

**GIVEN THE FACT THAT AUSTRALIA HAS HAD A 'PETROLEUM RESOURCE RENT TAX' SINCE 1987, WHY SHOULD THERE BE ANY OPPOSITION TO A 'MINERAL RESOURCE RENT TAX'?**

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**ABSTRACT**

The Australian Government introduced a resource rent tax on offshore oil and gas deposits in 1987 and since then it has raised in excess of an additional \$1 billion a year in revenue over and above the normal company tax on income. At the time it was being introduced a great deal of controversy followed the proposed introduction of the petroleum resource rent tax (PRRT). On 2 November 2011, the Australian government introduced the raft of bills into Parliament for the imposition of a Mineral Resource Rent Tax (MRRT) on profit generated from iron ore, coal and gas from coal seams from 1 July 2012. Onshore oil and gas deposits will now be subject to a rent tax under the new PRRT regime that was also introduced into Parliament on 2 November 2011. The proposed MRRT has been met with criticism from certain mining companies, the Opposition parliamentary parties and noted economists. However, Australia currently has a budget deficit and a MRRT is being viewed by the government as being a solution to repaying government debt and to redistribute the burden of tax by reducing the rate at which companies pay income tax. A Resource Rent Tax (RRT) has been used by a number of countries such as the United Kingdom and Norway to increase government revenue from their 'North Sea' oil reserves. This paper will address the question raised above: namely, why is there opposition to a proposed MRRT given the continued existence of a PRRT in Australia for over 14 years? The paper will also contend that there are sound philosophical reasons for having this form of taxation and that as a result of the continued existence of a PRRT in Australia together with the fact that resource rent taxes have been adopted in many other countries, that the criticism of the new MRRT is unwarranted.

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## I INTRODUCTION

The paper will start with a discussion of the political implications that followed from the proposal of the Australian Government to introduce a MRRT. This will be followed by an examination of the current resource rent tax regimes in use by different governments in other countries. This examination of the existing resource rent taxes that are being imposed in other countries is limited in its scope but it is included in this paper to illustrate the fact that resource rent taxes have been accepted by mining companies in other jurisdictions for many years. From this perspective, it will be contended that the opposition to a MRRT by the mining companies in Australia is grossly hypocritical given the fact that this form of taxation is accepted globally. The second part of the paper will commence with a discussion of the philosophical basis for the imposition of an extra tax on the cash flow profit from minerals. This part of the paper will examine the current PRRT and the new PRRT Bill as well as a discussion of the final MRRT Bill that was introduced into the Australian Parliament on 2 November 2011. The third part of the paper will then critically examine the criticisms from various parties to the MRRT in order to determine whether or not these purported defects in the tax have merit and should be taken into account by the government. Finally, the conclusion will provide an answer as to the merit of the various criticisms and a prognosis as to the future of mineral taxes in Australia.

The renewed interest in a resource rent tax on mining was the initiative of Dr Ken Henry and the members of the review into 'Australia's Future Tax System', now commonly referred to as the 'Henry Review'.<sup>1</sup> The review recommended the introduction of a resource rent tax for all mineral and petroleum resources except brown coal.<sup>2</sup> In the final report, Henry contended that the royalty system, which allows the states to collect revenue based on the value of the resource being sold and the volume of output, should be replaced by a resource rent tax.<sup>3</sup> As a result of this review, the Government announced on 2 May 2010 that they would introduce a 'Resource Super Profits Tax' on mining to not only generate additional revenue but compensate a reduction in the rate of company tax to ultimately 28 percent. The Government also proposed that there would be an increase in the Superannuation Guarantee Charge to 12 percent and finally to provide funds for an investment in infrastructure that would benefit future generations of Australian residents.<sup>4</sup>

The super profits tax was set at a rate of 40 percent and was to apply from 1 July 2011.<sup>5</sup> However, as a result of a campaign against the tax by the mining industry, the Opposition Party in Parliament and public opinion, the incumbent Prime Minister Kevin Rudd was replaced by Julia Gillard on 24 June 2010.

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<sup>1</sup> Australia's Future Tax System Review Panel (K Henry (Chair), J Harmer, J Piggott, H Ridout and G Smith), *Australia's Future Tax System: Report to the Treasurer* (December 2009) (AFTS Report).

<sup>2</sup> Ibid 217.

<sup>3</sup> Ibid.

<sup>4</sup> The Treasurer, Wayne Swan, 'Stronger, Fairer, Simpler: A Tax Plan for our Future' (Press Release, No. 028, 2 May 2010),

<http://www.treasurer.gov.au/DisplayDocs.aspx?doc=pressreleases/2010/028.htm&pageID=003&min=wms&Year=2010&DocType=0>

<sup>5</sup> Ibid.

The new Prime Minister, Julia Gillard then negotiated a new form of resource rent tax to be applied to mining companies extracting iron ore, coal and coal seam gas only. The end result was a new 'Minerals Resource Rent Tax Bill' (MRRT) and Exposure Draft that was released for public comment on 18 September 2011. Prior to this happening, the Australian Government had formed a 'Policy Transition Group' made up of resource sector, government and taxation experts to provide advice on the design and implementation of a MRRT.<sup>6</sup> On 24 March 2011, the Policy Transition Group reported to the Government on its findings. The Government accepted all 98 recommendations of the Policy Transition Group, led by Resources Minister Martin Ferguson and Mr. Don Argus AC, relating to the new resource tax arrangements. The recommendations form the basis of the second draft MRRT legislation. Consultation on the exposure draft closed on 5 October 2011.

### ***A The MRRT System***

The final raft of legislation creating the MRRT and amending the PRRT was introduced into Parliament on 2 November 2011.<sup>7</sup> The object of the MRRT Bill is stated in section 1-10 as follows:

The object of this Act is to ensure that the Australian community receives an adequate return for its taxable resources, having regard to:

- a) the inherent value of the resources; and
- b) the non-renewable nature of the resources; and
- c) the extent to which the resources are subject to Commonwealth, State and Territory royalties.

This Act does this by taxing above normal profits made by miners (also known as economic rents) that are reasonably attributable to the resources in the form and place they were in when extracted.

A 'taxable resource' is defined in Division 20 of the Bill as coal, iron ore and coal seam gas. The Government's objective for the introduction of the MRRT legislation will be discussed in Part II of the paper when the philosophical basis for a resource rent tax is examined.

