



24 May 2023



Dear 

Thank you for your request made under the Official Information Act 1982 (OIA), partially transferred from the office of Hon Dr Megan Woods to Inland Revenue on 26 April 2023. You requested the following (numbered for ease of response):

Megan Woods has been energy and Resources Minister since October 2017. Can she please answer:

- 1. When she became minister, what tax breaks/incentives/subsidies (including R&D benefits)/grants were in place for fossil fuel companies? This should include, but not be limited to, Oil rig income tax exemption, tax deduction for petroleum mining, acquisition of exploration data, R&D, motor spirits excise duty refund.*
- 2. Quantify the annual costs involved with these since 2017. (Please separate any Covid-related changes to excise duties and road user charges.)*
- 3. From this list of "subsidies", please state what has changed since the minister took charge.*
- 4. Since October 2017, how much taxpayer money has been spent on reports/grants/incentives and other "subsidies", including research (either commercial or academic) related to alternative transport fuels, such as hydrogen?*

Inland Revenue's responses below, as transferred by the office of Hon Dr Megan Woods, relate to oil rig income tax exemptions, tax deductions for petroleum mining, research and development (R&D) loss tax credits, and the Research and Development Tax Incentive (RDTI). The responses to questions 1-3 are separated between the oil/petroleum measures and the R&D measures for clarity.

I note that Hon Dr Megan Woods' transfer letter of 26 April 2023, advised that the above questions have also been transferred to Inland Revenue as they relate to the acquisition of exploration data. I believe that this part of your request is more closely related to the functions of the Ministry of Business, Innovation and Employment (MBIE) and have asked for them to address this in their response.

Oil rig income tax and tax deductions for petroleum mining

Question 1

Previous analysis identified two potential support measures in the Income Tax Act 2007 for the fossil fuel industry. These were reviewed by the Asia-Pacific Economic Cooperation in 2015 in a Fossil Fuel Subsidy Reform peer review and were found to not be "inefficient fuel subsidies that lead to wasteful consumption". Further detail on this review is available at: <https://www.mbie.govt.nz/building-and-energy/energy-and-natural-resources/international-engagement-on-energy/apec-fossil-fuel-subsidy-reform-peer-review/>.

The two measures considered in the Fossil Fuel Subsidy Reform peer review were:

- a. Non-resident drilling rig and seismic ship tax exemption
- b. Tax deductions for petroleum-mining expenditures.

Within category b., three active policies were considered by the Fossil Fuel Subsidy Reform review:

- I. The immediate deductibility of an exploration expenditure in the year in which it was incurred;
- II. The ability for producers to amortise a development expenditure from the date it is incurred; and
- III. The option for development expenditures to be either deducted in a straight line over seven years, or in line with a field's production profile.

We have provided further detail below.

- a. Non-resident oil rig and seismic vessel operator tax exemption – The normal tax rules create an incentive for rigs and seismic vessels to “churn”, that is, move in and out of New Zealand waters within a 183-day period where income is not taxable under many of our double tax agreements (DTAs). Through churning, no company tax would be paid in New Zealand by the oil rig and seismic vessel operators (i.e. the same outcome as with an exemption), while the increased costs from additional mobilising and demobilising of equipment would be deductible to the New Zealand petroleum miner, which would reduce the New Zealand Revenue base.
- b. I. The immediate deductibility of exploration expenditure in the year in which it was incurred – An immediate deduction can be justified in that it is not clear that all (or even most) of the expenditure is of a capital nature since it is more likely than not that a particular exploration well will not result in a revenue generating asset. If the petroleum exploration expenditure does end up creating such an asset, the expenditure is clawed back and deductible over time. This approach is consistent with New Zealand's general tax practices and is intended to avoid distortions between sectors.
- b. II. The ability for producers to amortise a development expenditure from the date it is incurred – This measure is not identified on the Tax Expenditure Statement¹. The general tax rule in New Zealand is to allow tax deductions for capital assets to be made beginning in the year when they are incurred and amortised over the life of the asset. This rule applies to petroleum development expenditure, as it does to deductible expenditure across almost all other sectors of the New Zealand economy.
- b. III. Petroleum mining expenditure: accelerated deduction – The original policy rationale for allowing development expenditure to be deducted in a straight line over seven years was to ensure that New Zealand's regime was competitive with other jurisdictions. Following arguments made by the Petroleum Exploration and Production Association of New Zealand (PEPANZ) in 2008 that the seven-year period disfavoured wells with short lives, producers were allowed to choose between the seven-year deduction method and a deduction in line with the field's production profile. A unit of production depreciation method is consistent with economic theory that deductions for the fall in value of capital goods should try to approximate an asset's actual decline in value. Claiming deductions over seven years may be shorter than the benefit derived from that expenditure. However, under either method all development expenditure is spread and deductible. A review of this measure is on the Government's tax policy work programme.

