5 February 2014

Finance and Expenditure Committee
Parliament Buildings
Wellington 6011

PEPANZ Submission: Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Bill

Introduction and details

This document constitutes the Petroleum Exploration and Production Association of New Zealand's (PEPANZ) submission in respect of the *Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Bill* ("the Bill").

We wish to appear before the committee to speak to our submission. I can be contacted at 04 472 1994 and david.robinson@pepanz.com.

PEPANZ represents private sector companies holding petroleum permits under the Crown Minerals Act 1991, service companies and individuals working in the industry. PEPANZ members account for more than 95% of New Zealand's hydrocarbon production and include the operators of New Zealand's offshore petroleum fields and exploration permits and the existing underground gas storage facility.

Submission

In the following table we provide comments and recommendations on specific clauses of the Bill that are relevant to the industry.

Clause of Bill	PEPANZ comments on clause	PEPANZ recommendations on drafting of clauses
Clause 12 - New sections CE 1B to CE 1D inserted	PEPANZ is concerned that proposed changes to the treatment of the value of accommodation to employees could have inadvertent and inappropriate effects on workers who are accommodated on drilling rigs or offshore production platforms for the length of their working shifts. We note proposed new section CE 1B(1) contained in clause 12 of the Bill provides that the general rule on accommodation provided by employers is: "(1) The value of accommodation provided to a person is income of the person when it is provided in relation to their employment or service. The value is an amount equal to the market rental value of the accommodation."	**Amend the Bill if necessary to confirm that the value of accommodation provided to shift workers at their place of work will not be considered income.**

	Our concern is this could make the value of accommodation provided to shift-workers at remote locations potentially taxable where these don't fit within the specific exceptions provided for in the Bill already. We are unclear as to whether this is deliberate policy intent. Petroleum workers often work multi-week shifts on offshore petroleum facilities or onshore drilling rigs with accommodation provided for the length of the shift. These facilities are generally remote and so workers stay at the location 24 hours per day during the length of their shift. When not on shift the workers return to their homes. We do not consider the accommodation provided while on shift is a benefit to the employee as they are required to maintain permanent accommodation elsewhere for them and their families. Various exceptions to the new rule provided in CE 1B are provided in the Bill, such as for secondments or projects (refer clause 20 of the Bill, new section CW 16B). These exclusions don't however appear to address the situation referred to above as in the example of offshore petroleum production this activity goes on for many years and the workers are not generally secondees. PEPANZ seeks either: confirmation from officials that these shift-workers will not be disadvantaged through the value of accommodation at the location of work during a long shift (e.g. multi-week) being considered taxable; or changes made to the Bill to achieve this.	
Clause 17 – amendments to section CT 1	Please note our comments on clause 18 of the Bill below.	**No drafting comments on this clause.**
Clause 18 – amendments to section CT 7 (Meaning of petroleum mining asset)	PEPANZ notes the proposal to remove underground gas storage from the concessionary petroleum mining tax rules. We submit that this must be limited to facilities that function solely as underground gas storage facilities and should not in any way affect petroleum mining activities that involve gas reinjection as part of ongoing field management and depletion. PEPANZ considers using in the Bill the definition of the term "underground gas storage facility" as found in the *Crown Minerals Act 1991* is not of itself sufficient to clearly separate dedicated underground gas storage facilities (the purpose of the exception) from petroleum fields where gas is re-injected as part of field management and depletion (e.g. to increase the recovery of liquid hydrocarbons). *The Minerals Programme for Petroleum 2013* provides that mining permits can be specifically issued or amended to provide for underground gas storage. It is only such permits that should be excluded from the definition of petroleum mining asset and we have proposed drafting in the right hand column to achieve this.	**PEPANZ recommends clause 18 is amended to —** "Replace section CT 7(2), other than the heading, with: "(2) **Petroleum mining asset** does not include— (a) land: (b) a facility that is injecting, storing or withdrawing royalty paid gas under a mining permit that has been issued or amended under Crown Minerals Act 1991 for the purposes of underground gas storage."

