Chapter 1

Introduction and conduct of the inquiry

1.1 On 14 November 2013, the Senate referred the provisions of the Minerals Resource Rent Tax Repeal and Other Measures Bill 2013 for inquiry and report by 2 December 2013.

1.2 Schedule 1 to the Bill proposes to repeal the Minerals Resource Rent Tax (MRRT), thereby giving effect to a key commitment of the government at the 2013 Federal Election. In addition, the Bill repeals or revises a number of MRRT-related measures.

1.3 Specifically, the Bill repeals the following measures:

- the company loss carry-back regime (schedule 2);
- the geothermal expenditure deduction (schedule 5);
- the low income superannuation contribution (LISC) (schedule 7);
- the income support bonus (schedule 8); and
- the schoolkids bonus (schedule 9).

1.4 The Bill revises the following measures:

- the increase in the small business instant asset write-off threshold (schedule 3);
- deductions for motor vehicles (schedule 4); and
- the phased increase in the superannuation guarantee (SG) charge percentage (schedule 6).

1.5 This chapter provides:

- a summary of Treasury's consultation on the Bill;
- a summary of the conduct of the inquiry;
- an overview of the policy context of the Bill, including a brief history of the MRRT and its failure to raise the revenue the previous government had projected;
- a summary of the changes given effect by the Bill; and
- a summary of the financial impact of the repeal of the MRRT and related measures.

Consultation on the Bill

1.6 The Treasurer, Minister for Industry and Minister for Finance announced the release of the draft legislation on 24 October 2013, and called for submissions by

31 October 2013. Treasury also invited relevant industry associations to engage in a direct dialogue in addition to making a submission on the draft legislation.

1.7 Fifty-two submissions were received, three of which were confidential. The submissions and a summary of the consultation process have been published on Treasury's website.[1]

Conduct of the inquiry

1.8 The committee advertised the inquiry on its website, and wrote directly to a range of individuals and organisations inviting written submissions by 21 November 2013. The committee received 24 written submissions, which are listed at Appendix 1.

1.9 The committee held a public hearing in Canberra on 27 November 2013. The names of witnesses who appeared at the hearing are at Appendix 2.

Overview of the policy context

The implementation of the MRRT

1.10 The former government first announced a resource rent tax on 2 May 2010, in the form of the proposed Resource Super Profits Tax (RSPT).

1.11 Upon becoming Prime Minister on 24 June 2010, the Hon Julia Gillard MP announced that the government would enter into negotiations with the mining industry to reach consensus on the RSPT.

1.12 Following a brief period of negotiation between the then government and representatives of the three largest mining companies operating in Australia, the government announced on 2 July 2010 that it would not introduce the RSPT as originally proposed, but would instead introduce the MRRT, along with the onshore extension of the Petroleum Resource Rent Tax (PRRT) regime.

1.13 Subsequent to this announcement, the government established a Policy Transition Group (PTG), to be co-chaired by the recently retired BHP Billiton Chairman, Mr Don Argus AC, and the then Minister for Resources and Energy, the Hon Martin Ferguson AM MP.

1.14 The MRRT commenced operation on 1 July 2012.

1.15 A brief overview of the history of the MRRT's development is available in the May 2013 report by the Senate Economics References Committee on the development and operation of the MRRT.[2]

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1 The Treasury, 'MRRT Repeal and related measures,' http://treasury.gov.au/ConsultationsandReviews/Consultations/2013/MRRT-and-related-measures-Repeal.

The operation of the MRRT

1.16 The MRRT imposes an effective 22.5 per cent tax on the above-normal profits earned by the mining of iron ore and coal. The MRRT was also applied to coal seam gas produced as a necessary incident of coal mining, and changes were made to the *Petroleum Resource Rent Tax Assessment Act 1987* (PRRTAA 1987) so that the PRRT would not apply to those resources.[3]

1.17 An overview of how the MRRT works is provided in the abovementioned Senate Economics References Committee report on the development and operation of the MRRT.[4]

Related expenditure measures

1.18 The revenue that the MRRT was expected to raise was intended to fund a range of tax and social security measures. These measures, as summarised by the Explanatory Memorandum, included:

