because onshore projects typically obtain production licences in an incremental way from within an exploration portfolio. Alternative options to address the integrity issue were:

- Option A: Remove onshore projects from the PRRT altogether
- Option B: Prevent onshore projects from transferring exploration expenditure to offshore projects and update the combination rules to prevent onshore projects from combining with substantial new greenfields resources.

The Government has announced it would remove onshore projects from the PRRT regime. While both options address the integrity issue and avoid revenue risk, this option has the advantage of reducing compliance burdens for the onshore petroleum sector, whereas option B adds complexity to the regime.

Exposure draft legislation

Two changes were made in response to issues identified in consultation on exposure draft legislation. First, the ability for the Resources Minister to unilaterally combine petroleum projects was removed. The *Petroleum Resource Rent Tax Assessment Act 1987* has for some time included an ability for the Resources Minister to unilaterally combine petroleum projects. Some industry submissions raised concerns about the potential for the Resources Minister to combine, without their agreement, a project subject to the new uplift rates with an existing project subject to the current uplift rates. The Bill was amended to remove the ability of the Resources Minister to combine PRRT projects other than on application, addressing this concern.

Second, some industry submissions argued that the gas transfer pricing review creates uncertainty over the desirability of potential combination decisions in the period between 1 July 2019 and the conclusion of the review. Currently firms must choose to apply for a combination certificate within 90 days of receiving a production licence. An extension in time was sought to allow any outcomes of the review to be considered. The Bill was amended to provide the Resources Minister an ability to consider an application made at a later time.

Consultation on the exposure draft legislation identified a number of minor technical amendments to the legislation and suggested clarifications to the explanatory memorandum to assist compliance. Most were incorporated in the Bill and accompanying explanatory material.

Some submissions made comments of a substantive policy nature regarding the Government's response. For example, the Uniting Church in Australia, Sydnod of Victoria and Tasmania considered stronger reforms should be progressed, such as applying an uplift rate of LTBR including for existing projects and that a 10 per cent royalty is needed. On the other hand, some industry submissions stated that the general expenditure uplift should be subject to further review as the changes could discourage late in life injections of capital. A number of industry submissions also considered retention leases held at the time of the final investment decision and included in the Field Development Plan should not attract the new uplift rates. Other submissions argued that there should be transitional arrangements for transferring exploration expenditure from onshore projects after 1 July 2019. The Government did not substantively alter its response to the Callaghan Review in the process of finalising the legislation.

Feedback

Feedback on the consultation process for this measure can be forwarded to consultation@treasury.gov.au . Alternatively, you can contact Geoff Francis on +61 2 6263 3385.

Thank you to all participants in the consultation process.

Further consultations

As noted earlier, a separate Bill will deal with the remaining law changes that were announced by the Government in its final response to the Callaghan PRRT Review. These changes are aimed at improving the efficiency and administration of the PRRT and Treasury will consult on the exposure draft legislation after it is prepared.

As part of its final response, the Government also asked Treasury to lead a review of the gas transfer pricing arrangements, to consult and report within 12 to 18 months. On 5 April 2019, Treasury released a consultation paper on these arrangements, inviting responses by 14 June 2019.