Clause 30 – amendments to section CW 57	**Extending the exemption** The ability to bring offshore rigs and seismic surveying vessels to New Zealand efficiently for prolonged campaigns will be important to realising the Government's objective of making New Zealand a highly attractive global destination for petroleum exploration and production investment. PEPANZ considers that the original rationale for the exemption for non-resident companies involved in seismic surveying and drilling continues to apply and supports its further extension. We consider there is a good basis for the exemption in section CW 57 to be made permanent as the rationale for it is not time bound. In the absence of a permanent exemption we support the proposed extension of the exemption for an additional five years (to the end of 2019) as this would provide certainty for the industry over the medium-term. We note however that planning lead times in the industry for offshore activities are long (can be multi-year) and so a further five year extension creates certainty for only a few years. Both seismic surveying and rig operation are highly technical, have high entry costs and are delivered by a relatively small number of companies operating globally. There are currently no New Zealand based operators of rigs or seismic survey vessels. PEPANZ is keen to see the domestic services industry grow, however, it is unlikely there will be New Zealand based providers of these services in the foreseeable future. Because of this it does not appear continuing the exemption for non-resident operators of rigs and seismic vessels will disadvantage New Zealand firms in the immediate term or foreseeable future. **"Prospecting" activities using seismic survey vessels** The title and text of proposed new section CW 57(2) currently refers to "exploration and development" activities", which follows the current drafting of section CW 57. We are concerned the absence of an explicit reference to "prospecting" risks excluding seismic survey vessels where they are used to conduct surveys in petroleum prospecting permits issued under the Crown Minerals Act 1991, rather than in petroleum exploration or mining permits. Prospecting permits for petroleum were not traditionally issued but have become common following recent changes to the Crown Minerals Act made in 2013. Seismic surveying under petroleum prospecting permits in the form of "multi-client"[1] surveys is now explicitly encouraged by the	**PEPANZ supports the intent of clause 30 but:** • **considers the exemption in CW 57 should be made permanent; and** • **considers section CW 57 should be redrafted to explicitly cover offshore "prospecting" activities as they can also involve the use of seismic survey vessels.**

[1] Certain specialist companies are in the business of undertaking geophysical surveys over available acreage and then selling the information to exploration companies that are interested in acquiring the acreage. In order to do this, these survey companies must obtain a petroleum prospecting permit under the Crown Minerals Act 1991. This is known as a

	government.[2] There are two such permits in place currently and further prospecting permit applications in future from "multi-client" operators, or petroleum operators, are likely. These seismic surveys may be part of campaigns undertaken by vessels in various permit types and if these were not covered by section CW 57 then this could unnecessarily complicate and/or increase the cost of undertaking these surveys. We consider covering surveys undertaken in prospecting permits would be entirely consistent with the original and continuing rationale for the exemption and would represent simply a consequential adjustment to reflect changes under the Crown Minerals Act regime. Given seismic vessels are used for undertaking seismic surveys in prospecting permits issued under the Crown Minerals Act, we consider a reference to "prospecting" should be included in the drafting of the Bill to make clear they are covered by section CW 57. We recognise the current definition of "exploration and development" could be interpreted to cover prospecting activities, for example the use of "identifying", but amendment to the text and the explicit inclusion of the word "prospecting" would make this clear. **Modular drilling rigs** PEPANZ notes the proposal to exclude "modular" rigs from the exemption in section CW 57. Should the exclusion for modular rigs be enacted then we consider it should apply only to rigs brought to New Zealand after that date, or remain 183 days after December 2014. It should not apply retrospectively to any such rigs that happen to be in New Zealand on 1 January 2015. **Timing of implementation** One offshore drilling rig will be in New Zealand at the end of 2014 when the current exemption expires, and another could be. Continuation of these campaigns into 2015 could enable further wells to be drilled at lower costs than would be the case if different rigs had to be mobilised instead. Offshore seismic surveys are also planned for early 2015 and so it is equally important to enable orderly planning of these activities for the extension of section CW 57 to be implemented well in advance of the end of 2014. It is therefore important for the industry for the Bill to be passed and the future of the exemption to be clarified as soon as practicable so as to provide regulatory certainty to the parties potentially involved in these activities.	

"speculative survey" or "multi-client" model and changes to the Crown Minerals Act to encourage this activity in New Zealand were enacted in 2013.

[2] Refer for example to page 31 of the discussion paper *Review of the Crown Minerals Act 1991 Regime*, March 2012, Ministry of Economic Development.

Clause 36 – new section CZ 32 (Treatment of certain petroleum storage facilities)	PEPANZ notes the proposed changes in relation to underground gas storage facilities and the proposed grandfathering of the existing underground gas storage facility covered by petroleum mining permit number 52278. We support grandfathering provisions where appropriate. It is important that regulatory certainty is maintained to respect investment decisions already made and to not discourage future investment. PEPANZ supports clause 36.	**No drafting comments on this clause.**

David Robinson
Chief Executive