

Group Public Affairs
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Mr Tim Bryant
Secretary

Senate Standing Committees on Economics
PO Box 6100
Parliament House
Canberra ACT 2600

By email: economics.sen@aph.gov.au

Dear Mr Bryant

**RE: Questions on notice - Inquiry into the development and operation of the Minerals
Resource Rent Tax (MRRT)**

During BHP Billiton's appearance before the Committee on Monday 29 April, a number of questions were placed on notice for our subsequent response.

Please find attached a response to those questions.

Yours sincerely

(signed)

Christian Bennett
Vice President – Government Relations

Senate Economics References Committee
Inquiry into the development and operation of the Minerals Resource Rent Tax (MRRT)

BHP Billiton would at the outset like to address a point raised by Senator Milne regarding the level of MRRT paid to date by BHP Billiton in relation to the profitability of its iron ore division. BHP Billiton believes that the manner in which this question was phrased could lead to an erroneous analysis of BHP Billiton's effective tax rate.

BHP Billiton's most recent interim results reported that the Australian Iron Ore business had an EBIT of US\$3.837 billion (allowing for exceptional items). The company then paid company tax (at a 30% rate) and MRRT to the Federal Government and iron ore royalties to the Western Australian Government. To compare our MRRT payment to our Iron Ore earnings in isolation, and without reference to company tax and royalties paid, is therefore erroneous.

To be clear, BHP Billiton pays its fair share of tax, with an average effective tax rate in Australia of 45% in FY12, and amounting to US\$9.1 billion during FY12.

Responses to questions placed on notice

What is BHP Billiton's level of unclaimed royalty credits?

As the first annual MRRT return is yet to be lodged, BHP Billiton is not currently able to disclose an amount of unclaimed royalty credits. Any such amounts would be calculated annually, and won't be known until the MRRT mining profit calculation is finalised for the 2013 financial year.

Can BHP Billiton provide a breakdown of taxes and royalties paid?

As BHP Billiton reported in its submission to the Committee (pg. 3) BHP Billiton's US\$9.1 billion of taxes paid in Australia during the 2012 financial year included approximately US\$ 5.4 billion in corporate income tax and US\$2.6 billion in State, Territory & Commonwealth royalties and other production taxes.

Who wrote the Heads of Agreement?

The negotiation of the MRRT required extensive negotiation through a series of meetings and iterative discussions. The drafting was part of the progression of the negotiations, based on the discussions between the government and affected parties and subject to on-going amendment throughout the negotiations. The amendments were sought by both the government and the companies party to the direct discussions to ensure the final agreement reflected the generally accepted tax policy principles (i.e. that taxes should be competitive, prospective, differentiated, resource based, equitable and efficient) that guided industry discussions. Prior to the Heads of Agreement being signed it was further reviewed and modified by Treasury officers.

Was there an explicit discussion with (i) Treasury and (ii) relevant Ministers re: whether the definition for 'royalties' was for 'all royalties'; was it made clear, was there a consensus or shared understanding that the Heads of Agreement included all future royalties?

From the earliest drafting of the Heads of Agreement, and in every meeting where this topic was discussed, it was our very clear understanding that the MRRT was to allow a credit for all royalties - including future increases. The RSPT had not been clear on this point - despite the Treasury's KPMG Econtech modelling assuming all royalties would be credited. Because of this it was always the position of the industry that full crediting of all royalties was required to ensure against being taxed twice for the same resource value. It is a critical feature in order that the MRRT can achieve its intended operation as a "top up" tax and one that the industry has always been clear about.

Do we agree with the MCA submission statement that: “Any move to further increase the tax burden on the iron ore and coal sectors through changing the design of the MRRT would ...undercut the very foundations of modern Australian prosperity.”

BHP Billiton endorses the MCA submission. It provides an extensive, evidenced-based elaboration on this point.

What is the value of goods and services sourced in Australia; goods and services sourced overseas vs. Australia for (i) mining (ii) construction?

This question is not relevant to the Terms of Reference of this Inquiry. BHP Billiton would be pleased to discuss this matter directly with the relevant Senator to ensure a thorough exploration of the issues the question seeks to address.