The MRRT is based on taxing projects, similar to the PRRT. Mining projects that do not generate resource profits of more than AUD 50 million in a given year will not be subject to the MRRT. This is designed to reduce the compliance costs for small mining companies.<sup>8</sup>

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<sup>6</sup> Australian Government Policy Transitions Group, *Issues Paper: Technical Design of the Minerals Resource Rent Tax, Transitioning Existing Petroleum Projects to the Petroleum Resource Rent Tax and Policies to Promote Exploration Expenditure*, 1 October 2010.

<sup>7</sup> Minerals Resource Rent Tax Bill 2011, Minerals Resource Rent Tax (Consequential Amendments and Transitional Provisions) Bill 2011, Minerals Resource Rent Tax (Imposition–Customs) Bill 2011, Minerals Resource Rent Tax (Imposition–Excise) Bill 2011, and Minerals Resource Rent Tax (Imposition–General) Bill 2011 <[www.aph.gov.au](http://www.aph.gov.au)> at 3 November 2011.

<sup>8</sup> Australian Government Policy Transitions Group, above n 6, 67.

The MRRT is imposed at a rate of 30 percent and not 40 percent which is the current rate of tax under the PRRT. The profit or loss calculation is based on the assessable receipts less deductible expenditure less the uplift carry forward losses. The uplift factor is the long term bond rate plus 7 percent.<sup>9</sup>

The MRRT will be a deductible expense when calculating taxable income for income tax purposes. This is the current situation under the PRRT where the PRRT is a deduction against assessable income pursuant to s 44-750, *Income Tax Assessment Act 1997* (Cth). Royalties paid to the states and the Northern Territory will be credited against any MRRT liability and any excess royalty payments will be uplifted and applied against future MRRT liabilities. Any excess royalty payments will not be refundable.<sup>10</sup> The MRRT will only apply to iron ore, coal and petroleum projects. It will also apply to coal seam methane or technologies that will convert coal into petroleum products. It will not apply to other minerals.<sup>11</sup> The MRRT will apply from 1 July 2012 but the market value of assets acquired for projects after 1 May 2010 will be included in the expenditure calculation for the MRRT.<sup>12</sup>

The Explanatory Memorandum provides the following outline and financial impact summary of how the tax will operate:

The Minerals Resource Rent Tax (MRRT) is a tax on the economic rents miners make from the taxable resources (iron ore, coal and some gases) after they are extracted from the ground but before they undergo any significant processing or value add. 'Economic rent' is the return in excess of what is needed to attract and retain factors of production in the production process.

The MRRT is a project-based tax, so a liability is worked out separately for each project the miner has at the end of each MRRT year. The miner's liability for that year is the sum of those project liabilities. The tax is imposed on a miner's mining profit, less its MRRT allowances, at a rate of 22.5 per cent (that is, at a nominal rate of 30 per cent, less a one-quarter extraction allowance to recognise the miner's employment of specialist skills).

A project's mining profit is its mining revenue less its mining expenditure. If the expenditure exceeds the revenue, the project has a mining loss. Mining revenue is, in general, the part of what the miner sells its taxable resources for that is attributable to the resources in the condition and location they were in just after extraction (the 'valuation point'). Mining revenue also includes recoupments of some amounts that have previously been allowed as mining expenditure.

Mining expenditure is the cost a miner incurs in bringing the taxable resources to the valuation point. Mining allowances reduce each project's mining profit. The most significant of the allowances is for mining royalties the miner pays to the States and Territories. It ensures that the royalties and the MRRT do not double tax the mining profit. In the early years of the MRRT, the project's starting base provides another important allowance. The starting base is an amount to recognise the value of investments the miner has made before the MRRT.

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<sup>9</sup> Ibid 8.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid 11.

<sup>12</sup> Ibid 95.

Other allowances include losses the project made in earlier years and losses transferred from the miner's other projects (or from the projects of some associated entities). If a miner's total mining profit from all its projects comes to less than \$50 million in a year, there is a low-profit offset that reduces the miner's liability for MRRT to nil. The offset phases out for mining profits totalling more than \$50 million.

The MRRT is expected to generate revenue of \$3.7 billion in 2012-13; \$4 billion in 2013-14; and \$3.4 billion in 2014-15.<sup>13</sup>

### ***B Resource Rent Taxes in Other Countries***

Many countries impose additional taxes on mining companies selling petroleum and mineral resources that have been extracted from their land. Given this situation, why then should there be reluctance on the part of mining companies to accept a MRRT in Australia which will only apply to coal, iron ore and coal seam gas? The following examination is very limited in its scope of the resource rent regimes adopted in other countries but it does show that this form of taxation of mineral resources has been used elsewhere, thus supporting the argument that it perhaps should not be subject to criticism in Australia.

Many countries have imposed a resource rent tax on petroleum and mineral extraction projects. Australia was one of the first countries to introduce a RRT in 1984, but Papua New Guinea (PNG) had already introduced a RRT in 1977 on petroleum projects and then in 1978, on mining projects. PNG subsequently removed the RRT in 2002 on mining and introduced a progressive profits tax.<sup>14</sup> In 1984, Ghana and Tanzania also introduced a RRT.<sup>15</sup> Since then, many countries have either contracted with mining companies to impose a RRT on profit or legislated to impose the RRT. Russia introduced a RRT in 1994; Kazakhstan in the mid-1990s; Angola in 1996; British Columbia in Canada in 1990; Namibia in 1993; and Timor-Leste in 2006; to name just a few.<sup>16</sup>

Both the United Kingdom (UK) and Norway impose a resource rent tax on petroleum profits derived from the North Sea on the 'Continental Shelf'. The UK first introduced a petroleum resource tax when the North Shelf was first developed in 1975. Since then it has been amended and altered a number of times.<sup>17</sup> The UK and Norway abolished royalties based on the value of oil and gas extracted in 2002 and 1986 respectively.<sup>18</sup> The reason given for abolishing royalties was that it was a regressive tax as it applied to gross revenue and acted as a disincentive to exploration and production.<sup>19</sup> The UK applies a petroleum rent tax (PRT) at the rate of 50 percent as well as the normal company income tax. Norway applies a special petroleum tax (SPT) at 50 percent and the normal company tax on income.<sup>20</sup> The UK government imposed a supplementary

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<sup>13</sup> Explanatory Memorandum, Mineral Resource Rent Tax Bill 2011 (Cth) 3.

<sup>14</sup> J. Sarma and G Naresh, 'Mineral Taxation around the World: Trends and Issues' (2001) January, *Asia-Pacific Tax Bulletin* 2, 7.

