THE TREASURY

Senate Economics Legislation Committee

Submission to the inquiry into the Minerals Resource Rent Tax Repeal and Other Measures Bill 2013

27 November 2013

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Introduction

On 14 November 2013 the Senate referred the Minerals Resource Rent Tax Repeal and Other Measures Bill 2013 (the Bill) to the Senate Economics Legislation Committee for inquiry and report.

Consistent with the Government's election commitment, the Bill seeks to repeal the Minerals Resource Rent tax, as well as the repealing or re-phasing of measures associated with the MRRT's introduction.

The measures identified by the Government as being associated with the MRRT, and which the Bill will repeal or rephrase, are:

- *the small business instant asset write off threshold*. The Bill will return the threshold to $1,000 while preserving single pool arrangements. The threshold was increased to $5,000 in association with the MRRT introduction; with the increase to $6,500 intended to be funded by the carbon tax;
- *the company 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loss of up to $1 million to recoup taxes paid on an equivalent income amount earned in the previous two years, will be repealed;
- *accelerated depreciation arrangements for motor vehicles*. These arrangements, which allow small businesses to immediately claim a $5,000 deduction for vehicle purchases, will be repealed;
- the inclusion of *geothermal exploration* within the broader income tax definition of exploration will be unwound;
- the scheduled increases in the rate of the *Superannuation Guarantee* rate will be re-phased, delaying it by two years;
- the *low income superannuation contribution* (LISC) will be repealed;
- the *Income Support Bonus*, which provides an annual income tax exempt payment to some income support recipients, will be repealed; and,
- the *Schoolkids bonus*, which commenced on 1 January 2013 and is payable to parents who have dependent children in primary or secondary education and to students receiving some types of Government payments will be repealed.

The Government has also committed to discontinuing the Regional Infrastructure Fund (RIF) and Regional Development Australia Fund, and not proceeding with the phase-down of the Interest Withholding Tax as part of the Mining Tax Repeal package. However, the Bill does not contain amendments to give effect to these measures as the phase-down was not enacted, and no legislative requirements are required to discontinue the Regional Infrastructure Fund or the Regional Development Australia Fund.

To assist the Committee with its inquiry, this submission is divided into three parts:

- Part 1 chronicles the history of the resource tax reforms, together with the measures associated with them (the composition of which altered over time), from the announcement of the Resource Super Profits Tax (RSPT) in May 2010 to the development and introduction of the Mineral Resource Rent Tax (MRRT).

- Part 2 discusses the variations in MRRT revenue estimates over time.
- Part 3 discusses the estimated savings that would result from the passage of the Bill, including timing sensitivities.

1. The Resource Super Profits Tax and the Minerals Resource Rent Tax

The Resource Super Profits Tax

On 2 May 2010, the then Government, as part of the *Stronger, Fairer, Simpler* tax package, announced its intention to apply a Resource Super Profits Tax (RSPT) to a range of resources from 1 July 2012.

The proposed RSPT was to be a tax on the 'economic rents' miners derived from mineral commodities after they are extracted from the ground, but before they undergo any significant processing, transportation or other value add. The key features of the proposed RSPT were as follows:

- Tax rate of 40 per cent on the profits made from non-renewable resources;
- Unused project losses carried forward with an allowance applied at the Government Long Term Bond rate, or alternatively transferred to commonly-owned projects, with the tax value of any losses being refunded when a project is closed; and
- Royalty payments creditable against tax liability and transferable to other commonly owned projects, with unused royalty credits in a given year refunded.
- Existing projects would receive a starting base allowance based on their book value in recognition of past investment.

Measures announced in association with the Resource Super Profits Tax

The revenue from the RSPT was associated with a number of expense measures through the *Stronger, Fairer, Simpler* tax package included in the 2010-11 Budget. In addition to the RSPT, the tax package included the following measures:

- A reduction in the company tax rate to 29 per cent in 2013-14 and 28 per cent in 2014-15 (withdrawn in the 2012 Budget);
- A further reduction in the company tax rate for small business companies to 28 per cent from the 2012-13 income year (reduced to 29 per cent in the 2010-11 MYEFO and withdrawn in the 2012-13 Budget);
- A resource exploration rebate, providing a refundable tax offset at the company tax rate for eligible exploration expenses incurred from 1 July 2011, together with expanding the definition of exploration expenditure to include geothermal energy (withdrawn in the 2010 MYEFO);
- Increasing the superannuation guarantee rate from 9 per cent to 12 per cent;
- The introduction of the Low Income Superannuation Contribution;
- $50,000 concessional superannuation contributions cap for individuals aged 50 and over with total superannuation balances below $500,000 (deferred until 2014-15 in the 2012-13 Budget and replaced with alternative treatment measure in 2013-14 Budget);

- Raising the superannuation guarantee age limit from 70 to 75 (the age limit was removed in the 2011-12 MYEFO);
- A phase down of interest withholding tax (deferred by one year in 2011 MYEFO to commence in 2014-15);
- Increasing the instant asset-write off from $1,000 to $5,000 (further increased to $6,500 as part of the clean energy future package in the 2011-12 MYEFO).
- The Regional Infrastructure Fund;
- A 50 per cent tax discount on up to $1,000 of interest earned by individuals (withdrawn in the 2012-13 Budget);and
- A standard deduction of $500 for work-related expenses and the cost of managing tax affairs will be paid to taxpayers (withdrawn in the 2012-13 Budget).

In the 2010-11 Budget, the revenue from the RSPT was forecast at $12 billion over the two year period 2012-13 to 2013-14. RSPT revenue for the period 2012-13 to 2016-17 at that time was estimated at $49.5 billion.[1]

The total estimated Gross revenue and expense impacts of the package at that time for the period 2010-11 to 2013-14 is outlined in Table 1 below:

Table 1. 2010 -11 Budget impact of the *Stronger, Fairer Simpler tax package* RSPT

Fiscal Impact ($m)	2010-11	2011-12	2012-13	2013-14	TOTAL
Resource Super Profits Tax	-7.7	-33.7	2,962.2	8,972.7	**11,893.5**
Company Tax Cut to 28 per cent			-300.0	-2,000.0	**-2,300.0**
Early start for small businesses		-54.7	-300.6	-201.2	**-556.5**
Instant Asset write-off to $5,000			-2.0	-1,030.0	**-1,032.0**
Increase in SG rate to 12 per cent	-0.6	-7.0	-13.8	-251.2	**-272.6**
SG limit increase from 70 to 75				18.2	**18.2**
LISC		-0.7	-19.6	-866.7	**-887.0**
Super Concessional contribution caps	-22.5	-16.4	-573.4	-810.4	**-1,422.7**
Phase down of Interest withholding tax		-0.1	-0.1	-70.1	**-70.3**
Regional Infrastructure Fund			-700.0	-735.0	**-1,435.0**
Exploration rebate	-0.5	-521.6	-601.2	-681.2	**-1,804.5**
Standard deduction for Work expenses		-2.6	-92.8	-608.4	**-703.8**

[1] Estimates for the years 2014-15 to 2016-17 were released by Treasury on 14 February 2011 under the *Freedom of Information Act*. See http://www.treasury.gov.au/Access-to-Information/DisclosureLog/2011/AAT

50 percent discount interest income	-5.2	-52.8	-516.2	-525.7	**-1,099.9**
Total	**-36.5**	**-689.6**	**-157.5**	**1,211.0**	**327.4**

Source: 2010-11 Budget: Budget Stronger, Fairer, Simpler Tax Package measures
Note: Table 1 does not include the 2010-11 Budget Measure *Stronger, fairer, simplertax reform – growth dividend*

The Minerals Resource Rent Tax

On 24 June 2010, following initial consultations with industry undertaken by the Resource Tax Consultation Panel[2], the then Prime Minister announced that the Government would seek to reach a consensus with industry regarding appropriate resource tax arrangements.[3] On 2 July 2010, the then Government announced that, following a process of consultation and negotiation, it had reached an agreement with representatives of the mining industry.[4]

The substance of the agreement was that the RSPT proposal would no longer be pursued and that instead, the Minerals Resource Rent Tax (MRRT) regime (together with an extension of the existing Petroleum Resource Rent Tax (PRRT)), would be introduced from 1 July 2012 and apply to iron ore and coal in Australia. The headline features of the MRRT were detailed in the Heads of Agreement between industry and Government,[5] as follows:

- Tax rate of 30 per cent on the assessable profits made from iron ore and coal extraction, with an applicable extraction allowance of 25 per cent, resulting in an effective tax rate of 22.5 per cent.
- Small miners with resource profits below $50 million[6] have no MRRT liability.
- Unused project losses carried forward with an allowance applied at the Government Long Term Bond rate + 7 per cent, or alternatively transferred to commonly-owned projects.
- Royalty payments creditable against MRRT liabilities but not transferable or refundable.
- Miners with project interests existing as at 2 May 2010 may elect to use book value (deductible over 5 years) or market value (deductible over the life of project up to 25 years) to calculate a starting base.

The 2010 Pre Election Fiscal Outlook (PEFO) measure, 'Improved resource taxation arrangements',[7] which reflected the decision to replace the RSPT with the MRRT, forecast the impact on revenue of the change to be $7.5 billion over the period 2012-13 to 2013-14, relative to the 2010-11 Budget

[2] Media release, "Resource Tax Consultation Panel", of 2 May 2010, available at: http://ministers.treasury.gov.au/DisplayDocs.aspx?doc=pressreleases/2010/029.htm&pageID=&min=wms&Year=2010&DocType=0
3 http://pmtranscripts.dpmc.gov.au/preview.php?did=17511
[4] Press Release, 'Breakthrough agreement with industry on improvements to resource taxation' http://ministers.treasury.gov.au/DisplayDocs.aspx?doc=pressreleases/2010/055.htm&pageID=003&min=wms&Year=&DocType
[5] The MRRT Heads of Agreement was tabled in the House of Representatives on 3 November 2011.
[6] The low profit threshold was increased to $75 million in the final MRRT design via parliamentary amendment.
[7] See 2010 PEFO Appendix B, Table B1

projections[8]. In total, revenue from the MRRT was estimated at the time of the 2010-11 PEFO to be $10.5 billion for the period 2012-13 to 2013-14, and $26.5 billion over the period 2012-13 to 2016-17.[9]

MRRT Associated Measures

In announcing its decision to introduce the MRRT, the former Government also announced that, as a result of the agreement on resource tax arrangements, the 2010-11 Budget measure to reduce the *company tax rate* to 29 per cent from 2013-14 (2012-13 for small businesses) would proceed, but the further reduction to 28 per cent would not. The exploration rebate would also not be proceeded with. [10]

As reported in the 2010-11 MYEFO, it was estimated these measures would, together, deliver revenue savings in the order of $522 million in 2011-12; $801 million in 2012-13; and $1,226 million in 2013-14 (see table 2 below).

The 2011-12 Budget included a measure to amend the income tax law to incorporate *geothermal exploration into the wider definition of exploration*, consistent with the recommendations of the Resource Tax Policy Transition Group (PTG), which was established to undertake further consultation with industry and provide advice to Government on the technical design elements of the new tax arrangements. [11,12]

The 2011-12 Budget also included a measure to allow small business entities *accelerated depreciation for motor vehicles* purchased in 2012-13 and subsequent years. This measure was introduced together with the previously announced *Low Income Superannuation Contribution*, and the increase in the *instant asset write-off threshold* from $1,000 to $6,500[13] via the *Tax Laws Amendment (Stronger, Fairer, Simpler and Other Measures) Act 2012*[14]

The revenue impact of the above changes, as at the 2011-12 Budget, is outlined in table 2.

[8] The estimated impact did not take account of parameter changes that were expected to increase revenue by $2.0 billion in 2012-13 and $4.0 billion in 2013-14 relative to the fiscal projections published in the 2010-11 Budget. Ibid 9, table B2, Note (b).

[9] Ibid 3. MRRT revenue estimates for the period 2012-13 to 2016-17 were, at that time, estimated to be $26.5 billion.

[10] Joint media release, *"Breakthrough Agreement with Industry on Improvements to Resources Taxation"*, 2 July 2010, http://ministers.treasury.gov.au/wmsDisplayDocs.aspx?doc=pressreleases/2010/055.htm&pageID=003&min=wms&Year=2010&DocType=0

[11] Ibid

[12] http://www.futuretax.gov.au/content/Publications/downloads/Minerals_and_Petroleum_Exploration_Report.pdf page 7

[13] The commencement of the increase from $1,000 to $5,000 was contingent on the passage of the MRRT, with the increase to $6,500 contingent upon the passage of the Clean Energy Bill 2011.