- company tax loss carry-back arrangements, which enable companies making a tax loss of up to $1 million to recoup taxes paid on an equivalent income amount earned in the previous two years;
- increasing the instant asset write-off threshold from $1,000 to $5,000 as part of the MRRT and subsequently from $5,000 to $6,500 as part of the carbon tax package commencing from the 2012–13 income year. This allows small businesses to immediately claim a deduction for depreciating assets costing less than $6,500;
- accelerated depreciation arrangements for motor vehicles from the 2012–13 income year, allowing small businesses to claim a $5,000 immediate deduction for a motor vehicle;
- the inclusion of geothermal exploration within the wider definition of exploration;
- the phased increase in the Superannuation Guarantee from 9 per cent to 12 per cent by 2019;
- the Low Income Superannuation Contribution (LISC) for contributions made from 2012–13, equal to 15 per cent of the concessional contributions (up to a $500 maximum) made by or for individuals with taxable income not exceeding $37,000;
- the Income Support Bonus, which provides an annual income tax exempt payment to certain income support recipients; and

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2 Senate Economics References Committee, *Development and Operation of the Minerals Resource Rent Tax*, May 2013, pp. 2-7.

3 The MRRT also applies to anything produced from a process that results in iron ore being consumed or destroyed without extraction.

4 Senate Economics References Committee, *Development and Operation of the Minerals Resource Rent Tax*, May 2013, pp. 7-12.

- the Schoolkids bonus, which commenced on January 2013 and is payable to parents who have dependent children in primary or secondary education; and to students receiving certain Government payments.
- the phase down of Interest Withholding Tax from 2014–15, which currently applies to financial institutions; and
- the Regional Infrastructure Fund (RIF) which provides funding to support infrastructure investments, particularly in regional areas associated with mining.[5]

1.19 As noted at the start of this chapter, the Bill repeals or rephases these measures (with the exception of the phase down of the interest withholding tax and the discontinuation of the RIF, neither of which requires legislative action).

1.20 While the revenue raised by the MRRT has fallen short of projections (as briefly noted below), the above expenditure measures that were intended to be funded by the tax have remained in place. Taken together, these measures have a cost to the budget over the forward estimates of approximately $16.7 billion (see Table 1). In his second reading speech, the Treasurer suggested that while 'some of the related expenditure initiatives are worthy in nature, they have been carelessly linked to a complicated and burdensome tax that will, at the end of the day, never pay its way.'[6]

Failure of the MRRT to raise projected revenue

1.21 Revenue projections for the MRRT have been revised downward on numerous occasions since its announcement in 2010.[7]

1.22 The Senate Economics References Committee's report on the development and operation of the MRRT explored the reasons for this shortfall in depth, and concluded that 'specific design features' of the MRRT, agreed to by the then government in its negotiations with the three big mining companies, 'are mainly to blame for the massive revenue shortfall compared to the [Treasurer Wayne Swan's] budget estimates.'[8]

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5 Explanatory Memorandum, Minerals Resource Rent Tax Repeal and Other Measures Bill 213, pp. 47-48.

6 The Hon Joe Hockey MP, *House of Representatives Proof Hansard*, 13 November 2013, p. 23.

7 See, in particular, Senate Economics References Committee, *Development and Operation of the Minerals Resource Rent Tax*, May 2013, p. 13.

8 Senate Economics References Committee, *Development and Operation of the Minerals Resource Rent Tax*, May 2013, p. 39.

The government's commitment to repeal the MRRT and related measures

1.23 The repeal of the MRRT and the repeal or rephasing of most of its associated spending measures was a key election commitment of the government in the 2013 Federal Election.

1.24 Both in opposition and government, the Coalition has consistently maintained that the MRRT is a flawed tax. As the Treasurer put it in his second reading speech on the Bill, the MRRT 'imposes a significant regulatory and compliance burden on the iron ore and coal mining industry and has damaged business confidence in these industries that are critical to future investment and jobs.'[9]

1.25 As the Explanatory Memorandum notes, the government has also:

> …committed to discontinuing those expense measures associated with the MRRT, with the exception of the phased increase in the Superannuation Guarantee in relation to which it committed to delay the scheduled ramp-up of the superannuation rate by two years, to recommence on 1 July 2016.[10]

Summary of changes given effect by the Bill

1.26 As noted at the start of this chapter, the Bill repeals the MRRT, and repeals or amends a range of MRRT-related measures.

1.27 The changes given effect by the Bill are summarised in Table 1 below.

Table 1: Comparison of key features of the new law and current law[11]

New law	*Current law*
MRRT Repeal: Imposition of tax (schedule 1)	
Taxpayers are not subject to MRRT on and from 1 July 2014.	Taxpayers must pay MRRT at a rate of 22.5 per cent on their mining profit, less MRRT allowances, from coal and iron ore mining projects reduced by their offsets.
MRRT Repeal: Treatment of coal seam gas (schedule 1)	
The definition of ‘petroleum' under the PRRT includes all coal seam gas. Rights or licences that only allow incidental and non-commercial activities in relation to coal seam gas are not production licences, exploration permits and retention leases. As a result, incidental coal seam gas recovered under those licences is not subject to MRRT or PRRT. Similarly, exploration that only	The definition of 'petroleum' under the PRRT does not include coal seam gas that is incidentally recovered in the course of coal mining operations. Instead, it is subject to MRRT.

