Minerals Resource Rent Tax Repeal and Other Measures Bill 2013

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Economics Section
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Date introduced: 13 November 2013
House: House of Representatives
Portfolio: Treasury
Commencement: Schedule 1 commences on 1 July 2014. Schedules 2-9 commence on Royal Assent.

Links: The links to the Bill, its Explanatory Memorandum and second reading speech can be found on the Bill’s home page, or through http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation
When Bills have been passed and have received Royal Assent, they become Acts, which can be found at the ComLaw website at http://www.comlaw.gov.au/.
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The Bills Digest at a glance

What the Bill does

- This Bill repeals the Minerals Resource Rent Tax, and repeals (or modifies, in two cases) several other measures.

Background

- A resource rent tax is a tax on rents. In economic terms that is a tax on the excess profits earned from having access to scarce mineral resources. The Minerals Resource Rent Tax (MRRT) applies only to particular types of mining projects (primarily iron ore and coal). It came into effect on 1 July 2012.

- At the initial May 2010 announcement of a resource rent tax and in subsequent statements, the former Labor Government linked the cost of a number of other measures—concerning business taxation, superannuation, welfare and family assistance payments—to revenue from the MRRT, although there was no actual hypothecation.

Key issues

- The MRRT is a complex tax, with significant administration costs but the potential for significant revenue. Its repeal represents a major change in the regulatory regime for the mining industry.

- The Bill unwinds several of the significant but otherwise unrelated measures the funding of which was linked by the former Labor Government to MRRT revenues. This will have very broad impacts.

- While statements have been made by the current and former Governments linking expenditure to the revenue from the MRRT, there is no hypothecation of funds. The link between MRRT revenue and the Schoolkids Bonus is particularly contentious for a number of reasons.

- There are timing and transitional issues associated with some of the measures in this Bill, as the date of effect means they may be retrospective by the time the legislation is passed.

Structure of the digest

- Key issues relating to the overall package of measures are discussed below, including the linkage between revenue and expenditure, and the overall cost associated with the changes. Each Schedule in the Bill is examined to provide analysis of the relevant policy change.
Purpose of the Bill

The purpose of the Minerals Resource Rent Tax Repeal and Other Measures Bill 2013 (the Bill) is to give effect to the Government’s commitment to repeal the Minerals Resource Rent Tax (MRRT). In addition, the Bill repeals or adjusts several other measures, which have been linked as part of a broader ‘mining tax package’.

- the main purpose of the Bill is to repeal the MRRT and to give effect to it Schedule 1 repeals the:
  - Minerals Resource Rent Tax Act 2012 (MRRT Act 2012) and

- Schedule 2 amends the Income Tax Assessment Act 1997 (ITAA 1997) to discontinue the company loss carry back measures from the start of the 2013–14 income year. Under current legislation companies can carry losses forward or carry back losses up to $1 million to generate a tax offset in the current year

- Schedule 3 amends the ITAA 1997 to change the capital allowances for small business. Small business entities will be able to claim a deduction for the value of a depreciating asset only if it costs less than $1,000 (currently $6,500) in the income year the asset is first used or installed ready for use

- Schedule 4 amends the ITAA 1997 to change the special rules that currently apply to motor vehicles so that they are subject to the same rules as other depreciating assets. A small business entity can at present deduct the first $5,000 of the cost of a motor vehicle in the income year that it is first used or installed ready for use. This concessionary treatment will be withdrawn

- Schedule 5 amends the ITAA 1997 to repeal the immediate deductibility of geothermal exploration or prospecting expenditure

- Schedule 6 of the Bill amends the Superannuation Guarantee (Administration) Act 1992 (SGAA) to change the schedule of increases to the superannuation guarantee charge percentage so that it remains fixed at 9.25 per cent until 2016–17 before increasing incrementally to reach 12 per cent by 2021–22. This is a slower rate of increase than is provided for in the legislation now

- Schedule 7 of the Bill amends the Superannuation (Government Co-contribution for Low Income Earners) Act 2003 so that the Low Income Superannuation Contribution (LISC) will not be payable in relation to eligible contributions made on or after 1 July 2013

- Schedule 8 proposes to abolish the Income Support Bonus (ISB), a lump-sum supplementary payment made twice a year to people on certain income support payments and

- Schedule 9 proposes to abolish the Schoolkids Bonus, a lump-sum payment made twice a year to family assistance and other payment recipients with school-aged children.