[14] http://www.comlaw.gov.au/Details/C2012A00023

Table 2. Budget impact of selected measures - 2010 PEFO/2010–11 MYEFO & 2011-12 Budget

Fiscal Impact ($m)	**2011-12**	**2012-13**	**2013-14**	**2014-15**
Company Tax Cut to 29 per cent			600.0	NA
Reduced head Start for small businesses		200.0	150.0	NA
Resource exploration refundable tax offset - reversal	521.6	601.2	681.2	NA
Accelerated depreciation for small business motor vehicles			-200.0	-150.0
Geothermal exploration definition			-5.0	-5.0
Total	**521.6**	**801.2**	**1,226.2**	**NA**

Source: 2010 PEFO/2010–11 MYEFO & 2011-12 Budget

Estimated net MRRT revenue was revised down in the 2011-12 Budget to $11.1 billion over the three years 2012-13 to 2014-15 ($7.7 billion in 2012-13 and 2013-14), primarily reflecting movements in commodity prices and the exchange rate.[15]

The MRRT legislation passed Parliament on 19 March 2012, and received Royal Assent on 19 March 2012. The MRRT regime commenced operation on 1 July 2012.

Net revenue from the introduction of the MRRT was estimated in the 2012-13 Budget to be $13.4 billion over the four years, 2012-13 to 2015-16[16].

The 2012-13 Budget included a number of amendments to the MRRT associated measures, flowing from the decision not to proceed with the company tax rate cut from 30 per cent to 29 per cent from the 2013-14 year (and the 'early-start' for small businesses from the 2012-13 income year), on the basis that , 'it [had] become clear that the Government [was] not able to progress a cut in the company tax rate through the Parliament"[17].

Not proceeding with the company tax cuts was estimated to provide savings to the Budget of around $4,756 million over the forward estimates. Also in the 2012-13 Budget the $50,000 concessional superannuation contributions cap for individuals aged 50 was deferred until 2014-15 (and replaced with alternative treatment measure in 2013-14 Budget). The 50 per cent tax discount on up to $1,000 of interest earned by individuals was withdrawn as was the standard deduction of $500 for work-related expenses and the cost of managing tax affairs.

The savings from not proceeding with the company tax cut were directed to other measures, including those comprising the *Spreading the Benefit of the Boom* package, announced as part of the 2012-13 Budget. These measures included:

- *Company loss-carry back arrangements* from 2012-13, at a cost of around $714 million over the forward estimates period. The loss carry-back provisions enabled companies making a tax loss of up to $1 million (from the 2012-13 year onwards) to recoup the taxes paid on an equivalent amount of taxable income in a recent income year.

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[15] 2012-13 Budget, Budget Paper 1, statement 5, Appendix A, Table A1, note (a), page 5-35
[16] 2012-13 Budget, Budget Paper 1, statement 5, page 5-20, table 9
[17] 2012-13 Budget, Budget paper 2 page 22.

- The Income Support Supplement (now referred to as the *Income Support Bonus*) commencing in March 2013 at a cost of around $1.1 billion over the forward estimates period. The Income Support Bonus is an indexed, non-means tested payment that is paid twice annually (in March and September) to eligible[18] social security recipients. ISB rates are currently $211.60 per annum for singles and $176.40 for most eligible members of a couple.

- An increase in the maximum payment rate of Family Tax Benefit Part A (FTB A) by $300 per annum for families with one child and $600 per annum for families with two or more children from 1 July 2013, at a cost of around $1.8 billion over four years. This measure was withdrawn in the 2013-14 Budget.

The Schoolkids bonus was also announced in the 2012-13 Budget, at a cost of around $2.1 billion over the five years 2011-12 to 2015-16. The Schoolkids bonus commenced on 1 January 2013 and provides $410 per annum for each primary school student and $820 per annum for each secondary student to families in receipt of FTB A.

The total budget impact of these measures, net of the estimated savings resulting from the company tax cut not proceeding, was a net cost of around $3.5 billion over the five years 2011-12 to 2015-16 (see table 3).