9 The Hon Joe Hockey MP, *House of Representatives Proof Hansard*, 13 November 2013, p. 21.

10 Explanatory Memorandum, pp. 51-52.

11 This table has been created using two tables contained in the Explanatory Memorandum, pp. 15, 26-28.

New law	*Current law*
incidentally relates to coal seam gas is not deductible exploration expenditure under the PRRT.	
Repeal of loss carry back (schedule 2)	
Companies can only carry their tax losses forward to use as a deduction for a future year.	Companies can either carry their tax losses forward to use as a deduction for a future income year or carry up to $1 million back to an earlier year (in which they paid tax) to obtain a tax offset for the current year.
Changes to the capital allowances for small business entities (schedules 3 and 4)	
Small business entities can claim a deduction for the value of a depreciating asset that costs less than $1,000 in the income year the asset is first used or installed ready for use. Small business entities can claim a deduction for an amount included in the second element of the cost of a depreciating asset that was first used or installed ready for use in a previous income year. The amount must be less than $1,000. Small business entities can allocate depreciating assets that cost $1,000 or more to their general small business pool and claim a deduction for the depreciation of the assets in the pool. Assets allocated to the general small business pool depreciate at a rate of 15 per cent in the year they are allocated, and a rate of 30 per cent in subsequent income years. If the value of a small business entity's general small business pool is less than $1,000 at the end of the income year, the small business entity can claim a deduction for the entire value of the pool. Motor vehicles are subject to the same rules as other depreciating assets.	Small business entities can claim a deduction for the value of a depreciating asset that costs less than $6,500 in the income year the asset is first used or installed ready for use. Small business entities can claim a deduction for an amount included in the second element of the cost of a depreciating asset that was first used or installed ready for use in a previous income year. The amount must be less than $6,500. Small business entities can allocate depreciating assets that cost $6,500 or more to their general small business pool and claim a deduction for the depreciation of the assets in that pool. Assets allocated to the general small business pool depreciate at a rate of 15 per cent in the year they are allocated, and a rate of 30 per cent in subsequent income years. If the value of a small business entity's general small business pool is less than $6,500 at the end of the income year, the small business entity can claim a deduction for the entire value of the pool. Special rules apply to depreciating assets that are motor vehicles. A small business entity can deduct the first $5,000 of the cost of a motor vehicle, plus 15 per cent of any remaining cost, in the income year that it is first used or installed ready for use. The motor vehicle is then added to the small business entity's general small business pool, and depreciated as part of the pool at a rate of 30 per cent in subsequent income years.

New law	*Current law*
Repeal of the geothermal exploration deduction (schedule 5)	
Geothermal energy exploration and prospecting expenditure is not immediately deductible. If a geothermal exploration right is exchanged for a geothermal energy extraction right relating to the same, or a similar area, then a capital gains tax (CGT) roll-over applies to defer the liability until the sale of the extraction right.	Geothermal energy exploration and prospecting expenditure is deductible in the income year that the asset is first used or expenditure is incurred. No CGT roll-over is provided for geothermal explorers when an exploration right is exchanged for a geothermal energy extraction right as the geothermal exploration right is a depreciating asset, not a CGT asset. However, there is relief from income tax liability upon disposal of a geothermal exploration right.
Rephasing of the SG charge percentage increase (schedule 6)	
The SG charge percentage will pause at 9.25 per cent for the years starting on 1 July 2014 and 1 July 2015, and increase to 9.5 per cent for the year starting on 1 July 2016, and then gradually increase by half a percentage point each year until it reaches 12 per cent for years starting on or after 1 July 2021.	The SG charge percentage will increase from 9.25 per cent to 9.5 per cent for the year starting on 1 July 2014, and gradually increase by half a percentage point each year until it reaches 12 per cent for years starting on or after 1 July 2019.
Repeal of the LISC (schedule 7)	
The low income superannuation contribution (LISC) is not payable in respect of concessional contributions made after 1 July 2013.	The LISC is payable each year in respect of concessional contributions made in each income year.
Repeal of the income support bonus (schedule 8)	
The income support bonus is repealed. Saving provisions apply to preserve the law with respect to the income support bonus in relation to taxpayers' entitlements to payments of income support bonus for the period before the repeal, whether payments are made before, on or after the commencement of the amendments.	The income support bonus is an income tax exempt, indexed, non-means tested payment paid twice annually to eligible social security recipients.
Repeal of the schoolkids bonus (schedule 9)	
The schoolkids bonus is repealed. Saving provisions apply to preserve the law with respect to schoolkids bonus in relation to eligibility on a bonus test day occurring before commencement and in relation to payments of schoolkids bonus made before, on or after the commencement of the amendments.	The schoolkids bonus is an income tax exempt, indexed family assistance payment that is available to eligible families receiving Family Tax Benefit Part A and young people in school receiving youth allowance or certain other income support or veterans' payments on two test dates each year.