<sup>15</sup> Bryan Land, 'Chapter 8-Resources rent taxes', in Philip Daniel, Michael Keen and Charles McPherson (eds) *The Taxation of Petroleum and Minerals: Principles, Problems and Practice* (Routledge, 2010) 243

<sup>16</sup> *Ibid*

<sup>17</sup> Carole Nakhle, 'Can the North Sea still save Europe?' (2008) *OPEC Energy Review* 123, 134.

<sup>18</sup> *Ibid* 133.

<sup>19</sup> *Ibid*.

<sup>20</sup> *Ibid*.

charge of a further 10 percent in 2002 and in 2005 increased the rate to 20 percent on the company income. However, the PRT is deductible for income tax purposes. Norway does not allow the SPT to be deductible for income tax purposes and the effective marginal tax rate on the income of the company is 78 percent.<sup>21</sup>

The UK system is complicated by the fact that the PRT is based on the development of the oil fields and especially those fields given development consent before 1993 and those given consent after 1993. In the former case, fields that received permission before 1993 are taxed on their income at a company tax rate of 50 percent and a PRT at the rate of 50 percent whereas the later fields are subject only to a company tax rate of 50 percent.<sup>22</sup> In 2002 the UK government introduced a 10 percent supplementary charge on the same basis as company tax but there was no deduction for financing costs against the supplementary charge.<sup>23</sup> The royalty was abolished on older fields that had received development consent before 1983 in an attempt to encourage fuller exploitation of reserves from those fields.<sup>24</sup> In 2005 in light of an increase in oil prices the UK government doubled the supplementary charge to 20 percent.<sup>25</sup> This means that in the UK oil and gas is taxed at the highest rate of any industry: for fields given approval after 1983, a company tax rate of 30 percent and the supplementary charge of 20 percent. For those fields given approval prior to 1983, the marginal rate of tax is 75 percent and they are also liable to company tax at the rate of 50 percent.<sup>26</sup>

Zambia nationalized its copper industry in 1964 but this was later repealed in 1985. Since then the government has imposed a royalty rate of 3 percent, a variable income tax rate and a windfall tax applied to the value of production. However, in 2009 the windfall tax was repealed.<sup>27</sup> A similar situation occurred in Chile, Bolivia, Peru, Democratic Republic of the Congo, Ghana and Jamaica where the mining industry was nationalized.<sup>28</sup> Some countries have subsequently privatized part of the mining industry but the sovereign risk still remains. Chile now has a mixture of state participation and private investment in the mining industry and has imposed a sliding scale of rates of royalties based on the value of sales.<sup>29</sup> Kazakhstan and Liberia have introduced a rent based tax on the exploitation of their mineral resources.<sup>30</sup>

On 13 July 2010 the Australian Newspaper published a story that the Australian government lobbied the Mongolian government, on behalf of Rio Tinto, to withdraw a special income tax at the rate of 68 percent on mining profits.<sup>31</sup> The Mongolian

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<sup>21</sup> Ibid,134.

<sup>22</sup> Ibid.

<sup>23</sup> Carole Nakhle, 'Chapter 4- Petroleum fiscal regimes: evolution and challenges,' in Philip Daniel, Michael Keen and Charles McPherson (eds) *The Taxation of Petroleum and Minerals: Principles, Problems and Practice*(Routledge, 2010) 111

<sup>24</sup> Ibid.

<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

<sup>27</sup> Lindsay Hogan and Brenton Goldsworthy, Chapter 5, 'International mineral taxation', in Philip Daniel, Michael Keen and Charles McPherson (eds) *The Taxation of Petroleum and Minerals: Principles, Problems and Practice*(Routledge 2010) 122, 126.

<sup>28</sup> Ibid 127.

<sup>29</sup> Ibid 125.

<sup>30</sup> Carole Nakhle, above n 23, 149.

<sup>31</sup> Rowan Callick, 'Canberra lobbied against tax', *The Australian* (Sydney), 13 July 2010, 5.

government agreed to overturn the tax in October of 2010. The Mongolian government will now take equity in the new mines in place of the increased income tax.<sup>32</sup>

Given the range of extra taxes that are imposed on mining and petroleum projects by different nations, the introduction of a MRRT in Australia should not have created the problem that it did. The fact that a PRRT has been in existence in Australia since 1988 should have provided comfort for the government that a resource rent tax would gain acceptance by the mining companies.

## II THE PHILOSOPHICAL BASIS FOR A RESOURCE RENT TAX

Mining companies pay income tax on their profits at the current rate of company tax. Imposing a resource rent tax is an additional impost on the mining company. Therefore, there must be a good reason why governments want to collect more revenue from mining companies. Many countries, including Australia, have incurred large deficits in their budgets as a result of introducing programs to stimulate their economies as a result of the 'Global Financial Crisis'. A resource rent tax is perceived as a means of reducing the deficits.

The philosophical basis for the imposition of a rent tax is justified for three reasons: first, that the minerals belong to the state and the rent tax is the price for extracting the state owned assets; second, the collection of economic rents may result in a large amount of revenue being collected without distorting production; and third, that mining companies are very large and usually with foreign ownership and that from an equity perspective a higher rate of tax could be justified.<sup>33</sup> This view is reinforced by the objective of the MRRT Bill as stated above. The objective also reinforces the fact that the mineral resources are non-renewable and the state has only one opportunity to maximise its return for the Australian community. Each of these reasons for the imposition of a resource rent tax will be examined in more detail below. However, prior to discussing the reasons for the tax this paper will outline what is meant by an 'economic rent' and how this translates into a new form of taxation.

### ***A What is 'Economic Rent' or a 'Rent Tax'?***

In this paper the terms 'economic rent' and 'rent tax' are given the same meaning as they are used to describe the surplus value from the extraction of resources. One of the best explanations of the concept of 'economic rent' in the mineral resource rent tax context is the following definition provided by Professors Garnaut and Clunies Ross:

Economic rent is the excess of total revenue derived from some activity over the sum of the supply prices of all capital, labour, and other 'sacrificial' inputs necessary to undertake the activity. ... In essence, it referred to the reward that a landowner could derive by virtue simply of being a landowner and without exerting any effort or making any sacrifice.<sup>34</sup>

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<sup>32</sup> Ibid.

<sup>33</sup> Ross Garnaut and Anthony Clunies Ross, *Taxation of Mineral Rents* (Oxford University Press, 1983) 18.

