

## ACTU Submission

### The Abolition of the Minerals Resource Rent Tax and related measures



## **Introduction & Summary**

The Australian Council of Trade Unions (ACTU) represents nearly 2 million working Australians and their families. Many more workers have their conditions of employment shaped by the work and representation performed by our affiliates.

On 24 October 2013 the government released an exposure draft of the *Minerals Resource Rent Tax Repeal and Other Measures Bill 2013* and explanatory memorandum for public consideration.

The government has invited interested parties to comment on the draft by 31 October 2013.

This submission represents the views of the ACTU. We would be happy to comment further on request.

In summary, we strongly oppose the proposed abolition of the Minerals Resource Rent Tax and related measures such as the income support bonus, the low income superannuation contribution, and the rephrasing of the superannuation charge increase. Further discussion of these and other issues is contained in the body of this submission.

If implemented these measures will deprive our community of a fair return for the private exploitation of our natural resources, and will materially disadvantage millions of the lowest paid and poorest members of our society.

We therefore urge the government to withdraw these proposals.

## **Abolition of the Minerals Resource Rent Tax**

The ACTU strongly opposes the proposed abolition of the Minerals Resource Rent Tax (MRRT).

Australia has some of the world's largest identified reserves of non-renewable resources such as brown coal, lead, nickel, silver uranium, zinc, copper and iron ore. The rights to these extremely valuable resources belong to the Australian community. It is therefore legitimate for the Federal and state governments to seek an appropriate return from the private companies that we allow to exploit these resources for private gain.

The review of Australia's tax system chaired by Ken Henry recognised the significance of these resources for our community and that the taxation arrangements that existed prior to 2010 were not adequate. The review's final report was very clear:

*Australia's current resource charging arrangements fail to collect an appropriate return for the community from allowing private firms to exploit non-renewable resources, mainly because arrangements are unresponsive to changes in profits.<sup>1</sup>*

In response to the Henry review panel's recommendation that existing arrangements be replaced with a uniform resource rent tax administered by the Australian government, the previous government introduced the Resource Super Profits Tax with the strong support of unions and many others. While the subsequent MRRT arrangements were flawed in some important respects, they nevertheless acted to secure some of the return that the Henry review panel had thought fair and legitimate for the community to expect.

The large majority of Australian citizens believe that those private companies who collect enormous profits from the exploitation of our non-renewable resources should be taxed in ways that reflect the particular nature of those resources. The present proposal to abolish the MRRT flies in the face of public opinion and the considered views of the Henry review panel. It is an irresponsible concession to the views of a small and unrepresentative clique of powerful mining companies that will deprive our community of a fair return for allowing these companies to exploit to our collective resources.

The ACTU urges the government to maintain the MRRT.

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<sup>1</sup> Australia's Future Tax System Review Panel (2010) *Report to the Treasurer: Volume One*, p. 228

### **The abolition of the loss carry-back regime for companies**

The loss carry-back regime was introduced in response to a recommendation of the Business Tax Working Group (BTWG) in its report of April 2012.<sup>2</sup> The ACTU was represented in the BTWG by Jeff Lawrence and then Tim Lyons. We agreed with the consensus of the BTWG that a loss carry-back regime should be introduced. The ACTU publicly supported the introduction of this regime.<sup>3</sup>

Other members of the BTWG included Jennifer Westacott, the CEO of the Business Council of Australia (BCA); Frank Drenth, Executive Directive of the Corporate Tax Association; Peter Burn, Director of Public Policy at the Australian Industry Group (Ai Group); and a number of tax professionals and academics. The consensus of this broad range of individuals that comprised the BTWG was that a loss carry-back regime should be supported. The consultation that the BTWG carried out before issuing its final report indicated widespread support for a loss carry-back regime, particularly from small-to-medium sized businesses. It is these businesses that will be adversely affected by the repeal of the carry-back regime.

Prior to the introduction of loss carry-back, the tax system treated profits and losses asymmetrically. Profits were taxed in the year they were made, while losses could only be carried forward at their nominal value to be deducted against future income. Businesses that had made a profit and paid tax in one year, then experienced a loss the following year, were not able to recoup some of the tax paid in the first year. The introduction of loss carry-back reduced this asymmetry.