Background

The Minerals Resource Rent Tax Act 2012 (MRRT Act 2012) was one of four pieces of legislation enacted to introduce the MRRT, a tax on the profits resulting from minerals resource extraction.1 The MRRT legislation was introduced into Parliament with a number of other bills. Four Acts extended the Petroleum Resource Rent Tax (PRRT) from offshore petroleum resources to the North West Shelf and onshore petroleum resources.2

In its public statements, the former Labor Government suggested that revenue from the MRRT was associated with a number of expense measures that it proposed to implement.

The Coalition announced its intention to repeal the MRRT in a number of policy statements prior to entering government.3 Among its key criticisms of the MRRT were that:

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• it raised little revenue
• the compliance costs for industry are high
• it threatened investor confidence and increased sovereign risk and
• it reduced investment and economic activity.

**What expenditure has been linked to the MRRT?**

When it announced the introduction of a Resource Super Profits Tax (RSPT) in May 2010, the former Labor Government directly linked the revenue from the tax to a number of expense measures. These included:

• funding the income tax forgone from lifting the superannuation guarantee from nine per cent to 12 per cent and

• the introduction of a $500 low income superannuation contribution (LISC) for those earning $37,000 or less. This was to compensate those taxpayers for the 15 per cent superannuation contributions tax they paid on contributions to superannuation, a rate that often exceeded the average rate of income tax they would otherwise have paid had that income not been diverted to superannuation.

This initial link was suggested by the Government in two media releases and reflected in the language of the 2010–11 Budget papers.

However, there is no formal hypothecation of the funds raised by the MRRT for the various expenses measures. Money raised by the MRRT is paid into consolidated revenue. The one formal link was that several measures were expressed in the relevant Bills to be dependent on the MRRT Bills being passed by Parliament. These were: the funding of the phased increases in the superannuation guarantee, the abolition of the maximum age for the tax deductibility for superannuation guarantee payments, the increase to the small business instant asset write-off threshold, and the LISC.

Subsequent to the May 2010 announcements the number of expense measures said to be associated with the MRRT expanded, while some were modified or abandoned.

A summary of various expenditures linked to the MRRT revenue is presented in Table 1. The linkages refer to policy commitments made by the Labor Government prior to the 7 September 2013 election.

**Table 1** Summary of MRRT-linked expenditure measures

<table>
<thead>
<tr>
<th>Measure</th>
<th>Source of linkage (see note)</th>
<th>Comment</th>
<th>Changes proposed by this Bill</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Implemented</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Phased increase in superannuation guarantee from</td>
<td>(a) (b)</td>
<td>Implemented by the Superannuation Guarantee (Administration)</td>
<td>Pause increase scheduled for</td>
</tr>
</tbody>
</table>

