

AUSTRALIAN MARITIME TAXATION

Australia's current maritime taxation policy settings

- The Australian shipping industry has access to a number of tax concessions aimed at making the Australian shipping industry more internationally competitive, comprising an income tax exemption, accelerated depreciation, roll-over relief and the seafarer tax offset.
- Australian resident shipping companies are subject to the general corporate tax rules and are taxed at a rate of 30 per cent of their taxable income unless they are a qualifying small or medium company¹ eligible for a reduced corporate tax rate of 25 per cent.
- Under Australia's tax treaties, the taxing right over shipping income is generally allocated solely to the state where the shipping company is a tax resident to reduce double taxation. This means that Australian resident shipping companies will only be taxed in Australia and not in the treaty partner country (and vice versa).
 - However, where foreign shipping companies transport goods or passengers within Australia, we seek to retain taxing rights over that income. Foreign-based ship operators are taxed in Australia under what the shipping industry refers to as the 'freight tax'.

Summary of tax concessions for the Australian maritime industry

- Shipping tax incentives are available to certain entities with certified vessels under section 10 of the *Shipping Reform (Tax Incentives) Act 2012*. Vessels are certified if they:
 - have a gross tonnage of at least 500²;
 - are registered in Australia; and
 - are not an excluded vessel (i.e. recreational, fishing and offshore industry vessels).
- Tax incentives available under the *Income Tax Assessment Act 1997* (Cth) include:
 - an income tax exemption for Australian shipping operators on qualifying shipping income;
 - accelerated depreciation of vessels via a cap of 10 years on the effective life of those vessels providing companies with greater depreciation in the early income years compared to the default tax treatment using the actual economic life of a ship;
 - roll-over relief from income tax on the sale of an eligible vessel;
 - a refundable tax offset for Australian shipping operators who employ Australian resident seafarers – the Seafarers Tax Offset (STO);
 - An Australian employer that employs at least one Australian resident as a seafarer for least 91 days in an income year to undertake overseas voyages on certified vessels is entitled to claim the STO
 - The STO represents 30% of the value of the gross eligible withholding payments made to eligible Australian seafarers who spend 91 days or more on international voyages on qualifying vessels each year
 - The STO is targeted to Australian companies using a certified Australian vessel employing Australian residents;
 - an exemption from royalty withholding tax for payments made by an Australian resident to a non-resident as consideration for the bareboat or demise charter of eligible vessels.
- Eligibility for these incentives (except the exemption from royalty withholding tax) is dependent on a certificate being issued for the vessel under the Income Tax Assessment Act.
- The Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the Department) administers incentives under the Act.
- 28 tax incentives certificates were issued in 2021.
- The data collected by the Department and the Australian Taxation Office on the use of the existing tax incentives suggests that all companies that are eligible to claim the tax incentives are claiming them.

¹ Base Rate Entity (generally up to \$50m aggregated turnover).

² 200 to 500 gross tonnage also allowed with Minister approval.

Stakeholder proposals

- Some stakeholders have advocated for changes to corporate and seafarer tax incentives which they assert would make Australian shipping more competitive relative to other major shipping nations.
- Maritime Industry Australia Limited (MIAL) have proposed specific changes to Australia's corporate and seafarer tax settings including making shipping company income tax a genuine tax exemption and removing income tax from seafarers serving on large ships.
- The Department is currently undertaking a review of the *Shipping Reform (Tax Incentives) Regulation 2012* and the Instrument of the *Shipping Reform (Tax Incentives) Act 2012* 'specification of kinds of vessels under Subsection 10(5)', that are approaching their sunseting date of 1 October 2023.
 - Preliminary feedback from stakeholders on proposed changes including expanding the scope of the instrument to ensure:
 - Liquefied Natural Gas (LNG) tankers or gas carriers which operate nationally are not excluded vessels under the Act;
 - that oil tankers and refined petroleum product tankers operating internationally, and offshore vessels engaged in the offshore wind energy industry, are not excluded vessels under the Act; and
 - RoRo vessels that service intrastate routes are not excluded vessels under the Act.

