

2013-2014

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

**MINING SUBSIDIES LEGISLATION AMENDMENT (RAISING
REVENUE) BILL 2014**

EXPLANATORY MEMORANDUM

(Circulated by the authority of Senator Christine Milne)

Mining Subsidies Legislation Amendment (Raising Revenue) Bill 2014

GENERAL OUTLINE: Policy Rationale

This Bill seeks to remove a distortion in the tax system that favours some industries over others by abolishing the following fossil fuel subsidies for mining companies from 1 January 2015:

1. The diesel fuel rebate for the mining industry - since the carbon price repeal, mining companies no longer pay a cent in tax for their fuel, compared to ordinary Australians who pay 38 cents litre;
2. Accelerated asset depreciation for aircraft, the oil and gas industry and vehicles - instead of the usual practice of depreciating assets such as cars, planes and machinery over their useful life, the mining industry is allowed to claim depreciation over a shorter period;
3. Immediate deduction for exploration and prospecting expenses for the mining industry - expenditure on exploration and prospecting by the mining industry is immediately deductible for company tax rather than depreciated over time as is the usual practice for investments.

The impact will be limited to resource companies only. The equivalent tax concessions available for agricultural businesses will not be affected.

NOTES ON CLAUSES

Clause 1 – Short title

This clause provides for the Bill, when enacted, to be cited as the *Mining Subsidies Legislation Amendment (Raising Revenue) Act 2014*.

Clause 2 – Commencement

This clause provides for the Act to commence on the day after it receives the Royal Assent.

Clause 3 – Schedule(s)

This clause specifies that each Schedule in this Act, that is amended or repealed, operates according to its terms.

Schedule 1 – Amendments

Fuel Tax Act 2006

Item 1

This item removes the ability for mining and quarrying operations to claim fuel tax credits under subsection 41-5(1).

Income Tax Assessment Act 1997

Item 2

This item provides that the immediate deduction for exploration or prospecting assets under subsection 40-80(1) does not apply to assets first used on or after 1 January 2015.

Items 3 and 5

The table in subsection 40-102(4), set out below, provides for special effective lives for various aircraft, vehicles and vessels.

<i>Capped life of certain depreciating assets</i>		
Item	Kind of depreciating asset	Period
1	Aeroplane used predominantly for agricultural spraying or agricultural dusting	8 years
2	Aeroplane to which item 1 does not apply	10 years
3	Helicopter used predominantly for mustering, agricultural spraying or agricultural dusting	8 years
4	Helicopter to which item 3 does not apply	10 years
5	Bus with a * gross vehicle mass of more than 3.5 tonnes	7.5 years
6	Light commercial vehicle with a * gross vehicle mass of 3.5 tonnes or less and designed to carry a load of 1 tonne or more	7.5 years
7	Minibus with a * gross vehicle mass of 3.5 tonnes or less and designed to carry 9 or more passengers	7.5 years
8	Trailer with a * gross vehicle mass of more than 4.5 tonnes	10 years
9	Truck with a * gross vehicle mass of more than 3.5 tonnes (other than a truck that is used in * mining and quarrying operations and that is not of a kind that can be registered to be driven on a public road in the place in which the truck is operated)	7.5 years
10	Vessel for which you have a certificate under Part 2 of the <i>Shipping Reform (Tax Incentives) Act 2012</i>	10 years

Items 3 and 5 of the Bill provide that items 2, 4 and 5-9 of the table do not apply to aircraft and vehicles used for mining and quarrying operations, if the relevant time for the assets occurs on or after 1 January 2015.

Items 4 and 5

Subsection 40-102(5) provides for special effective lives for assets used in particular industries.

Items 4 and 5 end this special treatment in relation to assets for use in the oil and gas extraction industry, if the relevant time for the assets occurs on or after 1 January 2015.

Item 6

This item provides that the company tax deduction under subsection 40-730(1) for expenditure on exploration or prospecting does not apply to expenditure incurred on or after 1 January 2015.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Mining Subsidies Legislation Amendment (Raising Revenue) Bill 2014

This Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of *the Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Bill:

The purpose of this Bill is to remove a distortion in the tax system that favours some industries over others by abolishing the following fossil fuel subsidies for the mining industry from 1 January 2015:

1. the diesel fuel rebate;
2. accelerated asset depreciation for aircraft, the oil and gas industry and vehicles;
3. immediate deduction for exploration and prospecting expenses for the mining industry.

Human Rights Implications:

This Bill does not engage any of the applicable rights or freedoms.

Conclusion:

This Bill is compatible with human rights as it does not raise any human rights issues.