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<table>
<thead>
<tr>
<th>Measure</th>
<th>Source of linkage (see note)</th>
<th>Comment</th>
<th>Changes proposed by this Bill</th>
</tr>
</thead>
<tbody>
<tr>
<td>9 to 12 per cent</td>
<td></td>
<td><em>Amendment Act 2012</em></td>
<td>1 July 2014 by two years</td>
</tr>
<tr>
<td>Low income government superannuation contribution</td>
<td>(a) (b)</td>
<td>Implemented by Schedule 4 of the <em>Tax Laws Amendment (Stronger, Fairer, Simpler and Other Measures)</em> Act 2012</td>
<td>Repeal</td>
</tr>
<tr>
<td>Expanding the definition of exploration to include geothermal energy</td>
<td>(d) (j)</td>
<td>Implemented by the <em>Tax Laws Amendment (2012 Measures No. 6)</em> Act 2012</td>
<td>Repeal</td>
</tr>
<tr>
<td>Instant asset write-off for small business ($5,000 threshold)</td>
<td>(a) (b)</td>
<td>Implemented by Schedule 2 of the <em>Tax Laws Amendment (Stronger, Fairer, Simpler and Other Measures)</em> Act 2012. Further threshold increase to $6,500 linked to the carbon price mechanism (CPM) package of measures</td>
<td>Repeal</td>
</tr>
<tr>
<td><strong>Implemented but no legislative basis</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Regional Infrastructure Fund additional funding</td>
<td>(c)</td>
<td>No legislation required for implementation. Initial allocation in 2010–11 Budget. This was then reduced in subsequent Budgets</td>
<td>No legislative changes, although the Government has included savings (reduced funding) in the Explanatory Memorandum.</td>
</tr>
<tr>
<td>Expert Scientific Committee and COAG funding for a new partnership agreement relating to the assessment of coal seam gas projects</td>
<td>(i)</td>
<td>No legislative requirement. Supported by Coalition prior to 2013 election</td>
<td>No change.</td>
</tr>
<tr>
<td><strong>Modified from May 2010 announcement and implemented</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Company tax rate cut to 28 per cent</td>
<td>(a) (b) (f)</td>
<td>Loss carry back Policy to reduce company tax was deferred, amended and then dropped in favour of loss carry-back. Loss carry-back implemented by Schedules 5 and 6 of the <em>Tax and Superannuation Laws Amendment (2013 Measures No. 1) Act 2013</em></td>
<td>Repeal loss carry back.</td>
</tr>
<tr>
<td>Additional social security payments</td>
<td>(f)</td>
<td>Decision to drop company tax cuts also resulted in a policy to increase the level of Family Tax Benefit Part A</td>
<td>Repeal.</td>
</tr>
<tr>
<td>Measure</td>
<td>Source of linkage (see note)</td>
<td>Comment</td>
<td>Changes proposed by this Bill</td>
</tr>
<tr>
<td>------------------------------------------------------------------------</td>
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<td>---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>-------------------------------</td>
</tr>
<tr>
<td>(FTB(A)) from 1 July 2013 and for the introduction of a lump sum 'Supplementary Allowance' to recipients of the Parenting Payment from 20 March 2013. Policy to increase the FTB(A) dropped as part of the 2013–14 Budget. 'Supplementary allowance' renamed as 'Income support bonus' and implemented by the Social Security and Other Legislation Amendment (Income Support Bonus) Act 2012</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Higher superannuation caps for people aged 50 or more with a superannuation balance of less than $500,000</td>
<td>(a) (b)</td>
<td>Policy amended and implemented as a temporary increase in concessional contributions cap to $35,000 (commencing 1 July 2013 for people aged 60 or more and 1 July 2014 for people aged 50 or more). Implemented by the Tax and Superannuation Laws Amendment (Increased Concessional Contributions Cap and Other Measures) Act 2013</td>
<td>No change.</td>
</tr>
<tr>
<td>Raising the superannuation guarantee age limit from 70 to 75</td>
<td>(a) (b)</td>
<td>Policy amended and implemented to abolish the age-based threshold. Implemented by the Superannuation Guarantee (Administration) Amendment Act 2012</td>
<td>No change.</td>
</tr>
<tr>
<td>Not yet implemented</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Phasing down interest withholding tax on financial institutions</td>
<td>(b) (g)</td>
<td>Policy announced in 2010–11 Budget and deferred by 1 year in 2011–12 MYEFO to commence 2014–15</td>
<td>Not proceeding (k) (Policy change not legislated).</td>
</tr>
<tr>
<td>Dropped</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The Government planned to provide individuals with a standard deduction of $500 for work-related expenses and the cost of managing tax affairs from 1 July 2012, increasing to $1,000 from 1 July 2013.</td>
<td>(b) (h)</td>
<td>Policy deferred before decision not to proceed announced in the 2012–13 Budget</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>50 per cent refund on tax paid on savings</td>
<td>(b) (h)</td>
<td>Policy deferred and amended several times before decision not to proceed announced in the 2012–13 Budget</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>Resource Exploration Rebate – a ‘refundable tax offset at the company tax rate for their exploration expenditure’.</td>
<td>(j) (b)</td>
<td>Discontinued as part of the development of the MRRT.</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>Measure</td>
<td>Source of linkage (see note)</td>
<td>Comment</td>
<td>Changes proposed by this Bill</td>
</tr>
<tr>
<td>---------</td>
<td>-----------------------------</td>
<td>---------</td>
<td>-----------------------------</td>
</tr>
<tr>
<td>Not formally linked</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Schoolkids bonus</td>
<td>(e)</td>
<td>Replacement of the Education Tax Refund with the 'Schoolkids bonus' implemented by the <em>Family Assistance and Other Legislation Amendment (Schoolkids Bonus Budget Measures) Act 2012</em> Although mentioned in some interviews (e), see the statement by Ms Macklin (l) that there is no link. The measure involved the repeal of an existing tax refund.</td>
<td>Repeal</td>
</tr>
</tbody>
</table>

