Petroleum taxation

In Australia, offshore oil and gas companies are subject to general income taxation arrangements and specific resources taxation. This information on petroleum and general taxation arrangements is provided as a guide only and independent legal and/or taxation advice should be sought prior to making any commercial decisions.

Petroleum taxation arrangements

Petroleum producing projects operating in Australia are subject to a resource charge, in addition to general income company tax arrangements. The resource charge aims to provide the Australian community with a fair and reasonable return from the development of its non-renewable petroleum resources.

Australia's fiscal arrangements are considered to be among the more competitive petroleum taxation regimes applied worldwide and provide a return to the community commensurate with the petroleum industry's assessment of Australia's prospectivity.

Petroleum Resource Rent Tax

The Petroleum Resource Rent Tax (PRRT) was introduced by the Australian Government in 1987 to replace royalties and crude oil and liquefied petroleum gas excise in most areas of Commonwealth waters, in recognition of the need for a stable and internationally competitive petroleum taxation regime.

The PRRT applies to all petroleum projects in Australia, including onshore and offshore projects except projects located in the Joint Petroleum Development Area situated in the waters between Australia and Timor-Leste.

It is a profit-based project tax, applied at a rate of 40 per cent to a project's taxable profit (assessable receipts less deductible project expenditure, including exploration expenditure). During September 2016, the Australian Taxation Office (ATO) issued practical compliance guidelines PCG 2016/12 and PCG 2016/13 to explain its compliance approach in relation to deductible expenditure. PCG2016/13 was updated in 2017 to explain the ATO's compliance approach in relation to social infrastructure expenditure. In January 2018, the ATO issued a taxation ruling TR 2018/1 relating to abandonment, decommissioning and rehabilitation expenditure incurred in relation to a PRRT project.

The PRRT is the only resource charge payable on production arising out of the release of offshore petroleum exploration acreage, a process that makes Australian offshore areas available for petroleum exploration.

The ATO is responsible for administering the PRRT. For further information on the PRRT, refer to the *Petroleum Resource Rent Tax Assessment Act 1987* or visit the Petroleum Resource Rent Tax page on the ATO website.

Royalty and excise duty

Royalties are paid for all petroleum produced in state/territory waters and for the North West Shelf project. Royalties are levied at a rate of between 10 and 12.5 per cent of the net wellhead value of all petroleum produced. Further details on resources taxation can be found on the Department of Industry, Innovation and Science website.

Crude oil and condensate excise duty is payable on certain offshore production from the North West Shelf project and all onshore production in the states and Northern Territory.

The first 30 million barrels of offshore crude oil and condensate per field are exempt, while the first 30 million barrels of onshore crude oil and condensate per field attracts a free rate of duty. In addition, excise duty only becomes payable if the production in a particular field exceeds the annual production threshold that is determined by the age of the field.

The applicable excise duty rate of crude oil and condensate on production above the threshold depends on the annual rate of production of crude oil and condensate, the date of discovery of the petroleum reservoir and the date on which production commenced.

The ATO is responsible for administering excise. Further information on the crude oil and condensate excise can be found on the ATO website.

General taxation arrangements

Company taxation

The Australian company tax rate, also known as the corporate tax rate, is 30 per cent for companies with an annual turnover in excess of A$25 million (A$50 million from 2018-19).

The treatment of business expenditure for the mining and petroleum industries is generally the same as for other industries. Expenditure that is not capital, such as operational expenses, is usually deductible in the tax-year in which it is incurred. The cost of a depreciating asset is generally deductible over the effective life of the asset.

Companies should contact the ATO each tax-year to ascertain if there are any special tax treatments available to the petroleum sector i.e. accelerated depreciation and special deductions. Taxation ruling TR 2017/1 provides guidance on the deductions for mining and petroleum exploration expenditure.

The public business and international groups page on the ATO website provides details about what support is provided by the ATO to large business. The page also provides a link to how taxpayers can manage their tax risks.

Capital Gains Tax

A capital gain or capital loss is generally the difference between what it cost you to acquire a capital asset and what you received when you disposed of it.

Tax is paid on capital gains. The tax forms part of income tax and is not considered a separate tax, although it is generally referred to as Capital Gains Tax (CGT).

A capital loss cannot be claimed against income but can be used to reduce a capital gain in the same income year. If the capital losses exceed the capital gains or a capital loss is made in an income year in which there are no capital gains, the taxpayer can generally carry the loss forward and deduct it against capital gains in future years.

All CGT assets acquired since tax on capital gains came into effect on 20 September 1985 are subject to CGT unless specifically excluded.

Selling assets is the most common way to make a capital gain or loss. CGT also applies to intangible assets such as business goodwill. Further information on Capital Gains Tax (CGT) is available on the ATO website.

Dividend imputation

Australia has an imputation system of company taxation. Australian resident individuals who receive a taxable dividend from Australian resident companies receive a refundable tax offset for tax paid by the company on its income. These dividends are called 'franked' dividends.

For the shareholder this means, subject to their marginal tax rate, the tax payable on the dividend is effectively fully or partially paid and for the company, this means that certain records must be maintained to verify the amount of franking credits that can be passed on to its shareholders.

Subject to various integrity rules, the extent to which the company may 'frank' a dividend depends on the credits or balance in its franking account at the time the dividend is paid. Franking of dividends by companies is not mandatory. Credits to the franking account generally arise when a company pays tax or when a company receives a franked dividend from another company. Debits generally arise when a company makes a franked distribution or receives a refund of income tax paid.