<sup>34</sup> Ibid 26 and David Ricardo, *The Principles of Political Economy and Taxation*, (Everyman, 1962) chapter 2.

Garnaut and Clunies Ross acknowledge that the definition is based on the work by Ricardo.<sup>35</sup> Adam Smith also examined the concept of economic rent in his treatises on 'The Inquiry into the Wealth of Nations' and contended that rent is an unearned surplus which is appropriated by the landlords through the exercise of their monopoly power.<sup>36</sup> Smith and Ricardo considered rent to be the unearned income obtained from renting land to entrepreneurs who then grew crops or livestock. The entrepreneur took the risk in buying seeds, planting the crop, harvesting the crop and finally selling the product. The fact that the owner of the land had a monopoly and was able to extract a rent without undertaking any activity or risk, caused political economists such as Smith to develop the theoretical concept of taxing the economic rent of the landowner.<sup>37</sup> A similar situation arose with the owners of mines. The mine owners obtained a rent after capital and labour costs were deducted from the price of the minerals that had been sold. It is also acknowledged that a tax on the economic rent has a neutral effect on the landowner or mine owner.<sup>38</sup> A landowner or a mine owner would continue with their activity even though their excess profit or economic rent was subject to tax. The costs of capital and labour are already a factor in arriving at the economic rent.

A simple way of demonstrating the way in which economic rent is calculated is found in the following formulation:

$$\text{Economic rent} = \text{total revenue} - \text{total economic cost}^{39}$$

A tax is then imposed on the amount of economic rent derived from the resource at a specific rate. It is in effect a tax on the free cash flow from a resource project. It also takes into account, in determining the costs of a project, the 'opportunity costs of capital' by incorporating an uplift factor such as a long term bond rate plus a further component.<sup>40</sup> For example, with the PRRT in Australia the carry forward rate for undeducted general project costs is the long term bond rate plus 5 percent. In the case of the MRRT, the mining loss allowance is the long term bond rate plus 7 percent.

It must be noted that economic rents would not persist under standard competitive conditions.<sup>41</sup> In other words, if other mining companies entered the market because of the attraction of the size of the economic rent, then the rates of return and supply of minerals would drive the commodity price down or bid up the cost of fixed assets until economic rents were eliminated.<sup>42</sup> The economic rent is eliminated when commodity prices fall or the extraction costs are too high. In order to overcome this type of problem, many of the oil producing countries formed a cartel, namely the Organisation

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<sup>35</sup> Ibid 27.

<sup>36</sup> Adam Smith, *An Inquiry into the Nature and Cause of the Wealth of Nations* (Penguin Books 1970) 247.

<sup>37</sup> Ibid 247, and David Ricardo, *On the Principles of Political Economy and Taxation*, (Everyman, 1962)

<sup>38</sup> Joseph Keiper, Ernest Kurnow, Clifford Clark et al, *Theory and Measurement of Rent* (Chilton, 1961), 14.

<sup>39</sup> G. C. Watkins, 'Atlantic Petroleum Royalties: Fair Deal or Raw Deal?' (2001) *Atlantic Institute for Market Studies*, The AIMS Oil and Gas Papers (2), 5.

<sup>40</sup> Martin Van Brauman and Clifford Mangano, 'Resource Rent Taxation as a Basis for Petroleum Tax Policy by Foreign Governments and its Relationship to US Foreign Tax Credit Policy and Tax Law' (2000) 18(1) *Journal of Energy & Natural Resources Law* 19, 20.

<sup>41</sup> Michael Hinchy, Brian Fisher and Nancy Wallace, 'Mineral Taxation and Risk in Australia, Discussion Paper 89.8', *Australian Bureau of Agricultural and Resource Economics* (1989) 6.

<sup>42</sup> Ibid.



of the Petroleum Exporting Countries (OPEC)<sup>43</sup> as a means of controlling the price of crude oil.

### **B State Ownership of Resources**

If mineral resources are limited and owned by the state, then arguably a government should make a contribution to the value of the state for future generations such as infrastructure projects that have an enduring benefit. This way, future generations derive some benefit from the wealth generated by former generations. This will not be possible unless governments impose an additional tax on profits generated by mining companies, either by virtue of increased mineral prices or having very profitable mines. This view is also reinforced in section 1-10 of the MRRT Bill as being the justification for the introduction of the resource rent tax.

Mining companies are usually given an exclusive right to mine a particular lease. This prevents wasteful over-investment.<sup>44</sup> An example of the problems that arise with a free-for-all is found in the fishing industry where uncontrolled access leads to a dissipation of the resource or a free-for-all with gold rushes.<sup>45</sup> As Garnaut and Clunies Ross state, it is difficult to put a price on a mining lease and therefore a resource rent tax is one way in which the unknown value can be recouped by the state if the mine is economically successful.<sup>46</sup>

The Commonwealth government and governments of the States of Australia own the rights to minerals, not the registered proprietor of the land. The rights to mineral and petroleum resources in the Australian Capital Territory reside with the Commonwealth government by virtue of s 122 of the Australian Constitution. However, pursuant to the *Northern Territory (Self-Government) Act 1978* (Cth) the Territory Government has jurisdiction over all minerals except uranium resources which are under the jurisdiction of the Commonwealth Government.<sup>47</sup> The Commonwealth Government is able to claim the rights to mineral and petroleum resources located on or under Commonwealth land and offshore locations in the territorial sea and continental shelf by virtue of the *Seas and Submerged Lands Act 1973* (Cth) and the *Minerals (Submerged Lands) Act 1981* (Cth). All other mineral rights belong to the states.<sup>48</sup> The states collect royalties from mining companies based generally on the output of production at a particular price.

Dr Ken Henry and his review panel recommended the replacement of state based royalties with a uniform resource rent tax collected by the Australian government. In

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<sup>43</sup> The Organization of the Petroleum Exporting Countries (OPEC) was founded in Baghdad, Iraq, with the signing of an agreement in September 1960 by five countries namely Islamic Republic of Iran, Iraq, Kuwait, Saudi Arabia and Venezuela. They were to become the Founder Members of the Organization. These countries were later joined by Qatar (1961), Indonesia (1962), Libya (new name yet to be determined) (1962), the United Arab Emirates (1967), Algeria (1969), Nigeria (1971), Ecuador (1973), Gabon (1975) and Angola (2007). From December 1992 until October 2007, Ecuador suspended its membership. Gabon terminated its membership in 1995. Indonesia suspended its membership effective January 2009. [www.opec.org](http://www.opec.org), 7 January 2011.