Notes on linkages: (a) W Swan (Treasurer) and C Bowen (Minister for Financial Services, Superannuation and Corporate Law), *Stronger, fairer, simpler superannuation banking the benefits of the boom*, op. cit.; W Swan (Treasurer) and K Rudd (Prime Minister), *Stronger, fairer, simpler: a tax plan for our future*, op. cit.


(c) K Rudd (Prime Minister), W Swan (Treasurer) and A Albanese (Minister for Infrastructure), *$6bn regional infrastructure fund*, media release, 9 June 2010, accessed 28 November 2013.


(g) B Shorten (Assistant Treasurer), *One-year deferral of interest withholding tax phase down*, media release, 23 November 2011, accessed 28 November 2013.


(i) J Gillard (Prime Minister) and W Swan (Treasurer), *New focus on scientific evidence to build community confidence in coal seam gas and coal mining*, joint media release, 21 November 2011, accessed 28 November 2013.


(k) J Hockey (Shadow Treasurer) and A Robb (Shadow Minister for Finance, Deregulation and Debt Reduction), *Coalition policy costings and savings*, joint media release, 28 August 2013, accessed 28 November 2013.


**Changes included in the Explanatory Memorandum that do not require legislative change**

As noted on page seven of the Bill’s Explanatory Memorandum⁷, the Government has included two measures in the costings for the Bill that do not require legislative change. These are:

- ‘no phase down of interest withholding tax’ and
- ‘Discontinuing Regional Infrastructure Fund & Regional Development Australia Fund’.

**Phase down of interest withholding tax**

Interest withholding tax is a tax ‘levied (broadly speaking) on any interest paid by an Australian borrower to a non-resident lender’.⁸

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⁸.
Interest withholding tax was initially introduced in 1967, to ensure that overseas lenders paid a reasonable tax contribution, and to simplify collection by the Australian Government. Previously interest paid by Australian companies to non-residents was taxed at a rate of 42.5 per cent. 9 Interest withholding tax enables the Government to tax ‘at the source, without needing to directly tax interest income in the hands of non-residents’. 10

However, as highlighted by the Australian Financial Centre Forum report in 2009, 11 interest withholding tax raises costs for borrowers in Australia, and can result in competitive distortions (where some banks are liable to pay on offshore borrowings, and other are not). The report recommended removing the interest withholding tax in specific areas. 12

On 11 May 2010 the Government announced its intention to ‘phase down the interest withholding tax (IWT) paid by financial institutions in Australia on certain offshore borrowings from 2013-14’, reaching zero in 2014–15. 13

In the subsequent 2011–12 Mid-Year Economic and Fiscal Outlook, the Government modified the date of introduction, deferring it by one year. 14 The then-Opposition stated its intention not to proceed with the phase-down in a press release listing a number of savings on 28 August 2013. 15

No legislative change is required because although the policy change was announced, the relevant Act (the Income Tax (Dividends, Interest and Royalties Withholding Tax) Act 1974 (Cth)) was not modified.

The Regional Infrastructure and Regional Development Australia Funds

The Regional Infrastructure Fund (RIF) and Regional Development Australia Fund (RDAF) were two funds designed to provide funding to regional and local projects. As discussed above, the Explanatory Memorandum includes a saving of $2,682 million over the forward estimates from discontinuing the RIF and RDAF.