Table 3. Impact of selected measures - 2012-13 Budget.

Fiscal Impact ($m)	2011-12	2012-13	2013-14	2014-15	2015-16	Total
Don't proceed with company tax cut	50.0	316.6	1,232.2	1,596.0	1,561.0	4,755.8
Defer Super Concessional contribution caps	-	602.7	745.0	129.5	-17.7	1,459.5
Don't proceed with deduction for work expenses	-	2.5	91.9	600.0	1,400.0	2,094.4
Don't proceed with 50 per cent interest discount	-	7.3	37.2	323.2	555.8	923.5
Company loss carry-back	-	-6.8	-155.2	-251.2	-300.7	-713.9
Increasing rate of FTB A	-	-0.3	-602.9	-615.4	-625.8	-1,844.4
Supplementary Allowance	-	-152.7	-299.0	-305.7	-313.0	-1,070.4
Schoolkids Bonus	-516.4	-426.1	-370.9	-375.3	-393.4	-2,082.1
Total	**-466.4**	**343.2**	**678.3**	**1,101.1**	**1,866.2**	**3,522.4**

[18] To be eligible to receive the ISB, a person must be a recipient of Newstart Allowance, Sickness Allowance, Youth Allowance, Austudy, ABSTUDY, Special Benefit, Parenting Payment, or Exceptional Circumstances Relief Payment.

On 8 February 2013, the then Treasurer released advice from the Tax Commissioner that the first two quarterly MRRT instalments totalled $126 million.[19]

Estimated net MRRT revenue was subsequently revised down in the 2012-13 MYEFO to $9.1 billion over the period 2012-13 to 2015-16, and again in the 2013-14 Budget (see table 4)

Table 4. MRRT revenue forecasts – 2012-13 MYEFO &2013-14 Budget

	2012-13	2013-14	2014-15	2015-16	2016-17
2012-13 MYEFO[20]	2,000	2,400	2,100	2,600	NA
2013-14 Budget[21]	200	700	1,000	1,400	2,200

In the 2013-14 Budget, the former Government announced that it would reduce funding for the Regional Infrastructure Fund by $2 billion over seven years from 2013-2014 to 2019-20 as a result of, 'lower than anticipated revenues from the Minerals Resource Rent Tax". [22]

The 2013-14 Budget also announced that the 2012-13 Budget measure to increase FTB A payments, due to, 'significant revenue write downs across the forward estimates', delivering a saving of $2.5 billion over the period 2013-14 to 2016-17.[23]

In the 2013 PEFO, the estimated revenue from the MRRT was further revised down to $4.4 billion over the forward estimates period. [24]

To date, total gross MRRT collections are around $570 million. Net MRRT collections (that is, after company tax MRRT deductions are taken into account) are in the order of $400 million.

[19] Treasurer's media release, *"Mineral Resource Rent Tax revenue"*, http://www.treasurer.gov.au/wmsDisplayDocs.aspx?doc=pressreleases/2013/019.htm&PageID=003&min=wms&Year=&DocType=0

[20] 2012-13 MYEFO Appendix B, page 305, Note (a)

[21] 2013-14 Budget, Budget Paper 1, 5-24

[22] 2013-14 Budget, Budget Paper 2, page 227

[23] 2013-14 Budget, Budget Paper 2, page 150

[24] 2013 PEFO, page 13 note A

2. MRRT revenue estimates

Revenue forecasts for the MRRT were first published in the July 2010 Economic Statement.[25] In subsequent Budgets and Mid-year Economic Forecast and Outlooks, revenue forecasts (see Table 5) were, in most cases, progressively revised down.