<sup>44</sup> Garnaut and Clunies Ross, above n 33,19.

<sup>45</sup> Ibid 20.

<sup>46</sup> Ibid.

<sup>47</sup> Hinchy, Fisher and Wallace, above n 41, 32

<sup>48</sup> For a detailed discussion of the rights to minerals and petroleum resources and the powers contained in the Australian Constitution see: Michael Crommelin, 'Governance of Oil and Gas Resources in the Australian Federation', (2009) *University of Melbourne Law School*, Research Series 8.

turn the Australian government would negotiate the allocation of the revenue between the state and territory governments.<sup>49</sup> The Henry Review contended that by abolishing royalties, mining companies would not have to comply with and administer two taxing systems and that a resource rent tax would promote more efficient production.<sup>50</sup> Professors Garnaut and Clunies Ross were also critical of the royalty system based on the fact that it may tend to reduce the pace and extent of extraction with the result that deposits are left in the ground where the unit costs of extraction rise.<sup>51</sup>

The State and Territory Governments charge mining companies a royalty on minerals extracted within their boundary. In the 2007-2008 year the amount of revenue collected through State royalties was AUD 4.756 billion with Western Australia raising 52 percent of the revenue; Queensland 29 percent; and New South Wales 12 percent. The other states only raised 7 percent of the revenue through royalties.<sup>52</sup> However, as a result of the 'horizontal fiscal equalization process' all states effectively share in the revenue raised through the royalties because the Goods and Services Tax (GST) revenue, which is collected by the Commonwealth government, is distributed in such a way as to compensate those states that did not raise additional revenue through resource royalties.<sup>53</sup> In effect, Queensland and Western Australia, with all of their mineral resources and royalties are not placed in any better financial position than the other states that do not have a similar level of mineral and petroleum resources. On this basis, why should the State Government of Western Australia oppose the abolition of royalties and the introduction of a MRRT? The current MRRT Bill allows for the retention of state royalties but with an allowance for royalties paid as an expense in calculating the MRRT profit.<sup>54</sup>

It is not intended in this paper to examine the competing rights to the jurisdiction over mineral and petroleum resources in Australia between the Commonwealth Government and the State Governments. That may be an issue that is left to the High Court of Australia to resolve in the future.

### ***C Efficiency and Neutrality***

An ideal taxation system does not impose impediments to the creation of value by taxpayers. Income tax may be seen as not being tax neutral if the rates of tax act as an impediment to generating more income. A rent tax is seen as being efficient and neutral because it does not tax income. In fact the Australian government proposes to reduce the rate of tax that a company pays on taxable income from 30 percent to 28 percent as a direct result of introducing the MRRT. The following discussion from the perspective of the individual provides a basic explanation of the concept of neutrality. While this discussion directly relates to the effect of income tax on the individual it can also be used to explain the concept of neutrality in the case of a resource rent tax. A resource rent tax is said to be neutral because the existence of a MRRT does not affect decisions on production, consumption, or trade.<sup>55</sup>

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<sup>49</sup> The Henry Review, above n 1, 240.

<sup>50</sup> *Ibid.*

<sup>51</sup> Garnaut and Clunies Ross, above n 33, 93.

<sup>52</sup> *Ibid.*

<sup>53</sup> *Ibid.*

<sup>54</sup> Section 60-10, MRRT Bill 2011.

<sup>55</sup> Garnaut and Clunies Ross, above n 33, 21.

Ideally, any tax should be economically neutral for the taxpayer. In other words, the existence of a tax at a particular rate should have no effect on the behaviour of the taxpayer. The taxpayer should not change his or her behaviour as a result of taxation. Graeme Cooper provides the following definition of the 'optimal tax system' as defined by Mirrlees:

[A]n individual's welfare is determined exclusively by utility derived from two items – the amount that an individual consumes (C) and the amount of leisure the individual enjoys (L). The individual's welfare (U) is thus defined:

$U = u(C,L)$  ... [A] person's total utility is a function of the individual utility of each of C and L. Individuals will maximise their individual welfare by choosing the combination of leisure and consumption that yields the highest outcome.<sup>56</sup>

Put simply, an individual can achieve their optimal happiness and welfare by either working for more money or working less and having more leisure. If tax rates are too high then the individual may choose to work less and enjoy more leisure. The problem with this scenario is that the amount of tax collected is less and the tax system has caused the individual to change their behaviour as a result of the tax rates. This is also referred to as the 'substitution effect' of taxation when higher taxes lead to more leisure.<sup>57</sup> Joel Slemrod expresses his concern with any taxation that affects the behavioural response of individuals and businesses to the tax system.<sup>58</sup> He makes the following observation in support of the optimal tax system:

[T]he more the tax system induces individuals and businesses to alter their behaviour, the greater is the social cost of raising revenue. While, traditionally, economists have focused on the behavioural response of labour supply, savings and investment – sometimes called 'real' responses – in recent years the public finance community has recognised that all the behavioural responses to taxation, including avoidance and evasion, are all symptoms of inefficiency. According to this view, it is the responsiveness, or elasticity, of taxable income that determines the social cost of collecting revenue. The social cost, in turn, sets the trade-off between fairness of the tax distribution and the efficiency consequences of taxation, the trade-off that frames the ... appropriate level of tax progressivity.<sup>59</sup>

The main issue for the design of a 'good' tax system appears to be how to provide an answer to the following question; how is the burden of taxation to be spread across society? Both the comprehensive and the optimal schools of taxation provide some insight into an answer.<sup>60</sup>

The optimal tax system places emphasis on tax rates as opposed to the tax base.<sup>61</sup> The Haig-Simons comprehensive approach to taxation of income placed emphasis on what was going to be included in the definition of income tax, the tax base, whereas the

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<sup>56</sup> Graeme Cooper, 'An Optimal or Comprehensive Income Tax?' (1993-1994) 22 *Federal Law Review* 414, 434.

<sup>57</sup> Sinclair Davidson, 'Are There Any Good Arguments Against Cutting Income Taxes?' (2005) 69 *CIS Policy Monograph*, The Centre for Independent Studies, 4

<sup>58</sup> Joel Slemrod, 'The Consequences of Taxation' (2006) *Social Philosophy & Policy Foundation* 73, 73.

<sup>59</sup> *Ibid.*

<sup>60</sup> Cooper, above n 56, 422. This is the main issue facing any government designing a tax system and the main question asked by Graeme Cooper in his paper.