¹ The 2023 Tax Expenditure Statement is available at: <https://budget.govt.nz/budget/forecasts/tax-expenditure.htm>

Question 2

None of these measures have any costs attributed to them.

Two are identified on the Budget Tax Expenditure Statement. Specifically (using the same paragraph numbering as question 1):

- a. "Non-resident oil rig and seismic vessel operator tax exemption". While a tax exemption would normally have a cost associated with it this is not the case for this measure for the reasons explained in question 1.
- b. III. "Petroleum mining expenditure: accelerated deduction". This measure does not have a cost calculated. This measure, to the extent it provides support to the fossil fuel sector, is a timing difference as under either method all development expenditure is spread and deductible. If development expenditure provides a benefit for less than seven years (for example, because that expenditure occurs near the end of a field's life) this measure would defer deductions compared to when they would otherwise be deductible. A review of this measure is on the Government's tax policy work programme.

Question 3

The non-resident oil rig exemption was due to expire on 31 December 2019. This was extended by the Taxation (Annual rates for 2019-20, GST Offshore Supplier Registration and Remedial Matters) Act 2019. It now expires on 31 December 2024. A proposal is in the Taxation (Annual Rates for 2023-24, Multinational Tax, and Remedial Matters) Bill to extend this expiry until 31 December 2029.

Research and Development

Questions 1 and 3

At the time Hon Dr Megan Woods became Minister for Energy and Resources (26 October 2017), R&D loss tax credits were available to eligible taxpayers including fossil fuel companies.

The RDTI became available to all sectors (including the energy sector) from the 2019-20 income year.

Question 2

Your request to quantify the annual costs for these measures is considered sensitive revenue information under section 18 of the Tax Administration Act 1994 (TAA) as it relates to the affairs of specific taxpayers.

Sensitive revenue information can only be released in certain circumstances, as set out in sections 18D to 18J and schedule 7 of the TAA. Disclosing the requested information does not fall within any of the exceptions to the confidentiality obligations listed in sections 18D to 18J of the TAA.

This part of your request is therefore refused under section 18(c)(i) of the OIA, as making the requested information available would be contrary to the confidentiality obligations of section 18 of the Tax Administration Act 1994 (TAA).

Inland Revenue is required to publish the names of RDTI credit recipients and the amount of their tax credit (in dollar bands), at least 2 years after the end of the tax year to which the credit relates. This information is publicly available on Inland Revenue's website and can be found here: <https://www.ird.govt.nz/research-and-development/tax-incentive/contractors-certifiers-approved-research-providers-and-rdti-credit-recipients/list-of-rdti-credit-recipients>.

Question 4

Inland Revenue does not administer any measures relating to alternative fuels. This part of your request is refused under section 18(g) of the OIA, as the information requested is not held by Inland Revenue and we do not believe it is held by another agency.

Right of Review

If you disagree with my decision on your OIA request, you can ask an Inland Revenue review officer to review my decision. To ask for an internal review, please email the Commissioner of Inland Revenue at: CommissionersCorrespondence@ird.govt.nz.

Alternatively, under section 28(3) of the OIA, you have the right to ask the Ombudsman to investigate and review my decision. You can contact the office of the Ombudsman by email at: info@ombudsman.parliament.nz.

If you choose to have an internal review, you can still ask the Ombudsman for a review.

Publishing of OIA response

Please note that Inland Revenue regularly publishes responses to requests that may be of interest to the wider public on its website. We consider this response is of public interest so will publish this response in due course. Your personal details or any information that would identify you will be removed prior to it being published.

Yours sincerely



Chris Gillion
Policy Lead