

How much does it cost to bring down a prime minister? The story of the Australian Mining Tax

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Abstract

The bank bailouts and austerity measures that have followed the financial crisis in most OECD countries have overwhelmingly resulted in the transfer of wealth from public to private hands. The financial crisis was heralded as an opportunity for change that would 'embed' markets in public control, establishing new institutional forms that better embody norms of stability, equality, and justice. Yet most post-crisis reform has been regressive. Government action the resource sector to socialise resource wealth stands out as an exception. The rapid rebound of commodity prices after their collapse in the aftermath of the financial crisis in 2009, convinced the cash-strapped governments of many resource rich countries to brave retribution from mining companies and seek increased revenue from this source. Some announced that they would increase royalties (like Obama's 5% royalty charge on hard rock miners), many (like China) proposed higher company taxes for this sector, and others, like Australia, drafted 'resource rent' taxes (taxes on high profits, also called 'windfall taxes' or a 'Brown Tax'). This paper describes the political drama that followed the introduction of a resource rent tax. The story of the Australian tax shows how difficult it is for even a well-resourced, rich government to socialise resource wealth. Over AUD \$22 million was spent on the communications campaign against the tax. This was the most spent on a single policy issue in Australian political history to this point.

Introduction

The bank bailouts and austerity measures that have followed the financial crisis in most OECD countries have overwhelmingly resulted in the transfer of wealth from public to private hands. Although the crisis was heralded as an opportunity for change that would 'embed' markets in public control, establishing new institutional forms that better embody norms of stability, equality, and justice,¹ most post-crisis reform has been regressive. Capital has come out well ahead. In the last three years, however, there has been one sector in which governments have attempted to claw back revenue and socialise wealth. They have sought to take advantage of this moment in which normal dynamics were unsettled to overcome some of the problems associated with the 'resource curse'.

The rapid rebound of commodity prices after their collapse in the aftermath of the financial crisis in 2009, convinced the cash-strapped governments of many resource rich countries to brave retribution from mining companies and seek increased revenue from this source. Australia was at the forefront of this trend. Some announced that they would increase royalties (like Obama's 5% royalty charge on hard rock miners), many (like China) proposed higher company taxes for this sector, and others, like Australia, drafted 'resource rent' taxes (taxes on high profits, also called 'windfall taxes' or a 'Brown Tax').

If there is an up-side to "the end of the resource boom" pronounced in August 2012² for resource companies operating in Australia, it is that the chances of paying taxes under the controversial Minerals Resource Rent Tax (MRRT)³ are also declining. Mineral companies took a significant gamble by agreeing to a watery version of a resource rent tax. Part of the risk was that the tax would be replicated in other countries. The heads of mining companies issued worldwide warnings in response to the Australian government's bold action: Anglo American chief executive, Cynthia Carroll, for instance, counseled that increasing taxes was "economic suicide".⁴

The story of the Australian tax shows how difficult it is for even a well-resourced, rich government to socialise resource wealth. The MRRT law has one of the more controversial histories of any policy enacted in Australia. It was developed by the Labor government to more broadly redistribute the gains of the mining boom which has resulted from a long period of high commodity prices.⁵ The earlier version of the MRRT, the 'Resources Super Profits Tax', was fiercely opposed by the mining industry. Over AUD \$22 million was spent on the communications campaign against the tax. This is thought to be the most spent on a single policy issue in Australian political history before the fight

¹ Amartya Sen, 'Capitalism beyond the crisis', New York Review of Books, 26 March 2009. Online. Available HTTP: <<http://www.nybooks.com/articles/archives/2009/mar/26/capitalism-beyond-the-crisis/>> (accessed 13 November 2011).

² BBC News, Business, "Australia's resources boom is over, minister warns", 23 August 2012, <http://www.bbc.co.uk/news/business-19352513>, accessed 17 September 2012.

³ Herein referred to either as the MRRT, the 'Mining Tax', the 'Resource Tax' or 'the Tax'.

⁴ 'The five hurdles for mining', Mining Journal, 02 Mar 2012, http://www.mining-journal.com/miners-right/the-five-hurdles-for-mining?SQ_DESIGN_NAME=print_friendly, accessed 17 March 2012.

⁵ Paul Bloxham, 'Does Australia have a resources curse?' HSBC Global Research, Australia Economics, August 2011, p. 6: episodes of similar magnitude in the past have tended to be shorter in duration and concentrated in fewer commodities.

over the Carbon Tax that followed shortly after. The campaign over the mining tax is credited with bringing Prime Minister Rudd's popularity down to such a point that Gillard was able to oust him.⁶

According to government campaign material, the mining tax is to share more equally the benefits of the mining boom amongst Australian citizens. The tax is levied on unusually high profits (after costs such as wages, extraction costs and so on) and as such can be thought of as a tax that primarily affects the size of rents that can be distributed to shareholders in the form of dividends. It applies to all new and existing iron ore and coal projects in Australia at a rate of 30% on the taxable profit of a project from 1 July 2012.⁷ It is expected to generate about \$12 billion in 2013/14, which the government will put towards a company tax rate cut,⁸ infrastructure and an increase in the superannuation guarantee rate from nine to 12 per cent. Resource Rent Taxes are broadly accepted in the taxation literature as a tool for addressing some of the challenges associated with resource wealth known as the 'resource curse'.

Australia is an example of a rich resource dependent country. Economic growth per se has not been hampered by the 'resource curse', but the structure of Australia's economy reflects the emphasis on resource extraction. Australia's economy has been buoyed by the resource commodities boom, and is credited with Australia's avoidance the recent financial crises that have hampered other OECD countries growth. Between 2004 and June 2010 the value of Australia's mineral resources was estimated by the Australian Bureau of Statistics to increase from AUD \$240 billion to \$560 billion and 2009-10 mining profits totalled \$51 billion.⁹ Differences between Australian states are defined primarily by whether they are resource rich. Manufacturing and innovative service sectors are generally located in states that have fewer mines. The state of Western Australia is particularly resource dependent, and its politics and economy reflect this.

The mining industry's campaign against the tax was undertaken in two stages. The first stage of the campaign was designed to convince the public that the tax would damage the mining industry and have economically harmful effects on all Australians. The second stage focussed on the image of the mining industry. Rather than directly addressing the economic issues, it instead conveyed mining companies has deeply integrated in the social fabric of Australia. This aspect of the campaign was achieved not just through advertising, but also through the funding of the film industry.¹⁰

⁶ Mark Davis, 'A snip at \$22m to get rid of PM', Sydney Morning Herald, February 2, 2011, <http://www.smh.com.au/business/a-snip-at-22m-to-get-rid-of-pm-20110201-1acgj.html#ixzz1oJfdc9Av>, accessed 6 March 2012.

⁷ Australian Taxation Office, 'Proposed minerals resource rent tax', Last Modified: Wednesday, 9 November 2011, <http://www.ato.gov.au/content/00286481.htm>, accessed 6 March 2012.

⁸ This tax cut is in doubt after opposition from both the Greens and the Coalition in the Senate: Emma Griffiths, ABC News, Gillard, Abbott in stand-off over tax cuts, March 14, 2012, <http://www.abc.net.au/news/2012-03-14/political-row-over-tax-cut-plans/3888962>, accessed 16 March 2012.

⁹ ABS 2010, *Australian system of national accounts, 2009-2010*. Cat no 5204.0. 29 November.