<sup>61</sup> *Ibid* 436.

optimal tax school, based on the writings of Ramsey in 1927 and Mirrlees in 1971,<sup>62</sup> places the emphasis on the rates of tax to be applied in order to maximise the utility of the taxpayer. The reason why this was considered to be so important was that if equity considerations were placed first then efficiency within the tax system is at risk. Efficiency within a tax system is usually 'defined in terms of deadweight loss'.<sup>63</sup> A good tax policy is one that causes less deadweight cost than another. Deadweight loss can best be described as the cost associated with raising revenue through taxation. As Sinclair Davidson observes in the following statement about deadweight losses:

[T]axes have two effects; first, they exist to raise revenue, and second, they generate deadweight losses in the form of wealth that is not created as a result of the tax on outputs. High marginal tax rates may therefore impede the revenue raising effects while also imposing high deadweight losses on the economy. This means any changes in marginal tax rates need to be evaluated in terms of the change in revenue and changes in deadweight losses.<sup>64</sup>

A further example of where tax policy has had an impact on efficiency is found in the study by the UK Open University Business School report, produced in 1998, on the behaviour of companies in Britain where it was found that 18 percent of businesses 'avoided sales to stay below the £50,000 threshold for VAT'.<sup>65</sup>

From the above analysis it can be seen that a rent tax does not have a distorting effect in the way in which income tax does on the behaviour of the individual. A rent tax applies to the free cash flow generated after all costs are deducted from the gross income and before income tax is applied to the taxable profit. A rent tax is imposed on profits after the mining company is compensated for a given rate of return on capital and labour costs being deducted from sales of the minerals, in this case the long term bond rate plus an uplift factor. The MRRT rate is incidental because the mining company has already factored in a rate of return on their costs of production. From this perspective a resource rent tax can be said to be tax neutral in terms of the above discussion on the optimal tax and comprehensive tax systems.

#### **D Resource Rent Tax and Equity**

In order to understand the concept of equity in the context of a resources rent tax it is helpful to examine the basic principle of equity in taxation. The following analysis is based on income tax but the concepts are also applicable to a rent tax on resources in Australia.

Put simply, the concept of equity in taxation is based on the perceived need to have taxpayers contributing to revenue based on their 'ability to pay', as enunciated by Adam Smith; or as expanded by J.S. Mill, the 'equal sacrifice principle'. Those with more

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<sup>62</sup> Ibid 429. Graeme Cooper provides a detailed history of the development of the optimal tax system as first enunciated by F. Ramsey in his paper on 'A Contribution to the Theory of Taxation' (1927) and the adoption of this approach by Diamond and Mirrlees in 1971 with their paper titled 'Optimal Taxation and Public Production I: Production Efficiency'.

<sup>63</sup> Terrance O'Reilly, 'Principles of Efficient Tax Law: Apocrypha' (2008) *Virginia Tax Review* 583, 585.

<sup>64</sup> Davidson, above n 57, 13.

<sup>65</sup> Binh Tran- Nam, 'Tax Reform and Tax Simplification: Some Conceptual Issues and a Preliminary Assessment' (1999) *Sydney Law Review* 20, 31.

income should pay more and those with less should pay less. The best advocate of vertical and horizontal equity is Richard Musgrave. Musgrave states that Adam Smith 'can be seen as an ability-to-pay theorist' and with 'a mix of benefit components'.<sup>66</sup> In other words, Smith viewed the payment of taxes as being in proportion to the benefits being obtained from the State. According to Musgrave:

J.S. Mill then separated the analysis of tax equity from the expenditure side of the budget ... Mill then translated equal ability into equal sacrifice terms. Fairness, according to Mill, required tax differentials which impose *equal absolute* sacrifice across unequal incomes.<sup>67</sup>

Richard and Peggy Musgrave have taken these concepts further by arguing that horizontal equity was linked to vertical equity. The following statement by Richard Musgrave sums up the position perfectly:

The call for equity in taxation is generally taken to include a rule of horizontal equity (HE), requiring equal treatment of equals, and one of vertical equity (VE), calling for an appropriate differentiation among unequals. HE appears non-controversial. Not only does it offer protection against arbitrary discrimination but it also reflects the basic principle of equal worth. The United States Constitution provides for 'equal protection under the law'.<sup>68</sup>

Musgrave acknowledges that 'vertical equity ... is inherently controversial. An appropriate pattern of differentiation must be chosen but people will disagree on its shape'.<sup>69</sup> He goes on to hold that 'horizontal equity appears non-controversial'. This view is endorsed by Henry Simons, of the Haig-Simons definition of income, who states that 'it is generally agreed that taxes should bear similarly upon all people in similar circumstances'.<sup>70</sup> Professor Miller raises the question as to whether it is possible to achieve equity in taxation and how it can be achieved.<sup>71</sup> He contends that horizontal equity is only achieved if all people are treated alike and if this does not occur then people will cheat on their taxes.<sup>72</sup> A rent tax is seen as potentially achieving horizontal equity by being able to impose a tax based on a cash basis and not on the taxable income generated by the mining company. Mining companies are generally multinational enterprises and they have at their disposal the means of reducing taxable income by using tax havens and engaging in transfer pricing.

From the above examination, it can be seen that taxes should be equally imposed on those of equal means, horizontal equity, and that those of little means should be taxed less than those of greater means, vertical equity. Applying this approach to a resource rent tax, there are two aspects to consider. First, in developing countries where wages are low, the citizens of that country obtain very little benefit from the mining activities of large mining companies unless a resource rent tax is imposed or a similar

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<sup>66</sup> Richard Musgrave, 'Horizontal Equity, Once More' (1990) 43 *National Tax Journal* 113, 114.

<sup>67</sup> *Ibid* 115.

<sup>68</sup> *Ibid* 113.

<sup>69</sup> *Ibid*.

<sup>70</sup> *Ibid*.

<sup>71</sup> John Miller, 'Equal taxation: A Commentary' (2000) 29 *Hofstra Law Review* 529, 531.

<sup>72</sup> *Ibid* 543.

arrangement that will generate additional revenue for the state. Second, if some countries are endowed with mineral wealth should some of that wealth be shared with less well-off countries?

