

18 May 2023

Legislative statement: Energy Resources Levy Amendment Bill

Overview

The Energy Resources Levy Amendment Bill (the **Bill**) proposes to amend the Energy Resources Levy Act 1976 (the **Act**) to ensure the Crown receives a fair financial return on its natural gas, now commonly referred to as fossil gas.

The following is a brief outline of the policy matters covered by this Bill.

Amending the Act's levy exemption

There have been inconsistent approaches over time to achieving a fair financial return on the Crown's gas resources, with varied royalty rates depending on when licences or permits were granted for gas discoveries. This is not uncommon and reflects the practice at the time those licences were granted. Licences granted under the Petroleum Act 1937 as a result of a pre-1 January 1986 discovery (**pre-1986 licences**) are subject to five or 10 per cent royalty rates. This compares with post-1986 licences or permits granted under the Crown Minerals Act 1991 that are subject to a royalty rate of 12.5 or 20 per cent.

The Act imposes a levy on certain energy resources produced in New Zealand. In addition to imposing a levy for natural gas, the Act also provides an exemption for natural gas produced as a result of a discovery of natural gas made on or after 1 January 1986. However, the use of the word 'discovery' in the exemption clause could potentially lead to some confusion about whether gas production from newly producing deposits within pre-1986 licence areas could be considered new gas discoveries for the purposes of the exemption.

Ensuring a fair financial return to the Crown requires holders of pre-1986 licences to pay the levy on top of the five or 10 per cent royalty rate for all of the gas they produce.

The Bill proposes to amend the exemption clause in the Act to clarify that the exemption does not apply to any gas produced after the commencement of the amendment from licences granted in relation to a discovery of gas made before 1 January 1986.

It does this to ensure that new gas production from deposits within pre-1986 licence areas cannot be considered new gas discoveries for the purposes of the levy exemption in the Act, and pay only the five or ten per cent royalty rate on gas produced. In other words, the Bill will ensure pre-1986 licence holders must pay the low royalty rate and the energy resources levy on all gas they produce from the licence.

Transitional provisions

The amendment to the Act applies to natural gas produced on and from the commencement date of the amendment. It does not apply retrospectively and will not impact on previous payments or non-payments. The Bill validates all past levy payments as proper and that the money received has always been lawfully collected and applied.