¹⁰ Garry Maddox, 'Iron men', Sydney Morning Herald, July 16, 2011, <http://www.smh.com.au/entertainment/movies/iron-men-20110714-1hei0.html>, accessed 16 March 2012. See also DeSmogBlog: <http://www.desmogblog.com/hit-movie-red-dog-and-its-mining-industry-funding>, accessed 16 March 2012.

This paper aims to explain the particular gamble that the resource companies took by agreeing to a resource rent tax, albeit in a reduced form. This paper is structured as follows. It first describes the mining industry's response to the introduction of a mining tax, and the political impact of this campaign. It then describes the MRRT and the economic challenges that a tax of this type seeks to address, with reference to Australia's variety of capitalism. The concluding section suggests that one of the reasons the mining industry's campaign against the tax was so concerted was due to fear about the tax being copied by other countries. On the other hand, it appears that the large mining companies that negotiated the final package took a calculated risk regarding the likelihood that they would ever have to pay the tax.

Mining Industry Response to the Introduction of a Resource Rent Tax

This section recounts the unfolding of the mining industry's campaign to the introduction of the resource rent tax, and its political impact. The Labor Government announced its 'first wave' reform measures in response to the review of the Australian tax and transfer system led by Treasury Secretary, Dr Ken Henry (the Henry Tax Review) just prior to the budget in May 2010. A key aspect of this first wave was the 'Resources Super Profits Tax' (RSPT). The tax was announced in the budget with little explanation to the electorate, providing an opportunity for the mining industry to capture the debate. It was as if the government had not anticipated the scale of the reaction from the mining industry.

The campaign against the Resource Super Profits Tax, spearheaded by the Minerals Council of Australia, ran for 53 days. It was one of the most expensive and effective run by an industry against the Australian government on a single policy issue (at least before the Carbon Tax, on which the Federal Labor Government spent \$25 million).¹¹ It resulted in the dumping of the Resource Super Profits Tax and contributed to the demise of Kevin Rudd as Prime Minister.¹² As one newspaper article put it: "How much does it cost to bring down a prime minister? The answer: a tad over \$22 million".¹³

The Australian Electoral Commission's political spending disclosures for 2009-10 show the industry spent \$22.2 million on the campaign which ran from the start of May 2010 until late June 2010 when Ms Gillard took over and negotiated a compromise on the tax.¹⁴ The industry's national body, the Minerals Council of Australia, spent \$17.2 million, mainly on TV advertisements; BHP Billiton spent \$4.2 million; Rio Tinto just over \$537,000, and a smaller lobby group, the Association of Mining and Exploration Companies, just under \$274,000. On top of the industry's direct spending, several companies donated another \$1.9 million to the election war chests of the Liberal Party and the Nationals. The figures, which cover political spending and donations to parties in the year to June

¹¹ 'Gillard defends carbon tax ad spend', ABC News, July 18, 2011, <http://www.abc.net.au/news/2011-07-17/julia-gillard-defends-carbon-ad-spend/2797776>, accessed 7 March 2012.

¹² Niki Savva, 'Miners spent \$17m on campaign against Rudd tax plan', *The Australian*, November 16, 2010, <http://www.theaustralian.com.au/news/nation/miners-spent-17m-on-campaign-against-rudd-tax-plan/story-e6frg6nf-1225954045189>, accessed 7 March 2012.

¹³ Mark Davis, 'A snip at \$22m to get rid of PM', *Sydney Morning Herald*, February 2, 2011, <http://www.smh.com.au/business/a-snip-at-22m-to-get-rid-of-pm-20110201-1acgj.html#ixzz1oJfdc9Av>, accessed 6 March 2012.

¹⁴ Electoral donation disclosures can be found at: http://www.aec.gov.au/About/AEC/Media_releases/2011/2-7.htm, accessed 7 March 2012.

2010, show miners who made big donations to the Coalition parties included Clive Palmer's Mineralogy (\$700,000), Straits Resources (\$500,000), Western Areas (\$400,000), Savannah Nickel (\$125,000) and Lanfranchi Nickel (\$125,000). These donations are credited with giving the Coalition an edge over Labor before the election on August 21 2010.¹⁵

A spokesman for the minerals council said the tax had been a threat to the viability of Australia's minerals industry. "The MCA campaign reflected the size and nature of that threat," he said.

The RSPT would have destroyed shareholder value, shelved projects and acted as a massive disincentive to future minerals industry investment, with negative flow-on consequences for every Australian.¹⁶

The Mining Council of Australia's campaign drew on the talents of Neil Lawrence, the man behind the election of Prime Minister Kevin Rudd in 2007 in the campaign titled "Kevin 07".¹⁷ It also engaged the talents of pollster and political strategist Mark Textor.¹⁸ Textor was the principal pollster for former Australian Prime Minister John Howard. He was also pollster and campaign strategist for former New Zealand Prime Minister Jim Bolger in his 1997 victory and later, NZ Prime Minister Jenny Shipley.

The first part of the campaign was overtly political in nature, aiming to discredit the Labor party and the Resource Super Profits Tax. The second part of the campaign focussed on building a positive image of the mining industry.¹⁹ In this second part, representations of Australian national identity are invoked to lay claim to the mining industry's integral place in Australian social fabric.

The Labor government belatedly responded with its own campaign, costing AUD \$10 million. In order to run the ads, the government waived its own guidelines that aim to restrict political advertising. Rudd defended the expenditure on the grounds that the industry's scare campaign amounted to "compelling circumstances".²⁰ However, the Labor Government's campaign does not

¹⁵ To put these figures in context, it is worth comparing them with the donation figures and expenditure of other parties prior to the 2010 election. While the mining industry spent \$22.2 million, the union movement spent \$2.8 million on its political campaigning in 2009-10. Unions donated \$1.1 million to federal and state ALP branches. Labor's national office received \$1.7 million. The Greens federal office reported only \$12,500 in donations: Mark Davis, 'A snip at \$22m to get rid of PM', Sydney Morning Herald, February 2, 2011, <http://www.smh.com.au/business/a-snip-at-22m-to-get-rid-of-pm-20110201-1acgj.html#ixzz1oJfdc9Av>, accessed 6 March 2012.

¹⁶ Mark Davis, 'A snip at \$22m to get rid of PM', Sydney Morning Herald, February 2, 2011, <http://www.smh.com.au/business/a-snip-at-22m-to-get-rid-of-pm-20110201-1acgj.html#ixzz1oJfdc9Av>, accessed 6 March 2012.

¹⁷ For a profile of Neil Lawrence, see: <http://www.thepowerindex.com.au/spinners/neil-lawrence>. According to this profile: 'At the height of the mining tax stoush, Lawrence bumped into Julia Gillard, who admitted his ads were impressive. "Could you make them a little bit worse?" she joked. Within weeks Gillard had deposed Rudd and negotiated a watered-down tax with the big miners that will rake in an estimated \$60 billion less over the next decade than the RSPT.'

¹⁸ See <http://www.crosbytextor.com/>, accessed 8 March 2012.

¹⁹ Jessica Burke, 'New campaign highlights good side of mining', Australian Mining, 10 June, 2011, <http://www.miningaustralia.com.au/news/new-campaign-highlights-good-side-of-mining>, accessed 7 March 2012.