Date of effect of measures in the Bill

1.28 The date of effect of the different measures in the Bill varies:

- The repeal of the MRRT (schedule 1) would mean that taxpayers would not incur liabilities for the MRRT on or after 1 July 2014.

- The repeal of the loss carry-back measure (schedule 2) applies from the start of the 2013–14 income year.
- The changes made to the capital allowances for small business entities (schedules 3 and 4) apply on or after 1 January 2014.
- The repeal of the geothermal expenditure deduction measures (schedule 5) applies on and after 1 July 2014.
- The pause in the increase of the SG charge percentage (schedule 6) applies to financial quarters starting on and after 1 July 2014 and ending before 1 July 2016.
- The repeal of the low income superannuation contribution (schedule 7) applies to concessional contributions for financial years starting on and after 1 July 2013.
- The repeal of the low income support bonus (schedule 8) applies to new instalments of the bonus after Royal Assent. The next instalment is due to be paid to recipients in March 2014.
- The repeal of the schoolkids bonus (schedule 9) applies to new instalments after Royal Assent. The next instalment would be in respect of the bonus test day occurring on 1 January 2014.

Financial impact of the Bill

1.29 According to the Explanatory Memorandum, the repeal of the MRRT and related measures will result in estimated savings over the forward estimates (2013–14 to 2016–17) of approximately $13.4 billion. This figure is based on savings from the repeal and rephasing of associated spending measures (approximately $16.7 billion) minus the revenue that the MRRT was most recently forecast to raise over the forward estimates (approximately $3.3 billion).

1.30 The $16.7 billion of savings includes $405 million for the phase down of interest withholding tax, and approximately $2.7 billion for the discontinuation of the Regional Infrastructure Fund and the Regional Development Australian Fund. The Bill does not contain amendments to give effect to these measures as the phase down of interest withholding tax was not enacted and no legislative changes are required to discontinue the Regional Infrastructure Fund or the Regional Development Australia Fund.

1.31 A breakdown of the financial impact of the measures in the Bill over the forward estimates period is provided at Table 2.

Table 2: Financial impact of the repeal of the MRRT and repeal and rephasing of related measures[12]

Measure	*2013-14 $m*	*2014-15 $m*	*2015-16 $m*	*2016-17 $m*	*Total $m*
Repeal of MRRT	21.7	–430.9	–1,130.2	–1,778.7	–3,318.1
Discontinuing company loss carry-back	–	350.0	300.0	300.0	950.0
Reduction of instant asset write-off threshold from $5,000 to $1,000#	–	500.0	900.0	900.0	2,300.0
Discontinuing vehicle accelerated depreciation	–	100.0	200.0	150.0	450.0
Amending geothermal exploration treatment	–	–	5.0	5.0	10.0
Rephasing the superannuation guarantee increase	–	170.0	565.0	845.0	1,580.0
Abolishing the low income superannuation contribution	–	836.1	939.6	923.3	2,699.0
Abolishing the income support bonus	150.7	323.8	314.3	316.4	1,105.2
Abolishing the school kids bonus	549.5	1,301.1	1,325.2	1,346.6	4,522.4
No phase down of interest withholding tax*	–	80.0	160.0	165.0	405.0
Discontinuing Regional Infrastructure Fund & Regional Development Australia Fund*	326.8	986.9	621.6	746.7	2,682.0
Net Impact	1,048.7	4,217.0	4,200.5	3,919.3	13,385.5

The increase in the instant asset write-off threshold from $5,000 to $6,500 was intended to be funded by revenue expected from the carbon tax. The financial impact of the reduction of the part of the threshold associated with the carbon tax from $6,500 to $5,000 results in a gain to revenue of $300m over the forward estimates period, comprising $50m in 2014–15, $150m in 2015–16 and $100m in 2016–17.

* This Bill does not contain amendments to give effect to these measures as the phase down of interest withholding tax was not enacted and no legislative changes are required to discontinue the Regional Infrastructure Fund or the Regional Development Australia Fund.

12 This table is reproduced as it appears in the Explanatory Memorandum, p. 7.