Professors Garnout and Clunies Ross have pointed out that the concept of equity applies to future generations of a nation missing out on the benefits from infrastructure projects that have been developed as a direct result of additional revenue being raised through a resources rent tax. The main concern is that if the mineral wealth has been mismanaged then those future generations have nothing to show for the lost wealth that has been dissipated in the earlier years.<sup>73</sup> The amount of wealth that has accrued to a developing nation through employment opportunities is minimal and a resource rent tax is vital in order to recoup additional wealth from the limited mineral resource.<sup>74</sup>

The second aspect of equity in this context relates to the suggestion that wealthy nations with large quantities of mineral resources could consider sharing that wealth with poorer nations.<sup>75</sup> Moreover, Garnout and Clunies Ross suggest that poorer nations with mineral resources may be given priority over wealthy nations in terms of the sequence in which the former's mineral resources are exploited before the later nations' resources.<sup>76</sup> This would, in their view, promote equity among nations. However, this theory is predicated on the basis that all nations with resources impose a rent tax on the mining companies.

### ***E The Henry Report Approach to Taxing Mineral Resources***

Dr Ken Henry examines the various options for taxing mineral and petroleum resources. There are two versions of a resource rent tax (RRT) that are referred to in Chapter C of the report as well as the literature on this area of taxation. The first version is a 'Brown Tax' which is based on the work by the American economist, E Cary Brown and published in 1948.<sup>77</sup> The second version is what is known as the Garnaut and Clunies Ross rent tax. Both versions of the rent tax are similar except the 'brown tax' requires the state to recompense the mining company for expenses incurred in the exploration and early production phases where there are negative cash flows. The payment required by the state is equal to the product of the tax rate and the amount of the negative cash flow. In other words, the mining project is paid compensation by the state based on the losses incurred in the project up to that point. This would mean that governments bear some of the risk of the project and this may be substantial with very large projects that are non-productive. In some instances it may create sovereign risk for the state. The second version, the Garnaut and Clunies Ross model, is similar except negative cash flows are carried forward until such time as the project becomes cash positive. In order to compensate the project, the losses are carried forward with an uplift factor such as the long term bond rate plus a percentage. For example, under the PRRT in Australia, the uplift factor is the long term bond rate plus 15 percent for

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<sup>73</sup> Garnaut and Clunies Ross, above n 33, 21.

<sup>74</sup> *Ibid.*

<sup>75</sup> *Ibid* 24.

<sup>76</sup> *Ibid* 23.

<sup>77</sup> E C Brown, 'Business-income taxation and investment incentives', in *Income, Employment and Public Policy: Essay in honour of Alvin H. Hansen* (Norton, 1948), 300. (Also referred to in Ross Garnaut, 'The New Australian Resource Rent Tax', 20 May 2010, University of Melbourne.)

exploration expenditure or 5 percent for project development and operating expenditure. The Garnaut and Clunies Ross model has been accepted by the Australian Government and this is acknowledged in the MRRT Explanatory Memorandum.<sup>78</sup>

### **F The Australian PRRT**

In 1984 the Federal Government announced the introduction of a resource rent tax for new offshore petroleum projects and that the projects would be exempt from the imposition of royalties and the crude oil levy.<sup>79</sup> It was a further three years before the legislation was finally passed by parliament. The federal government was not able to extend the rent tax to onshore petroleum production in lieu of state royalties because the state governments of Western Australian and Queensland objected.<sup>80</sup> In 1990, Bass Strait petroleum projects became subject to the PRRT.<sup>81</sup> The North West Shelf projects are subject to a federal royalty and the crude oil levy.<sup>82</sup>

The Act was effective from 15 January 1984, even though the legislation was not passed by Parliament until 1987. The Act applied retrospectively to exploration permits awarded on or after 1 July 1984 and recognised expenditure incurred on or after 1 July 1979. It was originally imposed on offshore petroleum projects other than Bass Strait and the North West Shelf. However, oil and gas production in Bass Strait moved from a royalty and excise regime to the PRRT regime in the fiscal year 1990-1991. The PRRT was imposed on oil companies with the enactment of the *Petroleum Resource Rent Tax Act 1987* (Cth) and the *Petroleum Resource Rent Tax Assessment Act 1987* (Cth). The resource rent tax is imposed on the taxable profit of a petroleum project that is located 'offshore' in Australia. The Hawke Labor Government of 1984 introduced a resource rent tax, based on the Garnaut and Clunies Ross model, in order to remedy the state-based taxation system of imposing royalties on resource production output.<sup>83</sup> The *Petroleum Resource Rent Tax Act 1987* (Cth) is imposed on the profit at the rate of 40 percent. The *Petroleum Resource Rent Tax Assessment Act 1987* (Cth) contains the provisions relating to the calculation of the profit subject to the rent tax. The PRRT raised in excess of an additional \$1 billion a year in revenue over and above the normal company tax on income<sup>84</sup>

### **III OPPOSITION TO THE MRRT**

This part of the paper will examine the different arguments that have been proposed in opposition to the MRRT in Australia. On 2 May 2010 as part of the 'Budget' announcement the Australian government first introduced the concept of a 'resource super profits tax' on mining based in part on the recommendation of the Henry Review. This concept was met with powerful negative responses from businesses in the

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<sup>78</sup> Explanatory Memorandum, MRRT Bill (2011) 8.

<sup>79</sup> Crommelin, as above n 48, 12.

<sup>80</sup> Ibid 13.

<sup>81</sup> Ibid.

<sup>82</sup> Ibid.

<sup>83</sup> Rob Fraser, "The state of resource taxation in Australia: "An inexcusable folly for the nation?" (1999) *The Australian Journal of Agricultural and Resources Economics* 259, 260.

<sup>84</sup> Australian Taxation Office statistics - 2002-03 = \$1.2 billion; 2003-04 = \$1.5 billion; 2004-05 = \$2.0 billion; 2005-06 = \$1.8 billion; 2006-07 = \$1.9 billion and 2007-08 = \$ 1.6 billion.

resources sector.<sup>85</sup> Since that initial announcement of a 'super profits tax' a new Prime Minister was appointed; a Federal election has taken place in Australia; and the final MRRT Bill was introduced into Parliament on 2 November 2011. There is still some doubt that the Bill will pass the House of Representatives as one of the independent members, Tony Windsor MP is opposed to coal seam gas exploration on farming land.<sup>86</sup> The Australian Government would need his support in Parliament to pass the Bill.