Table 5. Revision of MRRT revenue estimates

MRRT Estimate History	2012-13 ($m)	2013-14 ($m)	2014-15 ($m)	2015-16 ($m)	2016-17 ($m)
RSPT Estimate	3,000	9,000	12500*	12,500	12,500
Original MRRT Estimate (Jul 2010)	4,000	6,500	6500*	5,500	4,000
PEFO 2010	4,000	6,500	6500*	5,500	4,000
change from previous	-	-			
MYEFO 2010-11	3,300	4,100	NA	NA	NA
change from previous	- 700	- 2,400			
Budget 2011-12	3,700	4,000	3,400	NA	NA
change from previous	400	- 100			
MYEFO 2011-12	3,700	3,800	3,100	NA	NA
change from previous	-	- 200			
Budget 2012-13	3,000	3,500	3,200	3,700	NA
change from previous	- 700	- 300	100		
MYEFO 2012-13	2,000	2,400	2,100	2,600	NA
change from previous	- 1,000	- 1,100	- 1,100	- 1,100	
Budget 2013-14	200	700	1,000	1,400	2,200
change from previous	- 1,800	- 1,700	- 1,100	- 1,200	
PEFO 2013		700	800	1,100	1,800
change from previous		-	- 200	- 300	- 400

* Estimates beyond 2013-14 released as part of FOI request 14 February 2011.

[25] http://www.budget.gov.au/2010-11/content/economic_statement/download/ES_Consolidated.pdf

3. Savings arising from the Bill

The repeal or re-phasing of the measures contained within the Bill is estimated to result in budget savings totalling around $13.9 billion over the forward estimates (discontinuing the Regional Infrastructure Fund (RIF) and Regional Development Australia Fund and not proceeding with the phase-down of the Interest Withholding Tax result in further savings of $3.1 billion over the forward estimates) – see Table 6.

Together with the revenue loss resulting from the repeal of the MRRT, the Mining Tax Repeal package is estimated to result in a total saving of $13.7 billion over the forward estimate period.

Table 6. Minerals Resource Rent Tax Repeal and Other Measures Bill 2013 savings.

	2013-14	2014-15	2015-16	2016-17	Total
Savings					
Superannuation Guarantee Increase	0.0	170	565	845	1,580
Low Income Superannuation Contribution	0.0	836	940	923	2,699
Reduction of the Small Business Instant Asset Write-Off#	0.0	550	1050	1000	2,600
Accelerated Depreciation for Motor Vehicles	0.0	100	200	150	450
Discontinuing Company Loss Carry-Back	0.0	350	300	300	950
Abolishing the Income Support Bonus	151	324	314	316	1,105
Abolishing the Schoolkids Bonus	550	1301	1325	1347	4,522
Amending geothermal exploration treatment	0.0	0.0	5	5	10
Total	**701**	**3,631**	**4,699**	**4,886**	**13,916***

* The 13.9 billion savings figure does not include the additional $3.09 billion savings from non-legislated measures (discontinuing the Regional Infrastructure Fund (RIF) and the Regional Development Australia Fund and not proceeding with the phase-down of the Interest Withholding Tax).

Saving includes that from reducing the instant asset write-off threshold from $6,500 to $5,000 which was associated with the repeal of the clean energy package.

Assuming passage of the Bill, the degree to which these savings will be achieved is, to some degree, dependent on the time at which the Bill receives royal assent.

Eligibility for the Schoolkids Bonus is determined on 1 January (for a January payment) and 30 June (for a July payment) each year. As the estimated savings from abolishing this measure assumes the last eligible test day for this payment is 30 June 2013, should the legislation not pass Parliament and receive Royal Assent prior to 31 December 2013, package savings would be reduced by $727.9 million in underlying cash terms.

Similarly, the next instalment of the Income Support Bonus occurs on 20 March 2014. If Royal Assent is not received prior to this time, package savings would be reduced by a further $161.9 million.

Were the legislation not to receive Royal Assent prior to 30 June 2014 then, in addition to further savings being foregone via the payment of the 2014 July Schoolkids bonus, the superannuation guarantee rate will increase under existing legislation to 9.5 per cent for the year starting on 1 July 2014. In this case, employers will be required to pay their eligible employees a SG contribution of 9.5 per cent or risk incurring significant penalties. In addition, employers will require some period to make the necessary payroll and system changes in advance of 1 July 2014. Hence, if Royal Assent is not received in time, the package savings could be further reduced.

Also as the Low Income Superannuation Contribution is typically made in the year or so after the contribution is made, if the LISC amendments are not passed by 1 July 2014, the ATO may become liable to make LISC payments for contributions made on or after 1 July 2013. While the commencement date of the amendment is set at 1 July 2013 in the Bill, in practice recovering any payments may be difficult.