²⁰ 'Kevin Rudd defends mining ads', AAP, May 29, 2010: <http://www.news.com.au/national/kevin-rudd-defends-mining-ads/story-e6frfkvr-1225872937660#ixzz1oOYESq9B>, accessed 7 March 2012.

appear to have been as effective as that run by the mining industry. Regardless of the public's opinion of the tax itself, the campaign had dire consequences for the Labor Party's popularity based on polling at the time. In one month Mr Rudd's approval rating fell by 11 points, to 39%. Another poll in early June 2010, showing the government's vote had fallen to 33%, sent tremors through Labor powerbrokers.²¹ On 23 June 2010, his deputy, Julia Gillard, announced that she would contest the leadership in a caucus ballot the following day. Knowing he would be defeated if he contested the leadership, Rudd stepped down as party leader and Prime Minister on the morning of the ballot and Gillard was elected unanimously.

Demonstrating the importance of the mining tax to Gillard's future, at her first press conference as Prime Minister on 24 June 2010, Gillard reassured the mining industry that she would "she would throw the doors open".²² Later that day in parliament, she announced that a new mining tax would be negotiated with the mining industry that would be "fairer" and "which they could afford". She also suspended the government's pro-RSPT advertising campaign, based on a deal with the mining sector that it also shelve its ads against the tax. Her comments were welcomed by mining giants BHP Billiton Ltd and Rio Tinto, the Minerals Council of Australia, the Queensland Resources Council and the Association of Mining and Exploration Companies Inc (AMEC), which all pledged to immediately suspend their anti-RSPT ad campaigns. The price of mining shares immediately rose.²³

Two weeks later, Gillard announced that the 'super profits' tax would be replaced by a lower resources rent tax, reducing expected revenues by \$1.5 billion.²⁴ The new MRRT was negotiated with the three largest mining companies - BHP Billiton, Xstrata, Rio Tinto - and gained the critical support of Minerals Council.²⁵ The new tax was greatly reduced in scope from the original (see Table 1). The rate of taxation was reduced to 30 per cent from 40 per cent. Further, the tax would only apply to coal and iron ore operations, as other minerals including copper, nickel, bauxite and gold were exempted.²⁶

Measured in terms of policy outcomes, the AUD \$22 million spent in the first stage of the mining industry's campaign appears to have been a reasonable investment. First, the campaign resulted in the industry retaining a much larger share the rents gained through extraction in Australia than would have been the case under the original proposal provided for in the 2010 budget. Second, it remains to be seen if resource companies will pay any taxes at all, in light of the end of slowing of the resource boom. For example, it is understood that in the wake of falls of around 30 per cent in iron ore and coal prices between June and August 2012, Rio Tinto, BHP Billiton and Xstrata are

²¹ 'Australia changes prime minister: Rudd on the tracks as Gillard takes over', *The Economist*, Jun 24th 2010, <http://www.economist.com/node/16438749>, accessed 7 March 2012.

²² 'Mining Stocks Soar as RSPT ads Axed', AAP, Thursday, June 24, 2010, <http://finance.ninensn.com.au/newsbusiness/aap/8130791/mining-stocks-soar-as-rspt-ads-axed>, accessed 7 March 2012.

²³ Ibid.

²⁴ 'Gillard cuts mining tax deal', *The Age*, July 2, 2010: <http://www.theage.com.au/business/gillard-cuts-mining-tax-deal-20100702-zr62.html#ixzz1oPRyOyD4>, accessed 7 March 2012.

²⁵ Minerals Council backs 'real rent' tax, *The Age*, July 2, 2010: <http://www.theage.com.au/business/minerals-council-backs-real-rent-tax-20100702-zs8l.html#ixzz1oPScb9lP>, accessed 7 March 2012.

²⁶ Malcolm Maiden, A retreat that may well win the war, *The Age*, July 3, 2001, <http://www.theage.com.au/business/a-retreat-that-may-well-win-the-war-20100702-zu27.html#ixzz1oPUz5dV7>, accessed 7 March 2012.

calculating they have either negligible obligations or none for when the first tax payments, for the first quarter of the financial year, are due on October 21 2012.²⁷

This second stage of the mining industry's campaign rolled out 'cinema style' short film advertisements telling the story of individuals who have benefited from the mining industry in Australia. It also made substantial investments in the film industry. The Australian film 'Red Dog, released in 2011, for instance, was financed by the mining industry. The feel-good movie is set in the 1970s in tiny Dampier in Western Australia's remote Pilbara region, where much of Australia's iron ore is extracted. The film is based on real life exploits of a stray dog which roamed the area, hitch-hiking between settlements and bringing people together as it travelled. The characters, who work for Hamersley Iron (a wholly-owned subsidiary of Rio Tinto), are roguish and likeable. The cinematography sweeps across the red Pilbara landscape, depicting mines as part of the raw beauty of the landscape. The film was the largest grossing Australian made film for 2011 and ranks 11th in takings in historic terms amongst all Australian films.²⁸ This part of the campaign appears to be aimed at future battles.

What is the Minerals Resource Rent Tax?

This section provides a schematic overview of the content of the MRRT and some context for its introduction. On 2 May 2010, the Government announced its 'first wave' reform measures in response to the review of the Australian tax and transfer system led by Treasury Secretary, Dr Ken Henry (the Henry Tax Review). The purpose of the Review was to provide a medium to long term framework for reform of Australia's taxation system. The 'first wave' included a 'Resource Super Profits Tax' (RSPT). Key features of this new tax and other reforms in response to the Henry Review were:

- Applying the RSPT to all non-renewable resource projects, including new onshore and offshore oil, gas and coal seam methane projects, and existing offshore oil and gas projects not already subject to the Petroleum Resource Rent Tax (PRRT) such as the North West Shelf, at a rate of 40 per cent. An optional irrevocable election was to be provided for existing offshore projects covered by the Petroleum Resource Rent Tax to join the RSPT system, under transitional arrangements to be finalised at a later stage.
- The RSPT envisaged deductibility of depreciation in relation to capital expenditure (unlike the PRRT and subsequently, the MRRT, both of which provide for immediate expensing of capital expenditure). The RSPT also included transferability of losses at the end of project life to other projects of an entity, and (again in contrast to the PRRT and MRRT) full loss refundability at that time in the absence of other projects (apart from losses in existing projects accrued prior to commencement of the RSPT).
- Introducing a Resource Exploration Rebate (ie, refundable tax offset) for eligible exploration expenditure of all companies on or after 1 July 2011.
- Cutting the company tax rate to 29 per cent in 2013-14 and 28 per cent in 2014-15.

²⁷ Matt Chambers, "Low prices give big boys an out on mining tax", The Australian Newspaper, September 15, 2012, <http://www.theaustralian.com.au/national-affairs/low-prices-give-big-boys-an-out-on-mining-tax/story-fn59niix-1226474527548>, accessed 17 September 2012.

²⁸ Screen Australia, <http://www.screenaustralia.gov.au/research/statistics/mrboxaust.asp>, accessed 18 September 2011.

- Giving small business an early start to the company tax rate cut to the 28 per cent rate in 2012-13.
- Allowing instant asset write-off for small business.
- Establishing a state infrastructure fund.
- Increasing the Superannuation Guarantee rate to 12 per cent.
- Introducing a Government superannuation contribution for low income earners.
- Raising the Superannuation Guarantee age limit from 70 to 75.
- Changing concessional contributions caps for people over 50 with low superannuation balances.

In sum, then, the revenue the Government receives from the tax on resources will be channelled into increased pension benefits, infrastructure and business tax cuts. The tax represents the partial socialisation of resource wealth.

It has been noted that much of the criticism of the RSPT was directed at the transitional rules to apply the tax to existing projects generally on the basis of accounting book value, with no refundability of losses accrued prior to commencement of the tax.²⁹ There were also claims that the RSPT would increase perceived 'sovereign risk' in Australian investments and lead to suits by foreign investors for compensation under bilateral investment agreements protecting against (among other things) direct or indirect expropriation.³⁰ These concerns may have been mitigated to some extent by the change in transitional rules for the MRRT to allow an election to use market value for existing projects.