s 22

From: s 22
Sent: Monday, 20 February 2023 5:08 PM
To: s 22
Cc: JOHNSON Andrew; s 22; Mullaly, Damian; s 22
s 47E(d); s 22
s 22; Bultitude, Susan
Subject: RE: Strategic Fleet - Briefing for SF TF members (final) [SEC=OFFICIAL]

OFFICIAL

Hi s 22

Sorry about the delay in getting back to you. Thanks for sending this through. Our key comments and questions are below.

Corporate income tax

MIAL's request on corporate tax is similar to what they were asking for last year (ie, dividends from shipping should also be tax free in addition to tax free at the corporate income tax level). There seems to be a bit more of a focus on the resources industry in this paper, including extending tax exemptions (or state royalty rate reductions) for offshore vessels.

- Including offshore energy industry vessels in the scope of the existing tax concessions may be sensitive to the extent those vessels are owned and operated by LNG companies and would receive a windfall gain to their existing shipping operations from any change.
- There are potentially boundary issues around offshore vessels. Since they are owned by resource companies, whose primary business is supply of energy commodities, rather than shipping, there is always the potential for dispute with the ATO around whether any of the value of the underlying resource is being attributed to shipping. This issue may arise already though to these extent that ships eligible for the current income tax exemption are owned by and integrated into broader businesses.
- Going back to the original policy intent of the strategic shipping fleet, offshore vessels may not be as suitable for domestic purposes in time of crisis, to the extent those vessels are primarily set up to service export markets as their primary activity (I am not expert on this point though).
- Providing a personal income tax exemption for dividends derived from shipping income (via delivery of notional franking credits or some other method) presents a significant precedent risk for other industries to ask for similar treatment.

Seafarer's tax

The MIAL considers that the Seafarers' Tax Offset is not meeting its objective of encouraging Australian companies to hire Australian resident seafarers. Instead, MIAL suggests that Australian-resident seafarers employed by foreign companies should pay no income tax on their sea-based income.

- However, this alternative approach will not guarantee that Australian seafarers will be willing to accept lower wages to maintain current post-tax income. Indeed, MIAL indicates that there is a shortfall of some 500 positions implying that wages should rise.
- A tax exemption for sea-based income would not prevent the seafarer being taxed by other jurisdictions while working overseas. Further, it would be very complex to implement, and there are likely to be interactions with other parts of Australia's tax law (e.g. Australia's individual tax residency rules and network of tax treaties).
- As with the exemptions for dividend income, a tax exemption for sea-based income presents a significant precedent risk for other occupations to ask for similar treatment.

The fundamental argument of the paper is similar to their previous ones - that competitor countries offer these tax treatments so we should too if we want to be competitive. However, this doesn't provide much evidence that tax concessions would actually be effective, since as has been noted there are non-tax reasons for the difference in cost

between running an Australian flagged or foreign flagged ship that wouldn't be addressed by this measure. The risk that this measure provides windfall gains to existing operators without increasing the Australian shipping fleet isn't acknowledged as a risk in the paper.

I am happy to discuss.

Thanks

s 22

s 22 — Director

Special Tax Regimes, Corporate Tax Branch
Corporate and International Tax Division

P s 22

treasury.gov.au

Langton Crescent, Parkes ACT 2600

[Twitter](#) | [LinkedIn](#) | [Facebook](#)

The Treasury acknowledges the traditional owners of country throughout Australia, and their continuing connection to land, water and community. We pay our respects to them and their cultures and to elders both past and present.