This is of particular help to business in a downturn. The cash flow benefits of loss carry-back can mean that some businesses will remain in operation that would not have done so if carry-back had not been available. The BTWG report found that the cash flow aspect of the asymmetric treatment of losses:

*can be detrimental to a business' future economic prospects, especially where the company requires short-term liquidity to meet day-to-day outgoings. It also reduces the ability of a business to make investments in new equipment, research and development, staff training and development and other activities that help to increase the viability of the business in the long-term and add to productivity. Poor cash flow can also limit its access to commercial funding through debt and equity markets.<sup>4</sup>*

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<sup>2</sup> Business Tax Working Group 2012, *Final Report on the Tax Treatment of Losses*, Commonwealth of Australia, Canberra, Available from: <http://www.treasury.gov.au/PublicationsAndMedia/Publications/2012/Business-Tax-Working-Group-Final-Report>. [Accessed 25 October 2013].

<sup>3</sup> ACTU 2012, 'Government Budget support for loss-making businesses will help to protect jobs', Media release, 9 May, Available from: <http://www.actu.org.au/Media/Mediareleases/GovernmentBudgetsupportforlossmakingbusinesseswillhelptoprotectjobs.aspx>. [Accessed 25 October 2013].

<sup>4</sup> BTWG 2012., p.16.

By repealing the loss carry-back regime, the *Minerals Resource Rent Tax Repeal and Other Measures Bill 2013* ('MRRT bill') will again expose Australian businesses to these problems. Over the course of the economic cycle, more businesses will fail without the loss carry-back regime than would be the case if the regime were maintained. This will harm employment. The problem will be particularly acute for firms in sectors that are most affected by short-term economic shocks, such as a sudden appreciation in the exchange rate.

The BTWG report also noted that the asymmetric treatment of losses biases the tax system against risk taking, which reduces the quantity and quality of investment. The treatment of losses affects the net present value (NPV) of future cash flows that firms expect to receive from investments. The absence of loss carry-back reduces the NPV of risk investments with a given expected future cash flow. As a result, fewer investments will proceed in the absence of loss carry-back. The BTWG report found that this "may divert capital to less risky, lower value investments," which in turn will "be particularly detrimental to productivity".<sup>5</sup>

The loss carry-back regime is also useful for its counter-cyclical effect on the Commonwealth's fiscal position. The regime will tend to increase the deficit during economic downturns, relative to a situation in which there is no carry-back, but revenues would recover more rapidly during economic recoveries. The measure therefore strengthens the automatic stabilisers, an important aspect of fiscal policy that assists with macroeconomic stabilisation.

It is somewhat rare for changes to the business tax system to be supported by representatives of both large and small business, as well as tax professionals, academics, and unions. The loss carry-back regime had broad support from all these groups. Its abolition will raise the incidence of business failure during economic downturns, harming employment and output, while reducing risky investment, undermining productivity, and reducing the extent to which fiscal policy automatically stabilises the macroeconomy. The loss carry-back regime should be maintained.

### **The reduction in the instant asset write-off threshold for small business**

The MRRT bill also proposes to reduce the threshold under which small businesses can instantly write-off assets from \$6 500 to \$1 000. As with the loss carry-back regime, the increase in this threshold was another pro-business change to the tax system that Australian unions supported. The increase in this threshold assisted small businesses' cash flow, encouraged investment, and reduced red tape.

The reduction in the threshold can be expected, conversely, to harm small businesses' cash flow, discourage investment, and increase red tape. The higher threshold for the instant write-off of assets by small business should be maintained.

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<sup>5</sup> BTWG 2012, p.17.

### **Repeal of the income support bonus**

The Income Support Bonus (ISB) is a payment of \$105.80 for singles and \$88.20 to partnered recipients, made twice yearly. The maximum payment amount is therefore around \$4.05 per week. It is paid to recipients of the following payments:

- ABSTUDY Living Allowance;
- Austudy;
- Exceptional Circumstances Payment;
- Newstart Allowance;
- Parenting Payment;
- Sickness Allowance;
- Special Benefit;
- Transitional Farm Family Payment; and
- Youth Allowance.