The much reduced MRRT that was subsequently negotiated by Gillard in the period directly following her promotion to Prime Minister provided for the following features:³¹

- Iron ore and coal will be subject to a new profits-based Minerals Resource Rent Tax (MRRT) at a rate of 30 per cent and the existing PRRT to be extended at its 40 per cent rate to onshore oil and gas projects (including coal seam gas) and offshore projects not currently covered by the PRRT (such as the North West Shelf).
- The tax is on profits which exceeded the 10-year government bond rate, currently just over 5 per cent, plus 7 per cent. The MRRT also provides for immediate expensing of capital expenditure incurred on or after 1 July 2012, with no refundability of losses as was contemplated under the RSPT.
- Other commodities will not be included, so the number of affected companies will be around 320.

²⁹ See discussion in Ben Smith, 'Charging for Non-Renewable Resource Depletion, or Slimming the Goose: Less Foie Gras but More Golden Eggs?', in Chris Evans, Richard Krever and Peter Mellor (eds), *Australia's Future Tax System: The Prospects After Henry* (Sydney: Thomson, 2010), pp 365, 380-382.

³⁰ Ibid. See also Grant Cathro and Sam Luttrell, 'Super profits tax could breach international treaties', *The Australian*, 28 May 2010, available at: <http://www.theaustralian.com.au/business/legal-affairs/super-profits-tax-could-breach-international-treaties/story-e6frg986-1225872223974>, accessed 27 April 2012, and Andrew Stephenson and Lee Carroll, 'Protecting Foreign Investments by Using Bilateral Investment Treaties' (2011) 30(1) *Australian Resources and Energy Law Journal* 40.

³¹ Hawker Britton Group Pty Ltd, *A Guide to the Minerals Resource Rent Tax*, September 2010, <http://www.hawkerbritton.com/images/data/Minerals%20Resource%20Rent%20Tax%20Brief%2017Sep10.pdf>, accessed 6 March 2012.

- These arrangements will operate in parallel with State and Territory royalty regimes.
- A refundable credit for royalties paid to State and Territory Governments will be available.
- MRRT assessable profits are calculated on the value of the commodity, determined at its first saleable form (at mine gate), less all costs to that point.
- Projects will be entitled to a 25 per cent extraction allowance that reduces taxable profits subject to the MRRT. This allowance recognises the contribution of the miner's expertise to profits at the mine gate.
- Small miners with resource profits below \$50 million per annum will not have an MRRT liability.

The last aspect was amended by independent MP Andrew Wilkie so that the mining companies with resource profits not exceeding \$75 million are precluded from the reach of the legislation (with a further tax offset for companies with profits of less than \$125 million).³²

The MRRT has a number of features that make it far more favourable to mining companies compared with the tax that was originally envisaged in the 2010 Federal Budget. The differences are captured in Table 1.

Table 1: Resource super profits tax (RSPT) compared with the minerals resource rent tax (MRRT)

Difference	RSPT	MRRT
Scope	All mining and petroleum companies - some 2500 - would have been subject to the tax on so-called super profits.	Limited iron ore and coal companies whose resource profits exceed \$50 million per annum. The current petroleum resource rent tax regime extended to all onshore oil and gas projects, including coal seam gas.
Rate	The 40 per cent tax kicked in at profits which exceeded the 10-year government bond rate, currently just over 5 per cent.	A 30 per cent tax kicks in at the long-term bond rate plus 7 per cent.
Basis of calculation	The tax was payable on the realised value of resource deposits. The calculation of RSPT taxable profit allowed for depreciation of capital expenditure. Provision also made for loss refundability at the end of project life.	The tax will apply to the value of the resource, rather than the value added by the miner. The calculation of mining profit for MRRT purposes allows for full expensing of capital expenditure incurred on or after 1 July 2012. Losses transferable to other iron ore and coal projects, but no provision for loss refundability at the end of project life.
Scale	Onshore and oil projects would have been subject to the tax.	The current petroleum resource rent tax regime will be extended to all onshore oil and gas projects, including coal seam gas, and offshore projects not currently subject to PRRT (such as the North West Shelf) at a 40 per cent tax rate.

³² *Minerals Resource Rent Tax Act 2012* (Cth), Div 45. See also 'The Minerals Resource Rent Tax bill passed parliament just before 3am', *The Australian*, November 24, 2011, <http://www.theaustralian.com.au/national-affairs/states-revolt-over-mining-tax-trade-offs/story-fnb56a2t-1226203139453>, accessed 6 March 2012.

Difference	RSPT	MRRT
Deductions	Allowed deductions for the cost of extracting resources and getting them to the taxing point.	Projects will be entitled to a 25 per cent extraction allowance.
Base	Starting base for the tax was 100 per cent of the accounting book value of existing capital.	Miners may elect to use the book or market value as the starting base for project assets. A book-value starting base will be uplifted with the long-term bond rate plus 7 per cent.
Rebate	Resource exploration rebate to provide refundable tax offset at the company tax rate.	The rebate will not be pursued, but exploration costs will be deductible in the normal way.
Link to company tax reductions	Phased-in cut of the company tax rate from 30 per cent to 29 per cent in 2013/14 and 28 per cent in 2014/15, and to 28 per cent in 2012-13 for small business.	Company tax rate reduced to 29 per cent in 2013/14 and small business from 2012-13 (proposal abandoned in May 2012 in the 2012-13 Budget).
Link to superannuation	Increasing the superannuation guarantee rate from 9 per cent to 12 per cent by 2019/20. Other superannuation measures: \$500 annual super top-up low-income earners on less than \$37,000; raising the super guarantee age limit from 70 to 75; more generous contribution limits for over 50s with low super balances; higher concessional contributions cap of \$50,000 for those aged 50 or over who have less than \$500,000 saved.	Measure retained.

Justifications for the MRRT: avoiding the ‘resource curse’

Given the obvious sensitivity and political risks of introducing a tax on mining rents, why introduce a tax of this type? The Labor government had created a budget deficit by implementing stimulus packages in the aftermath of the financial crisis. It was hoped that revenue from the mining tax would help to re-balance the budget and allow the government to plan for the long term well-being of Australian citizens. Revenue would be used to provide for an ageing society by increasing superannuation and contributing to revenue for “new and better infrastructure, and business tax cuts”.³³ The MRRT was further justified by both the Rudd and Gillard governments as part of a plan to “lock in the benefits of the mining boom and deliver a fairer return from the nation's mineral wealth”.³⁴

³³ Joint Media Release with The Hon Martin Ferguson AM MP Minister for Resources and Energy, ‘Exposure Draft - Minerals Resource Rent Tax’, 10 June 2011, <http://ministers.treasury.gov.au/DisplayDocs.aspx?doc=pressreleases/2011/065.htm&pageID=003&min=wms&Year=&DocType=>, accessed 6 March 2012.

³⁴ Joint Media Release with The Hon Martin Ferguson MP Minister for Tourism and The Hon Bill Shorten MP Assistant Treasurer, Minister for Financial Services and Superannuation, ‘Locking in the Benefits of the Mining

Australians know how important the mining industry is, but they also know that we can only dig up and sell the resources once. The MRRT will help those parts of our economy that aren't in the mining boom fast lane.