OFFICIAL

From: s 22 @infrastructure.gov.au>

Sent: Tuesday, 14 February 2023 12:35 PM

To: s 22 @TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>;

s 22 @TREASURY.GOV.AU>

Cc: JOHNSON Andrew <Andrew.Johnson@infrastructure.gov.au>; s 22

@infrastructure.gov.au>; Mullaly, Damian <Damian.Mullaly@TREASURY.GOV.AU>; s 22

@TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>; s 47E(d)

@TREASURY.GOV.AU>; s 22

@infrastructure.gov.au>; s 22 @infrastructure.gov.au>

Subject: RE: Strategic Fleet - Briefing for SF TF members (final) [SEC=OFFICIAL]

OFFICIAL

Hi s 22

We have received another paper from Angela Gillham at MIAL.

I've attached it for your consideration and any further advice.

Happy to discuss.

Thanks

Kerri

s 22

Director • Strategic Fleet Project Team

s 22 @infrastructure.gov.au

P +s 22

GPO Box 594 Canberra, ACT 2601

Department of Infrastructure, Transport, Regional Development, Communications and the Arts
CONNECTING AUSTRALIANS • ENRICHING COMMUNITIES • EMPOWERING REGIONS

*I would like to acknowledge the traditional custodians of this land on which we meet, work and live.
I recognise and respect their continuing connection to the land, waters and communities.
I pay my respects to Elders past and present and to all Aboriginal and Torres Strait Islanders.*

OFFICIAL

Disclaimer

This message has been issued by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts. The information transmitted is for the use of the intended recipient only and may contain confidential and/or legally privileged material.

Any review, re-transmission, disclosure, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited and may result in severe penalties. If you have received this e-mail in error, please notify the Department on +61 (2) 6274 7111 and delete all copies of this transmission together with any attachments.

s 22

From: s 22 @infrastructure.gov.au>
Sent: Monday, 24 October 2022 3:09 PM
To: s 22
Cc: s 22 JOHNSON Andrew; s 22
Subject: RE: Strategic Fleet and taxation [SEC=OFFICIAL]

OFFICIAL

Thanks s 22

We had a meeting this morning with the Taskforce and they are getting their heads around the issues. We'll keep you posted on where they are heading but it would be good to be prepared on the tax front! We're looking to an IDC probably this week as well.

s 22

OFFICIAL

From: s 22 @TREASURY.GOV.AU>
Sent: Monday, 24 October 2022 3:05 PM
To: s 22 @treasury.gov.au; s 22 @infrastructure.gov.au>
Cc: s 22 @TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>
Subject: RE: Strategic Fleet and taxation [SEC=OFFICIAL]

OFFICIAL

Thanks s 22

s 22 we have started to turn our minds to what a tax 201 would look like. It would likely need to go into some of the design issues to consider when trying to calibrate a tax measure so that it provides just enough benefit to encourage additional shipping (rather than provide a windfall gain to those shipping operators tied to Australia for non-tax reasons) but without overdoing the benefit to the extent it unduly distorts domestic industries that compete for labour and capital (ie how to limit the benefit to around 12 ships).

s 22

s 22 — Director
 Special Tax Regimes, Corporate Tax Branch
 Corporate and International Tax Division
 P +s 22

treasury s .au
 Langton Crescent, Parkes ACT 2600
[Twitter](#) | [LinkedIn](#) | [Facebook](#)

The Treasury acknowledges the traditional owners of country throughout Australia, and their continuing connection to land, water and community. We pay our respects to them and their cultures and to elders both past and present.

OFFICIAL

From: s 22 <[redacted]@treasury.gov.au>
Sent: Friday, 21 October 2022 3:26 PM
To: s 22 <[redacted]@infrastructure.gov.au>; s 22 <[redacted]@TREASURY.GOV.AU>; s 22 <[redacted]@TREASURY.GOV.AU>; s 47E(d) <[redacted]@TREASURY.GOV.AU>
Cc: s 22 <[redacted]@infrastructure.gov.au>; s 22 <[redacted]@infrastructure.gov.au>; JOHNSON Andrew <Andrew.Johnson@infrastructure.gov.au>; s 22 <[redacted]@TREASURY.GOV.AU>; s 47E(d) <[redacted]@TREASURY.GOV.AU>; Mullaly, Damian <Damian.Mullaly@TREASURY.GOV.AU>
Subject: RE: Strategic Fleet and taxation [SEC=OFFICIAL]

OFFICIAL

Thanks s 22

s 22 – Please note the attached article which mentions that the PM will look at tax breaks for maritime; and the request for additional tax information/briefing.

