Excise Tariff Amendment (Condensate) Bill 2011

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Economics Section

Contents

Purpose .............................................................................................................. 2
Background ...................................................................................................... 2
   Constitutional framework ........................................................................... 2
   Crude oil excise ......................................................................................... 3
   Condensate excise ..................................................................................... 4
   Rankin Trend area ..................................................................................... 4
   Committee consideration ......................................................................... 4
Financial implications ..................................................................................... 5
Key provisions ................................................................................................ 5
   Schedule 1—Amendments ........................................................................ 5
   Part 1—Amendments ................................................................................. 5
   Part 2—Application and savings provisions ............................................. 5
Concluding comments ................................................................................... 5
Excise Tariff Amendment (Condensate) Bill 2011

Date introduced: 6 July 2011

House: House of Representatives

Portfolio: Treasury

Commencement: On Royal Assent

Links: The links to the Bill, its Explanatory Memorandum and second reading speech can be found on the Bill’s home page, or through http://www.aph.gov.au/bills/. When Bills have been passed and have received Royal Assent, they become Acts, which can be found at the ComLaw website at http://www.comlaw.gov.au/.

Purpose

The purpose of the Excise Tariff Amendment (Condensate) Bill 2011 (the Bill) is to define clearly the area of the Rankin Trend off the north-west coast of Western Australia, in order to apply excise on condensate produced in that area. The Bill is one of two dealing with the imposition of excise on condensate.

Background

Constitutional framework

The taxation of petroleum reflects the constitutional division of responsibility between the Commonwealth and the states. Projects fall into three categories:

- offshore projects: they are located outside the three nautical mile boundary and so fall within the Commonwealth’s jurisdiction. Offshore projects incur:
  - either the petroleum resources rent tax (PRRT) or

1. Condensate is a form of hydrocarbon that is a liquid at standard temperature and pressure, and is obtained as part of the process of extracting crude oil and or natural gas. The Explanatory Memorandum describes the Rankin Trend as being ‘located within the North West Shelf and encompasses a number of spatially-related reservoirs. It was prescribed as a single condensate production area on the basis that the Rankin Trend reservoirs formed a single field, based on advice from Geoscience Australia’. See Explanatory Memorandum, Excise Tariff Amendment (Condensate) Bill 2011, p. 6.

2. See also the Bills Digest for the Excise legislation Amendment (Condensate) Bill 2011.

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• crude oil excise and Commonwealth royalties

• coastal waters projects: they lie between the low tide water mark and the three nautical mile boundary
  – coastal water projects are subject to Commonwealth crude oil excise and state royalties
  – the states share these royalties with the Commonwealth, and

• land-based onshore projects
  – they are subject to the Commonwealth crude oil excise and state royalties.

Crude oil excise

Crude oil excise applies to crude oil and condensate produced in exploration permit areas WA-1-P and WA-28-P in the North West Shelf, which is located off the coast of Western Australia. Excise is calculated as a percentage of the volume-weighted average (VOLWARE) of free-on-board prices. The excise rates vary. The rates are higher with the greater the volume of production from each prescribed production area. Further, the rates differ depending on the date of discovery and/or the start of production. The first 30 million barrels of crude oil and condensate from a field are excise exempt. Finally, each of the three categories of crude oil is subject to progressive rates with maximum marginal rates. Current excise rates are shown in Table 1 below.

<table>
<thead>
<tr>
<th>Annual sales (megalitres) #</th>
<th>Old oil*</th>
<th>Intermediate**</th>
<th>New oil***</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 to 50</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Over 50 to 100</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Over 100 to 200</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Over 200 to 300</td>
<td>20</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Over 300 to 400</td>
<td>30</td>
<td>15</td>
<td>0</td>
</tr>
<tr>
<td>Over 400 to 500</td>
<td>40</td>
<td>30</td>
<td>0</td>
</tr>
<tr>
<td>Over 500 to 600</td>
<td>55</td>
<td>50</td>
<td>10</td>
</tr>
<tr>
<td>Over 600 to 700</td>
<td>55</td>
<td>55</td>
<td>15</td>
</tr>
<tr>
<td>Over 700 to 800</td>
<td>55</td>
<td>55</td>
<td>20</td>
</tr>
<tr>
<td>Over 800</td>
<td>55</td>
<td>55</td>
<td>30</td>
</tr>
</tbody>
</table>