Foreign residents do not pay tax on the amount of franked dividends paid by an Australian resident company. However, they will pay withholding tax on the proportion of the dividend that is not franked. The withholding tax rate varies depending upon which country the dividend is going to. For most countries which have a Double Taxation Agreement with Australia, the rate is 15 per cent. If there is no Double Taxation Agreement between Australia and the country where the dividend is going to, the rate will be 30 per cent.

Tax treaties and foreign income tax offsets

Australia has tax treaties with many countries that aim to eliminate double taxation. These treaties allocate taxing rights between the residence (of the person) and the source (of the income) countries and require these countries to eliminate double taxation where there are competing taxing rights. While each treaty is unique, Australia's tax treaties generally relieve double taxation by:

- allocating taxing rights over certain income exclusively to one country, or
- requiring the residence country to grant a credit (against its own tax) for the tax levied by the source country[1].

A key aspect of the tax treaty allocation of taxing rights rules is that the country of source is prevented from taxing business profits unless the profits are attributable to a permanent establishment i.e. a branch situated within that country. However, the country of source may not generally tax business profits emanating from it if there is no permanent establishment. In such cases, the exclusive right to tax the profits is assigned to the country of residence of the enterprise.

Non-residents are liable to Australian withholding tax on Australian-sourced dividend, interest and royalty income, unless that income is effectively connected to the activities of a permanent establishment located in Australia. This tax is withheld at source before the income is remitted overseas.

The Australian Government is continually reviewing its tax treaties to ensure that Australia remains an internationally competitive place to do business.

For further information on tax treaties, refer to the tax treaties table on the Treasury website.

Payroll tax

The state and territory governments levy payroll tax. The rate of the tax, and how it is levied, varies between states and territories, ranging from 4.75-6.85 per cent. However, there are exemptions for smaller operations. The exemption threshold ranges among the states/territories from an annual wages bill of A$575,000 in Victoria to an annual wages bill of A$2.0 million in the Australian Capital Territory. Most states/territories levy payroll tax on employee non-cash fringe benefits and employer superannuation contributions. Further information on payroll tax can be obtained from the relevant state/territory Revenue Office.

[1] Australia's domestic law also provides an exemption for certain foreign source income derived by Australian residents.

Fringe benefits tax

A benefit provided by an employer to an employee in respect of their employment is a fringe benefit. Employers are required to pay Fringe Benefits Tax (FBT) on the value of certain fringe benefits provided to employees.

Employers are required to report on payment summaries the taxable value of an employee's fringe benefits where the value of the benefits exceeds A$2,000. This enables the value of fringe benefits to be taken into account in income tests in order to determine entitlement to income-tested government benefits, and liability to tax surcharges, such as the Medicare levy surcharge, and income-tested obligations, such as child support payments.

The FBT year is from 1 April to 31 March and payments are generally made in quarterly instalments. Employers whose FBT liability in the previous year was less than A$3,000 need only pay on an annual basis. The FBT rate is currently 47 per cent.

Housing fringe benefits provided to employees in remote areas are exempt from FBT and excluded from the fringe benefits reporting requirement. Other types of housing assistance provided to employees in remote areas may also be taxed concessionally under FBT and excluded from the fringe benefits reporting requirement. FBT concessions and reporting exclusions are also available for certain housing related benefits such as electricity, gas or other residential fuel, and holiday travel for employees and their families living and working in remote areas.

Indirect taxation

Goods and Services Tax (GST) is an Australian broad based tax of 10 per cent that is generally borne by end consumers. It applies not only to goods and services but also to other supplies including that of rights and real property. Supplies of some goods and services are not subject to GST (GST-free), including supplies of basic food, health care and education. Exports and other supplies for consumption outside Australia are generally not subject to GST.

GST-free means that suppliers do not include GST in the price of these supplies but can claim credits for the GST included in the purchases used to make these supplies. This effectively eliminates any GST from the price to the end consumer.

Some supplies, mainly financial supplies, residential rent and residential premises (other than new residential premises), are input-taxed. This means that suppliers do not include GST in the price of these supplies and cannot claim any related GST credits.

Entities may register if they are carrying on an 'enterprise'. The most common type of 'enterprises' are businesses. Other types of enterprises include charities and government departments. If the annual turnover of an enterprise is A$75,000 or more (A$150,000 or more for a non-profit body), it is required to register for GST.

Registered businesses are generally able to claim input tax credits for any GST included in their costs of production.

Excise duty or excise equivalent customs duty is payable on petroleum products, including gasoline, diesel fuel and gaseous fuels including LPG, produced for, or imported into the Australian market, while exported goods are excise exempt. The excise duty amount is included in the selling price used to calculate GST liability on petroleum products.

Further Information

Enquiries on general taxation matters should be directed to the ATO in the relevant state/territory capital city.

Alternatively, information can be found on the ATO website at ato.gov.au.

More information about withholding dividends paid to foreign residents can be found on the ATO website.

Further information on state/territory royalties is available from the relevant state/territory mines department.

Further information on resource charges can be obtained from:

Manager – Coal and Tax Section
Resources Division
Department of Industry, Innovation and Science
GPO Box 2013
CANBERRA ACT 2601

Telephone: +61 2 6243 7051