Happy for you to liaise with s 22 directly on this and keep us in the loop.

s 22

s 22 — Director
Transport and Communications Unit, Infrastructure Branch
Labour Market, Environment, Industry and Infrastructure Division
P +s 22
s 22

treasury.gov.au
Langton Crescent, Parkes ACT 2600
[Twitter](#) | [LinkedIn](#) | [Facebook](#)

The Treasury acknowledges the traditional owners of country throughout Australia, and their continuing connection to land, water and community. We pay our respects to them and their cultures and to elders both past and present.



OFFICIAL

From: s 22 <[redacted]@infrastructure.gov.au>
Sent: Friday, 21 October 2022 3:19 PM
To: s 22 <[redacted]@treasury.gov.au>; s 22 <[redacted]@TREASURY.GOV.AU>; s 47 <[redacted]@TREASURY.GOV.AU>
Cc: s 22 <[redacted]@infrastructure.gov.au>; s 22 <[redacted]@TREASURY.GOV.AU>; E(

s 22 [redacted] [@infrastructure.gov.au](mailto:[redacted]@infrastructure.gov.au); JOHNSON Andrew <Andrew.Johnson@infrastructure.gov.au>
Subject: Strategic Fleet and taxation [SEC=OFFICIAL]

OFFICIAL

Hi s 22 [redacted]

I'm just following up on the announcement yesterday about the Strategic Fleet Taskforce. There was also an article in the Australian (attached).

Given the first line talks about the PM assessing whether the industry needs tax breaks, we thought we'd firstly give you a heads up (though assuming you've seen it!) and secondly flag the need for us to talk further.

We anticipate this will be an issue the Taskforce will want to pursue and while we have the 101 from you, we think we probably need a 201 and potentially someone to present to the Taskforce on the tax issues.

This will probably happen pretty quickly – while not confirmed there may be a meeting in the first week of November where this might come up. We are also going to convene another IDC but we want also to work with you bilaterally on this.

Happy to discuss further.

Thanks

s 22 [redacted]

s 22 [redacted]

Director • Strategic Fleet/Maritime and Shipping Branch • Surface Transport Policy Division

s 22 [redacted] [@infrastructure.gov.au](mailto:[redacted]@infrastructure.gov.au)

Ps 22 [redacted]

GPO Box 594 Canberra, ACT 2601

Department of Infrastructure, Transport, Regional Development, Communications and the Arts
CONNECTING AUSTRALIANS • ENRICHING COMMUNITIES • EMPOWERING REGIONS

infrastructure.gov.au



*I would like to acknowledge the traditional custodians of this land on which we meet, work and live.
I recognise and respect their continuing connection to the land, waters and communities.
I pay my respects to Elders past and present and to all Aboriginal and Torres Strait Islanders.*

OFFICIAL

Please Note: The information contained in this e-mail message and any attached files may be confidential information and may also be the subject of legal professional privilege. If you are not the intended recipient, any use, disclosure or copying of this e-mail is unauthorised. If you have received this e-mail by error please notify the sender immediately by reply e-mail and delete all copies of this transmission together with any attachments.

Disclaimer

This message has been issued by the Department of Infrastructure, Transport, Regional Development and Communications. The information transmitted is for the use of the intended recipient only and may contain confidential and/or legally privileged material.

Any review, re-transmission, disclosure, dissemination or other use of, or taking of any action in reliance upon, this information by persons

or entities other than the intended recipient is prohibited and may result in severe penalties.

If you have received this e-mail in error, please notify the Department on (02) 6274-7111 and delete all copies of this transmission together with any attachments.
