

Chapter 2

Views on the Bill

2.1 As noted in the previous chapter, the Bill would amend the MRRT Act so that any increases in mining royalties levied by the states after 1 July 2011 would be disregarded when calculating royalty credits for the MRRT. This change would apply to MRRT assessments from its first year of operation, namely 2012-13.

2.2 With the exception of a submission from Professor John Quiggin (University of Queensland), no submissions received by the committee supported the Bill.

Support for the Bill

2.3 Professor Quiggin noted that while minerals are the property of the states in which they are located, 'under the system of fiscal equalization implemented through the Grants Commission since 1933, the Commonwealth is required to redistribute resources so as to ensure a starting position of fiscal equality between states.' Professor Quiggin therefore argued in favour of the Bill, contending that:

...a situation where the governments of mineral-rich states can gain revenue at the expense of the Commonwealth, and therefore ultimately at the expense of other states is antithetical to the principles of fiscal equalization. Any such gains would ultimately be undone through the operations of the Grants Commission. In the meantime, however, the effect would be to compromise still further the operation of the MRRT, which remains more efficient and equitable than royalties.¹

Criticism of the Bill

2.4 Submissions from the New South Wales Government, Queensland Government, Association of Mining and Exploration Companies (AMEC) and Minerals Council of Australia (MCA) all argue that the Bill should be rejected.

Tax burden on liable entities

2.5 AMEC, while emphasising its opposition to the MRRT generally, argued that 'the crediting of royalties is an essential feature of the overall framework.' If this feature were removed, 'it will result in mining companies paying double taxation through MRRT and royalties to the extent of the increase above 1st July 2011 levels.'²

2.6 MCA, meanwhile, argued that the Bill runs counter to the policy objective of limiting the overall tax burden on coal and iron ore mining industries and providing greater taxpayer certainty:

Full crediting of royalties is a key feature of the MRRT's design, one that ensures double taxation is avoided and that delivers a measure of stability

1 Professor John Quiggin, *Submission 1*, p. 1.

2 AMEC, *Submission 2*, p.1.

and predictability to the overall tax burden on coal and iron projects, albeit at the upper end of globally competitive tax rates.³

2.7 MCA further suggests the Bill is based on a 'series of flawed premises', including that the mining industry is not currently paying its fair share of tax; that Australia 'can continually raise taxes on its most globalised industry and not impact negatively on investment, jobs and economy-wide growth'; and that the volatility of MRRT revenues in response to changing market conditions is a design flaw, rather than an essential design feature of the MRRT.⁴

Previous agreements and assurances

2.8 AMEC points out that the 'freeze' on crediting royalties above 1 July 2011 levels was never contemplated in the Heads of Agreement between the government and the large miners.⁵

2.9 While opposed to the MRRT itself, the Queensland Government suggests the Bill would require the government to renege on the agreement struck with the major mining companies, thereby further damaging Australia's 'reputation as an investment destination.'⁶

2.10 The New South Wales Government also argued that the amendment would be contrary to the recommendations of the PTG, which the Australian Government accepted in full on 24 March 2011.⁷

Commonwealth-state revenue raising and sharing arrangements

2.1 In its submission, AMEC argued that revenue sharing arrangements between the Commonwealth and the states should be addressed through other processes, such as the Commonwealth Grants Commission, and not through the MRRT legislation as proposed in the Bill.⁸

2.11 AMEC also argued that the Bill would not reduce the incentive for states to increase their royalty rates, 'as they will continue to do so to the extent that industry may be able to bear it, with the result that miners will have no option but to pay the royalty with no MRRT offset.'⁹

2.12 MCA argued that the Bill would take Australia further away from the Commonwealth-state cooperation that is needed to create a stable and internationally competitive regime of resource taxation:

3 MCA, *Submission 5*, pp. 2–3.

4 MCA, *Submission 5*, pp. 9–15.

5 AMEC, *Submission 2*, p. 2.

6 Queensland Government, *Submission 3*, p. 2.

7 New South Wales Government, *Submission 6*, p. 2.

8 AMEC, *Submission 2*, p. 2.

9 AMEC, *Submission 2*, p. 2.

The minerals industry considers that to the extent current royalty crediting arrangements under the MRRT provide an incentive for States to increase royalties, the only way this can be resolved is via constructive dialogue involving all stakeholders (including industry) and, ultimately, via an intergovernmental agreement that takes full account of the need for stable and internationally competitive taxation and royalty arrangements.¹⁰

2.13 The Queensland Government, meanwhile, argued that the:

...best way to reduce the need for the resource States to increase royalty rates is to ensure that resource States retain a fair share of the government revenue from the commercial exploitation of their finite resources. This outcome is easily achieved by guaranteeing resource states a fairer share of revenue from the MRRT and reducing the punitive levels of redistribution of mining royalty revenue effected through the Goods and Services Tax (GST) distribution system.¹¹

Retrospective application of the Bill

2.14 Both the New South Wales Government and AMEC raised concerns regarding the retrospective application of the Bill, which AMEC suggested would 'create a dangerous precedent for taxation legislation in Australia.'¹²

Committee View

2.15 The committee notes that the government agreed to all of the Policy Transition Group's recommendations on 24 March 2011, including 'that there be full crediting of all current and future State and Territory royalties under the MRRT so as to provide certainty about the overall tax impost on the coal and iron ore mining industry.' The committee believes the Bill is inconsistent with this commitment by the government, and would introduce new uncertainty regarding the taxation of the coal and iron ore mining industry.

Recommendation 1

2.16 The committee recommends that the Senate not pass the Bill.

Senator Mark Bishop
Chair

¹⁰ MCA, *Submission 5*, pp. 16–17.

¹¹ Queensland Government, *Submission 3*, p. 1.

¹² AMEC, *Submission 2*, p. 2; and New South Wales Government, *Submission 6*, p. 2.