The Regional Infrastructure Fund (RIF) was split into three streams: 16

- Stream 1 implemented election commitments made in 2010, worth $916 million
- Stream 2 comprised two elements, ‘worth approximately $4.5 billion’:
  - Economic Infrastructure projects, and
  - Regional Infrastructure Planning projects
- Stream 3 was ‘part of the Regional Development Australia Fund (RDAF) – worth approximately $1 billion, with $573 million to be funded from the Regional Infrastructure Fund’. The RDAF funds ‘capital infrastructure projects which are identified as priorities by local communities’. 17

Neither the RIF nor the RDAF were established by legislation; funding was allocated through the Budget process.

Table 2 outlines previous policy announcements and fund modifications, and expenditure where known.

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10. Australian Financial Centre Forum, Australia as a financial centre: building on our strengths, (Johnson Review), op. cit., p. 65.
11. Ibid.
12. Ibid., p. 68.
13. C Bowen (Minister for Financial Services, Superannuation and Corporate Law and Minister for Human Services) and N Sherry (Assistant Treasurer), Government responds to Australia as a financial services centre report, joint media release, 11 May 2010, accessed 6 December 2013.
15. J Hockey (Shadow Treasurer) and A Robb (Shadow Minister for Finance, Deregulation and Debt Reduction), Coalition policy costings and savings, joint media release, 28 August 2013, accessed 28 November 2013
Table 2  Funding announcements and modifications for RIF and RDAF

<table>
<thead>
<tr>
<th>Date or announcement</th>
<th>Funding commitment</th>
<th>Expenditure on RIF streams 1 &amp; 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011–12 Budget 21</td>
<td>$6,000 million over 11 years to 2020–21, including all streams: 2011–12: $42.4 million (stream 1 only) 2012–13: $704.3 million (streams 1, 2 and 3) 2013–14: $866.8 million (streams 1, 2 and 3) 2014–15: $665.5 million (stream 2 only) 22</td>
<td>Stream 1—$111.4 million 23 Stream 2—$4 million (estimated) In 2011–12 financial year.</td>
</tr>
<tr>
<td>2012–13 Budget</td>
<td>$6,000 million to 2020-21, and: 2012–13: $83.3 million (streams 1 and 2) 2013–14: $483.7 million (streams 1 and 2) 2014–15: $683.6 million (streams 1 and 2) 2015–16: $648 million (streams 1 and 2) 24</td>
<td>$105.3m (both streams - estimated) 25 In 2012–13 financial year.</td>
</tr>
<tr>
<td>2013–14 Budget</td>
<td>2013–14: $163.3 million (streams 1 and 2) 2014–15: $613.8 million (streams 1 and 2) 2015–16: $648.6 million (streams 1 and 2) 2016–17: $775.4 million (streams 1 and 2) 26</td>
<td></td>
</tr>
</tbody>
</table>

**Expenditure by the Regional Development Australia Fund**

Funding by the Regional Development Australia Fund (RDAF) was released in several rounds, the latest being rounds 5A and 5B. Projects to be funded by rounds three and four of the RDAF have been announced and applications for Round 5A closed on 21 June 2013. 27 In evidence before the Senate Rural and Regional Affairs and Transport Legislation Committee, on 18 November 2013, officials reported that, in addition to 55 uncontracted projects from previous rounds, an additional 910 projects previously announced from the latest round were uncontracted and unassessed. 28 Those projects which were announced but not contracted were under review by the Government 29, which has subsequently announced its intention to complete those projects

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20. K Rudd (Prime Minister), W Swan (Treasurer) and A Albanese (Minister for Infrastructure), 36 billion regional infrastructure fund, op. cit.
22. Ibid., p. 76.
24. Ibid., p. 90.
26. Ibid., p. 92.
29. Ibid., p. 22.
awarded in rounds 2-4, but not in subsequent rounds. It is unclear what funds are committed or not committed.

**Committee consideration**

**Senate Economics Legislation Committee**

The Bill was referred to the Senate Economics Legislation Committee for inquiry and its report was tabled on 2 December 2013. The inquiry received 25 submissions which are at inquiry webpage.