* Oil discovered before 18 September 1975
** Oil discovered before 19 September 1975 but not developed as of 23 October 1984
*** Oil produced from naturally-occurring discrete accumulations discovered on or after 18 September 1975.
# A megalitre is a million litres
Excise Tariff Amendment (Condensate) Bill 2011

Condensate excise

In the 2008-09 Budget, the Government announced that the crude oil excise would be extended to include condensate produced in non-PRRT areas. The Excise Tariff Amendment (Condensate) Act 2008 implemented this decision. Table 2 shows the condensate rates, which are the same as those applying to ‘new oil’. Condensate rates are also based on VOLWARE.

Table 2: Condensate excise rates

<table>
<thead>
<tr>
<th>Annual sales (in megalitres)#</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 to 500</td>
<td>0</td>
</tr>
<tr>
<td>501 to 600</td>
<td>10</td>
</tr>
<tr>
<td>601 to 700</td>
<td>15</td>
</tr>
<tr>
<td>701 to 800</td>
<td>20</td>
</tr>
<tr>
<td>Over 801</td>
<td>30</td>
</tr>
</tbody>
</table>

Source: Excise Tariff Amendment (Condensate) Act 2008

# A megalitre is a million litres

Rankin Trend area

As noted above, the Bill’s purpose is to define clearly the area of the Rankin Trend. The Explanatory Memorandum states:

Doubt has been raised regarding the validity of the by-law prescribing Rankin Trend ... as a condensate production area ...

The ... doubt relates to the area the Rankin Trend encompasses, with claims that it is of uncertain size and could be interpreted as being significantly larger than the area which was intended when the condensate production area was prescribed.

Committee consideration

The Bill was referred to the House Standing Committee on Agriculture, Resources, Fisheries and Forestry on 6 July 2011. Details of the inquiry are at http://www.aph.gov.au/house/committee/arff/condensate/index.htm

The Senate Selection of Bills Committee deferred consideration of the Bill to its next meeting.

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Financial implications

The Explanatory Memorandum claims that there are no financial implications. 6

Key provisions

Schedule 1—Amendments

Schedule 1 amends the Excise Tariff Act 1921.

Part 1—Amendments

Section 6CA of the Excise Tariff Act 1921 deals with excise on condensate. Subsection 6CA(1) contains definitions including of a prescribed condensate production area. Item 2 repeals that definition and states that such an area has the meaning given by proposed subsection 6CA(1A).

Item 3 inserts the revised definition, which specifically includes the Rankin Trend [paragraph 6CA(1A)(b)]. The Rankin Trend is defined further to include specified reservoirs [paragraph 6CA(1B)(a)] and other reservoirs (or groups of reservoirs) that are specified in regulations [paragraph 6CA(1B)(b)]. With respect to such regulations, proposed subsection 6CA(1C) states that before the Governor-General makes regulations, the Resources Minister must be satisfied that the reservoir(s) forms part of the same field, that is, within the Rankin Trend [paragraph 6CA(1C)(a)] and consider the effect of the regulation on the efficient exploitation of the reservoir(s) [paragraph 6CA(1C)(b)]. Proposed subsection 6CA(1D) allows regulations to be retrospective by providing that they can take effect before they are registered under the Legislative Instruments Act 2003.

Part 2—Application and savings provisions

Item 5(1) provides that Schedule 1 applies to condensate produced after midnight on 13 May 2008.

Concluding comments

The provisions are technical in nature and seek to clarify the area that the Rankin Trend covers for the purposes of calculating excise.

6. Explanatory Memorandum, op. cit., p. 3.
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