### ***A Opposition by Economists***

Professor John Freebairn contends that the reforms proposed by Ken Henry would improve taxation efficiency. He finds that there are three areas that from a practical perspective need to be resolved. First, how do you treat existing mines in terms of future tax treatment and deductions for past expenditure; second, sovereign risk associated with a rent tax in place of royalties; and third, the problems that may arise between the State governments and the Commonwealth government over the ownership of resources in Australia.<sup>87</sup> Many of these initial concerns have been resolved by the fact that State royalties will still be charged by the State Governments. Similarly, the problem of ownership of mineral resources appears to have been resolved by allowing for royalties to be charged. Clearly some residual issues remain with the accounting treatment of past expenditure.

Professor Henry Ergas is opposed to a MRRT on the basis that it is an inefficient tax and may raise much less revenue than claimed by the government.<sup>88</sup> He also raises some other important issues in opposition to the proposed MRRT and these issues may need serious consideration by the government in the future. He contends that future investment in iron ore and coal projects may become less attractive because of the MRRT and investment may shift to other resources not subject to the tax.<sup>89</sup> Professor Ergas also contends that the MRRT retains the inefficiencies of the royalty system and the inefficiencies of a rent tax.<sup>90</sup> The MRRT is inefficient because it discourages investment in high risk projects while leaving unchanged the viability of low-risk projects.<sup>91</sup>

Professor Guj contends that the MRRT is not competitively neutral in that existing large mining companies will pay less MRRT compared with small to mid-tiered producers. The reason for this is that the existing mining companies are able to value pre - 2 May 2010 projects at market value for their starting base allowance which will increase their deductions from the sale price of their minerals and gas.<sup>92</sup>

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<sup>85</sup> Ross Garnaut, 'The New Australian Resource Rent Tax', 20 May 2010, The University of Melbourne, 3.

<sup>86</sup> Andrew Fraser, 'Santos boss slams Windsor's call for moratorium' *The Australian*, (Sydney), 4 November 2011, 1.

<sup>87</sup> John Freebairn, 'Taxing Mining for Use of State Owned Non-Renewable Resources' Economics Society of the ACT, Canberra, 8 September 2010.

<sup>88</sup> Henry Ergas, 'Taxation of the mining industry' Economics Society of the ACT, 8 September 2010

<sup>89</sup> *Ibid.*

<sup>90</sup> Henry Ergas, Mark Harrison and Jonathan Pincus, 'Some Economics of Mining Taxation' (2010) 29(4) *Economic Papers, The Economic Society of Australia* 369, 378.

<sup>91</sup> *Ibid.*

<sup>92</sup> Pietro Guj, 'Is MRRT competitively neutral' (2010) Association of Mining and Exploration Companies (AMEC, 2010)\ 2, [www.amec.com.au](http://www.amec.com.au) 14 November 2011.



Clearly there will be teething problems with the introduction of the MRRT. However, the taxing provisions are similar to the existing PRRT and that system appeared to be acceptable for oil companies for over 14 years.

### ***B Political Opposition***

The Leader of the Opposition party in the Australian Parliament, Tony Abbott MP claims that imposing a MRRT on mining companies was 'an economic version of the tall poppy syndrome'.<sup>93</sup> He maintains that it is sufficient for mining companies to pay income tax and that their employees pay personal income tax and as miners, they pay state royalties.<sup>94</sup> He was therefore of the view that no more taxes should be imposed on mining unless there is some unique feature.<sup>95</sup> This attitude to a proposed MRRT is quite remarkable given that many foreign countries impose additional taxes on mining companies on the basis that the mineral resources are finite and that the additional revenue may provide benefits for future generations. It is even more remarkable given that the Howard Government was in power in Australia for 14 years and at no time considered revoking the PRRT which was adding at least one billion dollars to government revenue.

### ***C Mining Company Opposition***

Mining companies naturally opposed the MRRT because they will now be required to contribute a greater share of their taxable profit to the Australian government if they are involved in the sale of iron ore, coal or petroleum products. The MRRT is imposed on a miner's mining profit, less its MRRT allowances, at a rate of 22.5 per cent. That is at a nominal rate of 30 per cent, less a one-quarter extraction allowance to recognise the miner's employment of specialist skills. The mining company will pay company tax on the taxable income at the rate of 28 percent, giving an overall effective tax rate of 50.5 percent. The three largest mining companies, namely BHP, Rio Tinto and Xstrata have accepted the current MRRT and are prepared to pay the tax. The executive chairman of Fortescue Metals Group, Mr Andrew Forrest still opposes the tax but contends that his company will avoid paying the MRRT for at least five years due to the starting base allowances reducing their profits.<sup>96</sup> He also contends that the big mining companies such as BHP, Rio Tinto and Xstrata are in a similar position and will not pay the MRRT for many years.<sup>97</sup> Mr Forrest contends that the Government has overestimated the amount of revenue that will be collected and therefore should scrap the tax.<sup>98</sup>

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<sup>93</sup> Matthew Franklin and David Uren, 'Abbott mines resources sector' *The Australian* 24 December 2010, 8.

<sup>94</sup> *Ibid.*

<sup>95</sup> *Ibid.*

<sup>96</sup> Andrew Burrell and Siobhain Ryan, 'Levy writeoffs "shield" Fortescue' *The Australian* (Sydney), 8 November 2011, 6.

<sup>97</sup> *Ibid.*

<sup>98</sup> *Ibid.*

#### IV CONCLUSION

Australia has had a resource rent tax on petroleum projects under the existing PRRT regime. It would appear that the Australian government should succeed in having a MRRT imposed on iron ore and coal projects from 1 July 2012 provided the Bill passes the House of Representatives with the assistance of the independent members of Parliament. The design and implementation of the MRRT is on similar lines to the PRRT which has raised additional revenue over the past 14 years. However, according to some economists there are issues that still need to be resolved in the practical application of the MRRT to various mining companies, especially small to medium explorers. The mining industry naturally opposed the introduction of a MRRT as it would result in a greater share of its taxable profit being paid to the Australian government. In fact with a 22.5 percent MRRT and a company tax rate of 28 percent, the total tax take represents about 50.5 percent, clearly well below that amount being claimed by other countries, in particular the UK from petroleum projects based in the North Sea.

Future generations of Australian taxpayers will eventually judge the manner in which the non-renewable mineral resources have been exploited and the return that was extracted for the benefit of all Australians. Given that most resource rich countries have been extracting additional revenue from mining companies, the proposed MRRT in Australia is clearly defensible. This then answers the question raised in this paper: namely, why the concern about a proposed MRRT? The answer must be that there is no need for concern as the PRRT has been raising additional revenue for over 14 years and other countries have been imposing a similar tax for many years without an apparent adverse impact on the mining industry.