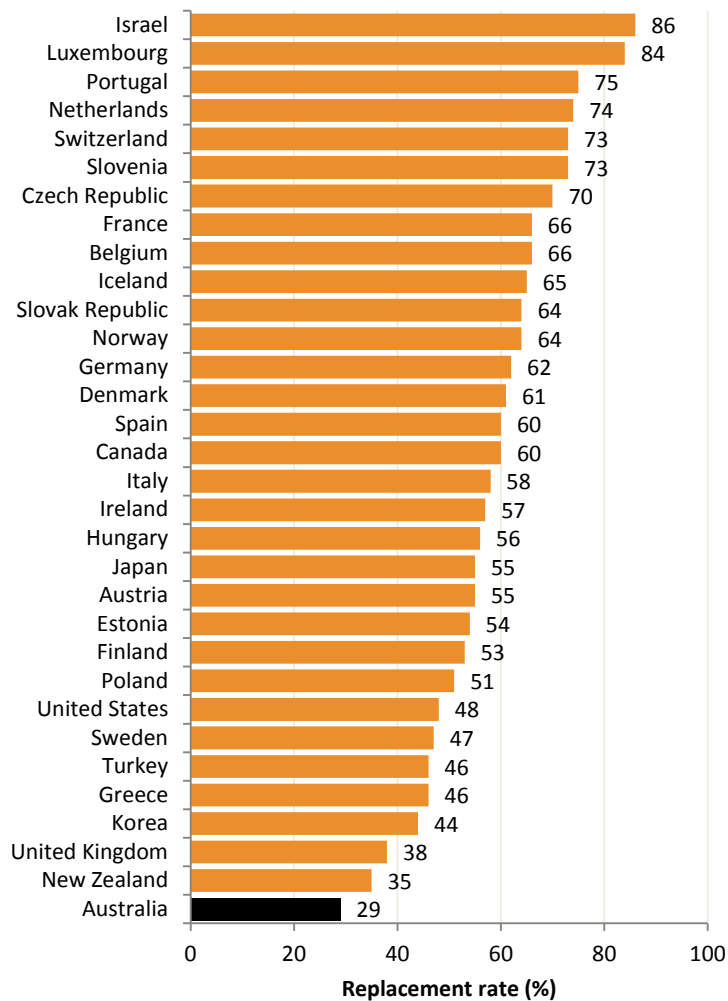
This small payment assists recipients of these payments with meeting the cost of living. For a single adult receiving the full rate of Newstart, the ISB represents around 1.6% of their income. Abolishing it will reduce their income from \$254.55 per week<sup>6</sup> to \$250.50 per week, or \$35.80 per day.

An Australian worker on an average full-time wage who loses his or her job and claims Newstart Allowance will suffer a larger negative income shock than his or her equivalent in any advanced economy. This is shown in **Figure 1**. When taxes and other benefits, such as housing assistance, are taken into account, Australia has the lowest replacement rate in the OECD.

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<sup>6</sup> This is an average, taking the twice-annual ISB payment as a weekly equivalent.

Figure 1: Replacement rate – unemployment benefit as a proportion of average wage



Source: OECD, Tax-Benefit Models.

The meagre Newstart payment is insufficient to enable recipients to live in dignity in contemporary Australian society. Australia’s unemployment benefit is so low that it threatens workforce participation and social exclusion, by raising the likelihood that recipients’ material circumstances spiral downwards and they find themselves unable to pay for housing and transport and meet the cost of job search. This concern is not limited to the ACTU. The Business Council of Australia shares this view. The BCA has said:

*There is a need for an increase in the Newstart Allowance on an adequacy and fairness basis. The value of Newstart has fallen progressively behind levels of income support available to other working age Australians. The rate of Newstart no longer meets a reasonable community standard of adequacy... There is concern that the low rate of Newstart itself now presents a barrier to employment and risks entrenching poverty. A disproportionately low rate for the Newstart Allowance will not, in and of itself, act as an incentive for people to return to work.<sup>7</sup>*

<sup>7</sup> Business Council of Australia 2012, *Submission to the Senate Education, Employment and Workplace Relations References Committee Inquiry into the Adequacy of the Allowance Payment System for Jobseekers and Others*.

We note that conservative economists such as Judith Sloan and Ian Harper have expressed similar concerns. There is consensus across a wide range of individuals and organisations that Newstart Allowance is too low. The abolition of the ISB would further reduce the income of recipients. It is effectively equivalent to a cut in the Newstart Allowance from its already dangerously low level.

The abolition of the ISB will entrench poverty and social exclusion, while threatening workforce participation. It will make a bad situation worse. The ISB should only be abolished if the base rate of Newstart and other payments is to be increased by at least an equivalent amount at the same time. The MRRT Bill does not propose to do this. We therefore strongly object to the abolition of the ISB.

### **The Schoolkids' Bonus**

The Schoolkids' Bonus helps Australian families and students meet the cost of education. It is means tested with eligibility for the Bonus tied to eligibility for Family Tax Benefit Part A. Eligible families receive \$410 per year for each child in primary school and \$820 per year for each child in secondary school. The removal of the bonus is a reduction in support for low- and middle-income families. The ACTU does not support the abolition of this bonus.