In a sense, then, a minerals rent tax was promoted as a way to help Australia overcome the problems of the 'resource curse'. Australia has an unusual economic structure – or variety of capitalism – among developed countries. It is far more resource dependent than most countries that have successfully developed. Generally, economic prosperity is linked with industrialisation, first, followed by the development of service and financial sectors. Although Australia is not alone amongst OECD countries for its dependency on the resource sector, it is unusual.

Why is this? As Humphrey, Sachs and Stiglitz put it, "Paradoxically, despite the prospects of wealth and opportunity that accompany the discovery and extraction of oil and other natural resources, such endowments all too often impede rather than further balanced and sustainable development".³⁵ Indeed, those late developers which have had the highest sustained growth lack resources. These include the Asian Tigers who built thriving export industries based on manufactured goods without large natural resource reserves.

Resource wealth comes with a number of unique economic and political challenges that are well identified in the large body of literature that addresses this problem.³⁶ Around the world, even when resource-rich countries have done fairly well, they have often been plagued by high inequality with a large proportion of society remaining poor. There are a number of reasons for this. One is that resource wealth can stifle forms of economic activity that produce sustained growth. Unlike other sources of wealth, natural resource wealth does not need to be manufactured or produced. It simply needs to be extracted (noting that the extraction process itself can be complex). Natural resource wealth can be made quite independently of other economic processes that take place in a country. This means that it often has little forward and backwards linkages into the rest of the economy. In this sense it is 'enclaved' in a number of ways. It can take place without major linkages to other industrial sectors and without the participation of large segments of the domestic labour force. Natural resource wealth often does not flow into the rest of the economy, and can create economic imbalances such as higher wages in the resource sector that are not seen elsewhere. Further, when there is a high reliance on natural resource wealth, there is often a certain level of amnesia about the need for a diversified and skilled workforce that can support other economic sectors once resource wealth has dried up.

Boom', 2 November 2011,

<http://www.treasurer.gov.au/DisplayDocs.aspx?doc=pressreleases/2011/134.htm&pageID=003&min=wms&Year=&DocType=>, accessed 6 March 2012.

³⁵ Macartan Humphreys, Jeffrey Sachs and Joseph Stiglitz, *Escaping the resource curse*, Columbia University Press, 2007, p.1.

³⁶ See for example: Dasgupta, P. and G.M. Heal, *Economic Theory and Exhaustible Resources*, Cambridge University Press, Cambridge, 1979; Barnett, L.J., and C. Morse, *The Economics of Natural Resource Availability*, John Hopkins University Press, Baltimore, 1963; Dasgupta, P. and J. Stiglitz, "Resource depletion under technological uncertainty", 49 *Econometrica* (1981), pp. 85-104; Meadows, D.H., J. Randers and W. Behrens, *The Limits to Growth*, University Books, New York, 1972; Neary, P.J. and S.N. van Wijnbergen, "Economic development and the timing of mineral exploitation", in J.E. Tilton (ed.), *Mineral Wealth and Economic Development, Resources for the Future*, Washington, DC: 1992; Sachs, J.D. and A.M. Warner, *Natural resources and economic growth*, Mimeo, HIID, Cambridge, Mass.,1995.

The most worrying result of these economic imbalances is what is known as the ‘Dutch disease’. This is what occurred in the Netherlands following the discovery of natural gas in the North Sea.³⁷ The mechanism by which Dutch disease can take hold is reasonably straight forward. A rise in the value of natural resource exports generates an increase in the real exchange rate. This, in turn, makes exporting non-natural resource commodities more difficult as they are priced out of the competition. Competing with imports across a wide range of commodities also becomes far more difficult without other forms of protection. Foreign exchange earned from the natural resource meanwhile may be used to purchase internationally traded goods, at the expense of domestic manufacturers of the goods. At the same time, domestic resources such as materials and labour move to the natural resource sector. As a result, the price of these resources appreciates on the domestic market, thereby increasing the costs to producers in other sectors. In sum, then, the extraction of natural resources sets in motion a dynamic that privileges two domestic sectors—the natural resource sector and the non-tradable sector, such as the construction industry—at the cost of other export sectors. For the Netherlands, this was manufacturing. Such dynamics appear to occur widely, and have previously been seen in Australian gold booms in the nineteenth century. The problems of the Dutch Disease are further exacerbated by the fact that these dynamics are not stable. As the recent period demonstrates, natural resource prices are often highly volatile. This is particularly the case with oil and gas prices. This gives rise to “boom-bust cycles”.

Many natural resources—oil and gas in particular—are non-renewable. From an economic aspect, they are thus less like a source of income and more like an asset. Humphrey et al argue that because oil and gas resources are nonrenewable, any consumption of revenues from sales should be viewed as a consumption of capital rather than a consumption of income.³⁸ Others argue that a country is not wealthier as a result of resource extraction; it has just changed the composition of its asset base. The temptation with any asset is to spend sooner than later.

Because resource extraction is generally capital intensive (costly) as well as technologically intensive, resource companies have a propensity to be large, and often international. This creates considerable challenges for governments in their dealings with resource companies. It leads to a situation in which the buyer – the resource company – knows more about the value of the good being sold than the seller – the government in the resource rich country. These features put resource companies in a strong position vis a vis governments. Although competition can reduce some of the inequalities (and rents) produced by expertise, this may not result in a complete reduction as companies have an interest in this unequal bargaining position. Often, as seen in the Australian case studied here, companies lobby as a block, reducing benefits of competition.

For Humphrey et al, then, these features of natural resource wealth present yet another paradox. At least in theory, natural resources can be taxed without creating disincentives for investment:³⁹

Unlike in the case of mobile assets—such as capital, where high taxes can induce capital to exit a country—oil is a non-movable commodity. Since tax proceeds from the sale of oil can

³⁷ Not all economists agree that the Netherlands actually suffered from the Dutch Disease.

³⁸ Macartan Humphreys, Jeffrey Sachs and Joseph Stiglitz, *Escaping the resource curse*, Columbia University Press, 2007, p.1.

³⁹ *Ibid*, at p. 2.

be used to create a more egalitarian society, one could expect less, not more, in equality in resource rich countries. In reality, however, this is rarely the case.

The reason that it is rarely the case is because when there is an inequality of power - generally linked to unequal distributions of land and wealth – it is difficult for governments that wish to promote equality to introduce and implement policies of the type proposed by Humphreys et al. One of the greatest risks concerns the emergence of what political scientists call “rent-seeking behaviour.” Especially in the case of natural resources, a gap—commonly referred to as an economic rent—exists between the value of that resource and the costs of extracting it. In such cases, individuals, be they private sector actors or politicians, have incentives to use political mechanisms to capture these rents. Great opportunities for rent-seeking by corporations magnify the harmful economic and political consequences of natural resource wealth.

The list of economic problems briefly addressed in this section have lead economists to believe that government planning for achieving higher capital and technological progress is required so as to ensure that natural resource wealth will not be a constraint to sustained economic growth.⁴⁰ However, one of the consequences of resource wealth is that economic planning of this type is not easily implemented once resource extraction companies have established rents. The same factors that make resource wealth a potential economic curse also create great political hurdles for governments that attempt to redress economic imbalances associate with resource wealth.

Is the resource boom a curse for Australia?