### **The Repeal of the Low Income Superannuation Contribution**

The ACTU strongly opposes the proposed repeal of the Low Income Superannuation Contribution (LISC).

It has long been recognised by unions, tax policy experts and the superannuation industry that the flat rate taxation of superannuation contributions at 15 per cent is profoundly regressive and socially unjust.

Prior to the introduction of the LISC this had meant that a taxpayer on the top marginal rate saved 32 cents in tax per dollar contributed to superannuation compared to the tax paid on their wages. Meanwhile a worker with an income below the tax free threshold faced a tax penalty of 15 cents for every dollar contributed. It has been estimated that in 2007, 17 per cent of all tax breaks for super contributions accrued to the top 5 per cent of taxpayers and nearly half (47 per cent) accrued to the top 12 per cent. The bottom 88 per cent received the remaining 53 per cent.<sup>8</sup>

The generous tax treatment of contributions for higher income earners is often further compounded by the extensive use of salary sacrifice arrangements which add further to the considerable tax advantages such earners already receive.

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<sup>8</sup> ACOSS (2012) *Building Super on a Fair Foundation: reform of the taxation of superannuation contributions*, Strawberry Hills, NSW, p. 4.



The introduction of the LISC by the previous government constituted an important step toward alleviating some of the most regressive aspects of contribution taxation. The payment of up to \$500 per year on behalf of individuals with an annual adjusted taxable income of \$37,000 or less effectively means that such individuals do not pay tax on their contributions. This is fairer than previous arrangements and, importantly for the 3.5 million individuals concerned, it serves to increase their superannuation savings.

If implemented the abolition of the LISC will be a profoundly regressive step that will disadvantage those least able to afford the financial loss.

We note that the Explanatory Memorandum in support of the MRRT Repeal makes no attempt to discuss or engage with the distributional and social justice issues raised by abolishing the LISC. The sole justification offered is that the LISC was a matter related to the MRRT that the government is intent on repealing.

However, the case for reforming the taxation of superannuation contributions to render it fairer for all Australians pre-dates, and stands independently of, changes to the taxation of minerals. It is open to the government to continue to fund the LISC and thereby signal a commitment to the fairer taxation of contributions, and to helping the lowest paid members of our society save more for their retirement.

### **The Rephasing of the Superannuation Guarantee Charge Percentage Increase**

The ACTU strongly opposes the proposed rephasing of the SG charge percentage increase.

Unions, in common with the entire superannuation industry, have long taken the view that an SG rate of 9 per cent would not be sufficient to secure a reasonable level of comfort for most workers when they retire. Few industry experts and policymakers dispute that while our pool of national superannuation savings is now the fourth largest in the world, with a value of approximately \$1.4 trillion, existing policy settings mean many low and middle income workers today will not be able to afford even a modest standard of living when they stop working.

We therefore welcomed the decision of the previous government to legislate for a staged increase in the rate to 12 per cent by 2019/20 as a step in the right direction.

The present proposal to rephase the SG increase so that it reaches 12 per cent in two years later than presently legislated will act to reduce aggregate superannuation savings at a time when there is a broad consensus that they are already insufficient for most workers. We note the recent report from Deloitte which warns that the proposed delay will cost retirees approximately \$80 billion in lost income over the next 20 years.<sup>9</sup> This cost will disproportionately impact on those many low and middle income workers who are heavily dependent on the SG rate to build their savings because they cannot afford to make

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<sup>9</sup> Deloitte (2013) *The Dynamics of the Australian Superannuation System: The Next 20 Years 2013-2033*, Sydney.

additional voluntary contributions or utilise any salary sacrifice arrangements that may be available at their workplace.

The case for rephasing the SG increase made in the Explanatory Memorandum is weak. It does not reference any evidence base to support the notion that it will have the beneficial impacts that Ministers have asserted. It merely claims that rephasing 'could' increase near-term economic activity and that employees 'could' receive more take-home pay.<sup>10</sup>

In the absence of any evidence that the rephasing will benefit the economy, but given the very clear evidence that it will disadvantage millions of future retirees, the ACTU urges the government to observe the SG timetable that has already been legislated.

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<sup>10</sup> Treasury (2013) *Exposure Draft explanatory memorandum Minerals Resource Rent Tax Repeal and repeal and rephasing of MRRT related measures*, Canberra, p. 16.



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