Australia has enjoyed a resource boom for a number of years, though various projections forecast this boom over. Between 2004 and June 2010 the value of Australia’s mineral resources was estimated by the Australian Bureau of Statistics to increase from AUD \$240 billion to \$560 billion and 2009-10 mining profits totalled AUD \$51 billion.⁴¹ This boom means that the value of mining output has grown rapidly in recent years from 4.2 per cent of GDP in 2003-04 to 9.2 per cent in the four quarters ending March 2011.⁴² The majority of this increase was due to increases in commodity prices, not the quantity of mining output. 2011 ABS figures show that in May 2011 total mining employment was 217,100 in a workforce of over 11 million.⁴³ (The manufacturing industry in Australia employs around five times as many people as the mining industry.⁴⁴) Mining exports make up 52.8 per cent of Australia’s total exports.⁴⁵ Amongst OECD countries, only Canada and Norway have comparably large contributions from the resource sector to GDP. In 2009, resources generated 11 percent, or USD \$133 billion, of Canada’s gross domestic product (GDP) and directly employed

⁴⁰ Dr J.V.M. Sarma and Dr G. Naresh, ‘Mineral Taxation around the World: Trends and Issues’, *Asia-Pacific Tax Bulletin*, January 2001, p.2.

⁴¹ ABS 2010, *Australian system of national accounts, 2009-2010*. Cat no 5204.0. 29 November.

⁴² ABS 2011, *Australian national accounts: National income, expenditure and product, Mar 2011*. Cat no 5206.0. 1 June; ABS 2005. *Australian national accounts: National income, expenditure and product, Dec 2004*. Cat no 5206.0. 2 March.

⁴³ ABS 2011, *Labour force, Australia, Detailed, Quarterly, May 2011*. Cat no 6291.0.55.003. 16 June.

⁴⁴ ABS 2011, *Labour force Australia, detailed quarterly, May 2011*, Cat no 6291.0.55.003, 16 June.

⁴⁵ ABS 2011, *Balance of payments and international investment position, Australia, March*. Cat no 5302.0. 31 May.; ABS 2011. *Australian national accounts: National income, expenditure and product, Mar 2011*. Cat no 5206.0. 1 June.

close to 759 000 people.⁴⁶ The proportion of foreign ownership in the mining sector is estimated at 83 per cent by some sources.⁴⁷

Although the mining boom has contributed to economic growth in Australia, it comes with downsides. First, there are early signs of the Dutch Disease as the strength of the exchange rate has reduced the competitiveness of a range of Australian industries, particularly the tourism, manufacturing, education exports and retail industries.⁴⁸ The Australian dollar is at the highest level in 30 years, which is not only reducing the competitiveness of exporters but also reducing the competitiveness of domestic producers that sell in markets in which there is high import penetration.

This has come at a time when expanded use of on-line retail by domestic consumers has put traditional retailers under pressure. In its forecasts, the Reserve Bank of Australia assumes that the exchange rate will remain at its current level for some time. The impact of the high exchange rate is also being felt by manufacturers during a global financial crisis, producing a retreat in Australian manufacturing exports.

Second, the mining boom has put upward pressure on inflation which means interest rates stay high, regardless of modest growth in the non-mining parts of the economy. High interest rates have the effect of encouraging capital inflows, which tend to appreciate the exchange rate. They also increase the costs of owning houses for mortgagees. It is estimated that when interest rates peaked prior to the GFC, higher mortgage interest rates were removing an additional AUD \$24 billion per annum from the household sector compared to the pre-boom interest rates that prevailed in 2004.⁴⁹ To put this in concrete terms, for a mortgage of AUD \$300,000 taken out by someone on average weekly earnings, the increase in mortgage interest rates would have taken away 12.9 per cent of their post-tax earnings in mid-2008.⁵⁰

Third, the economic dependence on the resource boom, as the resources sector increases compared with other industries, increases the vulnerability of Australia to commodity price volatility. Relatedly, some commentators are also concerned that the resource boom ties Australia's future to the success of China and its continued demand for commodities.⁵¹ A significant global downturn, would likely see a substantial cut to the Reserve Bank of Australia's cash rate, and fast depreciation of the Australian dollar. A particular concern is that when a commodities boom ends, an economy is left hollowed out, with its productive capacity permanently lower than it would have been without the commodities boom.

⁴⁶ Important Facts on Canada's Natural Resources, *Natural Resources Canada*, <http://www.nrcan.gc.ca/statistics-facts/home/887>, accessed 8 March 2012.

⁴⁷ Edwards, N 2011. *Foreign ownership of Australian mining profits*. The Australian Greens.

⁴⁸ Paul Bloxham, 'Does Australia have a resources curse?' HSBC Global Research, Australia Economics, August 2011, p.1.

⁴⁹ David Richardson and Richard Denniss, *Mining the Truth: The Rhetoric and Reality of the Commodities Boom*, The Australia Institute, Paper No. 7, September 2011, p.49.

⁵⁰ Ibid.

⁵¹ Paul Bloxham, 'Does Australia have a resources curse?' HSBC Global Research, Australia Economics, August 2011, p.24.

Using taxation as a tool to address resource booms

Regardless of whether the positive aspects of the resource boom offset the negative effects, many economic commentators argue that there is a need to preparing for the end of the mining boom, and try to off-set the risks associated with a boom of this type. Taxation policy is one tool that is available for preparation of this nature, as well as meeting a number of other policy objectives.⁵² One set of objectives for taxation policy emanates from the role of government as an agent responsible for achieving economic and social development. Here, government has the responsibility to ensure that the mineral extraction is socially optimal and equitable, and at the same time, the sector makes due contribution to public revenues in the same manner as other sectors of the economy to promote sustainable economic development. Taxation on mineral resource extraction can, for instance, assist with private saving and government saving so as to prepare for economic downturn. 'Sovereign wealth or stabilisation funds' can be set up, into which mining revenues can be funnelled, so as to prepare for the day when a stimulus package may be required to respond sluggish or negative economic growth.⁵³ Taxation on mining can also provide revenue to contribute to education and productivity increases in other parts of the economy, and assist structural adjustment.

A second set of tax objectives arises from the role of government as owner of minerals that requires the government to secure an appropriate share in the mineral rent. If a valuable mineral is extracted, the government should receive not only the regular tax but also a separate payment over and above it. In simple terms, Australia is currently converting part of its non-renewable resource wealth into cash, by selling commodities offshore. This has been occurring at a time when commodity prices have been at historically high levels, which means there is an unusually large amount of income being generated. Some of this cash flows directly back into the economy in the form of wages, dividends, mining investment and taxes, and also offshore, given significant foreign ownership of mining operations. A mineral resource tax is a way for government to ensure that a proportion of the cash from the assets is captured for social use. A third set of objectives aims at minimizing the damage to the environment and ecological balance.

Within the international taxation literature, the question is not whether to tax mineral resource rents, but how much. Because minerals are an asset that are owned by the nation (unlike other goods that are produced), economists propose that unlike other sectors of the economy, government as owner of mineral resources can claim a sizeable share in the mineral rent. The two questions that the literature is preoccupied with are, first, what is the magnitude of the mineral rent; and second, what amount of taxation can occur without presenting an unwanted disincentive to investment in extraction? For mining companies, resource extraction requires substantial capital investment and is often not profitable for significant periods of time. Profitability is subject to volatile cycles of supply and demand and is at the mercy of domestic infrastructure constraints. It is

⁵² Dr J.V.M. Sarma and Dr G. Naresh, 'Mineral Taxation around the World: Trends and Issues', *Asia-Pacific Tax Bulletin*, January 2001, p.3. See also: Neher, P.A., "Economics of Mining Taxation", in Jeroen C.J.M. Van den Berg (ed.), *Handbook of Environmental and Resource Economics*, 1999; Heaps, T. and J. Helliwell, "The taxation of natural resources", Chapter 8 in A.J. Auerbach and M. Feldstein, *Handbook of Public Economics*, Volume 1, Amsterdam: 1985; Swan, P. (1976), "Income taxes, profit taxes, and neutrality of optimizing decisions", *52 Economic Record* 138 (1976), pp. 166-81.

⁵³ Paul Bloxham, 'Does Australia have a resources curse?' HSBC Global Research, *Australia Economics*, August 2011, p.24.

thus an inherently high-risk and long-term enterprise, requiring a clear, predictable and well administered fiscal and regulatory regime. Governments designing resource rent taxes wish to be sensitive to these constraints for investors.

It is no simple matter determining the exact magnitude of mineral rent (returns for resource extraction companies). The entire return on capital cannot be regarded as pure mineral rent. It is composed of not only the cost of risk-free capital (opportunity cost) but also various risk premiums that are associated with the sector. In the simplest sense, mineral rent is the supply price less the cost of labour supplies, equipment, cost of risk-free capital, and quasi-rents.

Resource Rent Taxes – like that introduced by the Labor Government - are favoured in the taxation literature but are viewed as a limited fiscal tool. A Resource Rent Tax was first proposed in Australia by Garnaut and Clunies Ross in 1975.⁵⁴ However, proposals of this type – known as the Brown Tax – have been circulating since the 1940s.⁵⁵ The reason this type of tax is favoured is because it only taxes accumulated positive cash flows, and therefore should not act as a disincentive to investment in exploration and extraction. When a cumulative positive value is attained by a company, that value is taxed at a specified tax rate. As long as subsequent annual net cash-flows are positive, they are taxed. If in any later year the net cash flow turns out to be negative, then from that year onward the net inflows are not taxable.⁵⁶

Although Brown Taxes are favoured for their market flexibility, socialising the benefits of resource wealth is not easy. Norway is the most often cited example of a country that has avoided the resource curse. In 1971 the Norwegian parliament passed a raft of policies known as ‘The Ten Oil Commandments’. Companies conducting oil or gas extraction pay a special oil tax of 50% in addition to the standard 28%.⁵⁷ In 1975, also, the Norwegian government introduced various policies to intensify agricultural activities and industrial production. These concerted policies appear to have combine with other broader characteristics such as strong governance, public ownership and management of oil extraction, income coordination in wage formation and so on that have resulted in Norway avoiding conflicts over redistribution and accelerated de-industrialisation.⁵⁸ However, Norway introduced the tax before extraction began, allowing it to avoid much of the rent-protecting behaviour witnessed in Australia during this policy episode.

A well calculated gamble

From where we stand in September 2012, it appears that the resource companies made an extremely well calculated gamble by negotiating a mining tax with the characteristics of the MRRT.

⁵⁴ Garnaut, R. and Clunies Ross, A. ‘Uncertainty, Risk Aversion and the Taxing of Natural Resource Projects’, *Economic Journal*, 85, June, 272-87, 1973.

⁵⁵ Brown, E. C. ‘Business-Income Taxation and Investment Incentives’, in *Income, Employment and Public Policy: Essays in Honor of Alvin H. Hansen*, Norton, New York, 1948.

⁵⁶ Garnaut and Ross, *Taxation of Mineral Rents*, Clarendon Press, Oxford, 1983.

⁵⁷ For a wonderful insider’s story of the way that Norway learned from developing countries who suffered from the resource curse, listen to the Planet Money podcast on this topic: <http://www.npr.org/blogs/money/2011/09/06/140110346/how-to-avoid-the-oil-curse>, accessed 8 March 2012.

⁵⁸ ER Larsen, *Escaping the Natural Resource Curse and the Dutch Disease* www.econ.berkeley.edu/users/webfac/cbrown/e251_f03/larsen.pdf, p.21.

Regardless of whether the boom continues (Scenario 1), or it is over (Scenario 2), they stand to retain considerable profits.

If, under Scenario 1 – world prices for resource commodities remaining high - it is estimated that over the next 10 years profits in mining are likely to exceed \$600 billion for Australian mining companies.⁵⁹ The original version of the mining tax proposed by the Henry review into Australia's future tax system - the Resource Super Profits Tax (RSPT) - would, at 2010 commodity prices, have collected more than AUD \$200 billion in additional mining taxes over the coming decade.⁶⁰ In 2011 Treasury estimated that the Mineral Resource Rent Tax would raise an extra \$38.5 billion in taxes from miners over the coming decade.⁶¹ When we calculate the difference between these two estimates, the return on the AUD \$22 million advertising campaign is therefore likely to be in the order of AUD \$160 billion in 10 years – or some 730,000%, even if commodity prices remain high.⁶² In light of the profits that were at stake, then, the mining industry could well have spent more than AUD \$22 million and still gained a good return for its investment.

If commodity prices fall, or remain at the lower August 2012 prices (Scenario 2), the Australian government is in trouble. Treasurer Wayne Swan projected that the falling prices of the two commodities the tax applies to - iron ore and coal - could affect forecast 2012-13 tax revenue of AUD \$3bn. This will put pressure on the government to find other cost savings if it is to deliver a surplus, which there is strong electoral pressure to do. (The opposition Coalition Party has based its claim of economic mismanagement against the Labor government primarily on the basis of its budget deficit.) The miners may elect to pay a token amount beyond their first quarter obligations in case there is a dramatic price turnaround. This is because the payment is supposed to be a quarter of full-year estimates and miners are penalised if they underestimate, but refunded if they overestimate. However, in June 2012, before commodity prices began pronounced slumps, analysts at UBS Australia were already forecasting the coal industry would not pay the tax because of its lower margins and higher state royalties that can be credited against the MRRT.⁶³ According to tax experts working with the miners, at prices of \$US100 a tonne iron ore, no MRRT is paid at all, while at \$US140 there is some tax bill. In mid-September 2012, spot iron ore prices were trading at \$US96.⁶⁴

One of the reasons the commodity price fall is likely to put pressure on the government, is because it appears to have misunderstood the nature of the tax that it negotiated. Because the tax is only levied on unusually high profits, it is a volatile stream of tax revenue for the Australian government.

⁵⁹ David Richardson and Richard Denniss, *Mining the Truth: The Rhetoric and Reality of the Commodities Boom*, The Australia Institute, Paper No. 7, September 2011.

⁶⁰ Treasury 2010, *Australia's future tax system: Report to the Treasurer*, December 2009. See also Senate Select Committee on Scrutiny of New Taxes 2011. *Mining Tax: A bad tax out of a flawed process*. 29 June

⁶¹ Senate Select Committee on Scrutiny of New Taxes 2011. *Mining Tax: A bad tax out of a flawed process*. 29 June.

⁶² David Richardson and Richard Denniss, *Mining the Truth: The Rhetoric and Reality of the Commodities Boom*, The Australia Institute, Paper No. 7, September 2011.

⁶³ Matt Chambers, "Low prices give big boys an out on mining tax", *The Australian Newspaper*, September 15, 2012, <http://www.theaustralian.com.au/national-affairs/low-prices-give-big-boys-an-out-on-mining-tax/story-fn59niix-1226474527548>, accessed 17 September 2012.

⁶⁴ Matt Chambers, "Low prices give big boys an out on mining tax", *The Australian Newspaper*, September 15, 2012, <http://www.theaustralian.com.au/national-affairs/low-prices-give-big-boys-an-out-on-mining-tax/story-fn59niix-1226474527548>, accessed 17 September 2012.

However, the government has conducted budgeting as if it is a stable and growing source of income. In order to make the mining tax produce revenue, the Labor government will either have to change the basis of calculation or bring in other commodities, leaving it open to accusations of 'policy backflips' by the opposition party, and a further fierce campaign by mining companies.

The mining industry has set itself up for a battle of this type through the second, more positive stage of its public communications tactics which it conducted through the film industry and advertisements telling personal stories. In many ways, this part of the campaign more effectively neutralises the argument that the resource curse needs to be addressed through taxation than the negative campaign that directly addressed taxation issues. It makes the 'real story' about the employees of mines, not the shareholders who stand to lose most from a tax on mining. The tactic fosters the idea that the mining industry is integrated into Australian social fabric, thus defying the proposition that mining is an 'enclave' industry. The second part of the mining industry's campaign obfuscated the focus on the economic problems that a mining tax aims to address, and altered the content of the debate, anticipating and preparing for future assaults on their rents.

The campaign against the mining tax in Australia was not only directed at the Australian government. It also aimed to stave off an international trend. In the aftermath of the financial crisis governments sought new sources of revenue. Normal sources of income declined, and many governments had spent large sums on stimulus packages. In 2010/11, 25 countries worldwide increased, or announced intentions to increase their government take via taxes or royalties, according to a survey by Ernst & Young.⁶⁵ The same survey found that 'nationalisation' was the number one risk for natural resource companies, over capital allocation, skills shortage and cost management.⁶⁶

Australia was at the forefront of attempts to socialise mining rents. *Mining Journal*, a source of international news for the resource industry reported that:

Because of its position as a leading mining country – one which has given the world a number of mining templates such as the Joint Ore Reserves Code (JORC), which has been replicated by others – the higher Australian tax regime is also being copied.⁶⁷

There is sufficient evidence to suggest that the *Mining Journal* was correct. In an open letter, the Chief Minister of the State of Odessa urged Indian Prime Minister Manmohan Singh to replicate the Australian government's resource rent tax.⁶⁸ In 2011, the United Kingdom raised windfall taxes on North Sea oil from 20 to 32 per cent.⁶⁹ Israel increased its resource taxes in 2011 so that it taxes energy profits between 52 and 62 per cent and created a special fund from the income aimed at a

⁶⁵ Ernst & Young, Business risks facing mining and metals 2011–2012, [http://www.ey.com/Publication/vwLUAssets/Business_risks_facing_mining_and_metals_2011-2012/\\$File/Metal_Mining_paper_02Aug11_lowres.pdf](http://www.ey.com/Publication/vwLUAssets/Business_risks_facing_mining_and_metals_2011-2012/$File/Metal_Mining_paper_02Aug11_lowres.pdf), accessed 18 September 2011.

⁶⁶ Ibid.

⁶⁷ 'The five hurdles for mining', *Mining Journal*, 02 Mar 2012, http://www.mining-journal.com/miners-right/the-five-hurdles-for-mining?SQ_DESIGN_NAME=print_friendly, accessed 17 March 2012.

⁶⁸ "Naveen demands mineral resource rent tax on ore mining." *Hindu* [English] 4 Sept. 2011. *Academic OneFile*. Web. 18 Sep. 2012.

⁶⁹ The Telegraph, *A taxing problem in the North Sea*, 2 Jun 2011, <http://www.telegraph.co.uk/comment/telegraph-view/8553452/A-taxing-problem-in-the-North-Sea.html>, accessed 20 September 2012.

range of public needs. Finance Minister Yuval Steinitz said after the cabinet vote, “Today the government will put an end to the disgrace in which the citizens of Israel do not benefit from the country’s natural resources, as do the citizens of other developed nations.”⁷⁰ The 2012 Ghanaian Budget announced that the “corporate tax rate for mining companies will be increased from the current 25 per cent to 35 per cent [and a] windfall profit tax of 10 per cent will be collected from all mining companies”.⁷¹ A study commissioned by the ANC in 2010 called for a 50 per cent “resources rent tax” on all mining operations, triggered once companies earn returns in excess of about 15 per cent annually.⁷²

These are developments that mining companies seek to avoid. In response to this global trend, Anglo American chief executive, Cynthia Carroll cautioned that:

Governments tempted to move in the direction of higher taxes and royalties convince themselves that necessary mining investment in their countries will continue unabated, despite the imposition of arbitrary changes. They are wrong.⁷³

The case study presented in this paper demonstrates how far mining companies are willing to go to avoid any reduction of their rents. The fact that mining companies operating in Australia seem unlikely to pay any tax under the MRRT if commodity prices remain at a lower level shows the difficulty for a government of negotiating technical details with companies who have superior knowledge of the industry. The Australian government has a large bureaucracy that can provide technical expertise to aid negotiations with big business. Yet, it appears that the latest attempt to socialise resource rents has been largely thwarted, unless the basis of calculation is reformed. The Labor Government appears to be left with a budget shortfall, which is likely to be very damaging in a pre-election year. Without this additional revenue that the mining tax was designed to bring in, the government will have less resources to draw on to counter the negative effects on the Australian economy of the end of the commodity boom, combined with the ongoing fall out of the global financial crisis.

Perhaps more importantly, the mining industry sent a strong message to governments who were contemplating the socialisation of resource rents. This message appears to have been heard by a number of countries. The UK has already partially reversed its increased levy on North Sea oil.⁷⁴ Ghana has delayed implementation of its windfall tax, while it considers whether to scrap the

⁷⁰ Ethan Bronner, ‘Israel Approves Doubling of Taxes on Oil and Gas Extraction Profits’, *New York Times*, January 23, 2011.

⁷¹ Ministry of Finance and Economic Planning, Republic of Ghana, *Highlights of the 2012 Budget*, 2012.

⁷² South African Chamber of Mines, reported in Mike Cohen, ‘South Africa Mines Chamber Rejects ANC Windfall-Tax Plan’, Jun 29, 2012, <http://www.bloomberg.com/news/2012-06-29/south-africa-mining-chamber-rejects-anc-s-windfal-tax-proposal.html>, accessed 20 September 2012.

⁷³ ‘The five hurdles for mining’, *Mining Journal*, 02 Mar 2012, http://www.mining-journal.com/miners-right/the-five-hurdles-for-mining?SQ_DESIGN_NAME=print_friendly, accessed 17 March 2012.

⁷⁴ Terry Macalister, ‘George Osborne unveils tax break for older North Sea oil and gas fields’, *Friday 7 September 2012*, <http://www.guardian.co.uk/business/2012/sep/07/george-osborne-north-sea-oil>, accessed 20 September 2012.

proposed levy.⁷⁵ The mining industry fought against the ANC 's proposed tax for South Africa saying, "The rent resources tax proposal is, in effect, nationalization without compensation of 50 percent of the return to investors once normal business taxes, including royalties, have been paid".⁷⁶ If mineral resources are already national assets, this argument somewhat is flawed. Regardless, the Australian example shows that governments contemplating instruments that socialise mineral wealth must be extremely brave.

⁷⁵ Reuters Africa, 'Ivory Coast plans 19 pct windfall tax on gold miners' profits', Sat Sep 15, 2012 , <http://af.reuters.com/article/investingNews/idAFJJOE88E00K20120915?pageNumber=1&virtualBrandChannel=0>, accessed 20 September 2012.

⁷⁶ South African Chamber of Mines, reported in Mike Cohen, 'South Africa Mines Chamber Rejects ANC Windfall-Tax Plan', Jun 29, 2012, <http://www.bloomberg.com/news/2012-06-29/south-africa-mining-chamber-rejects-anc-s-windfal-tax-proposal.html>, accessed 20 September 2012.