The Committee made three recommendations:

The committee recommends that the government revisit certain measures in the Bill, in particular incentives in superannuation for low income earners and taxation issues affecting small business, once the Budget returns to strong surplus ...

The committee recommends that the government consider revisiting the question of incentives in superannuation for low income earners as part of its tax review ...

The committee recommends that the Bill be passed.

A dissenting report by Labor Members stated:

Labor senators have a fundamental view that Australians deserve to share in the benefits of the minerals we all own—the MRRT is a profit-based tax, so when profits are high, revenue is up. When profits are lower (that is, during the construction phase of the boom), of course revenue will be lower—that is how the tax works. The MRRT was not put in place for the next six months, it was put in place for the next generation ...

While repealing the MRRT might reduce the tax burden on some iron ore and coal miners, the consequent repeal of, or changes to, other measures would have a detrimental effect on some of Australia’s poorest workers and on small businesses operating in a difficult economic environment.

The dissenting report recommended that ‘the Bill not proceed’.

**Senate Standing Committee for the Scrutiny of Bills**

The Senate Standing Committee for the Scrutiny of Bills had no comment on the Bill.

**Policy position of non-government parties/independents**

The Labor Party voted against the current repeal package in the House of Representatives.

The Australian Greens oppose the repeal of the MRRT and Deputy Leader, Mr Bandt voted against the repeal package in the House.

Of the minor parties and independent members that have been re-elected to the 43rd Parliament, Mr Katter and Senator Madigan voted against the MRRT and related Bills.
Mr Palmer voted in support of the repeal package in the House. Family First ‘opposes the Mineral Resource Rent Tax’. The Australian Motoring Enthusiast Party does not have an explicit position on the MRRT.

**Financial implications**

The Explanatory Memorandum provides a table listing the financial impact of the measures in the Bill, with a net impact of $13.4 billion over the forward estimates (2013–14 to 2016–17).

The table below draws on costings provided in the Explanatory Memorandum, but only includes those changes resulting directly from this Bill, rather than reflecting the Government’s assessment of the overall cost of the package.

<table>
<thead>
<tr>
<th>Table 3</th>
<th>Financial implications of the Minerals Resource Rent Tax Repeal and Other Measures Bill 2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>Measure (a)</td>
<td>2013-14</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Repeal of MRRT (b)</td>
<td>21.7</td>
</tr>
<tr>
<td>Discontinuing company loss carry-back</td>
<td>–</td>
</tr>
<tr>
<td>Reduction of instant asset write-off threshold from $6,500 to $1,000 (c)</td>
<td>550.0</td>
</tr>
<tr>
<td>Discontinuing vehicle accelerated depreciation</td>
<td>–</td>
</tr>
<tr>
<td>Amending geothermal exploration treatment</td>
<td>–</td>
</tr>
<tr>
<td>Rephasing the superannuation guarantee increase</td>
<td>–</td>
</tr>
<tr>
<td>Abolishing the low income superannuation contribution</td>
<td>–</td>
</tr>
<tr>
<td>Abolishing the income support bonus</td>
<td>150.7</td>
</tr>
<tr>
<td>Abolishing the school kids bonus</td>
<td>549.5</td>
</tr>
<tr>
<td><strong>Net Impact (a)</strong></td>
<td><strong>721.9</strong></td>
</tr>
</tbody>
</table>

(a) The net impact included in the Explanatory Memorandum includes two additional savings measures: discontinuing the Regional Infrastructure Fund and the Regional Development Australia Fund, and not phasing down interest withholding tax. Neither of these savings measures requires legislative change; for that reason neither of the savings has been included in the table above.

(b) The timing of the MRRT repeal means collections will still take place for the 2013–14 financial year; in August 2013 this was expected to be $600 million: C Bowen (Treasurer) and P Wong (Minister for Finance and Deregulation), Economic statement, August 2013, p. 35, accessed 28 November 2013.

(c) The table in the Explanatory Memorandum lists the increased tax revenue from lowering the threshold from $5,000 to $1,000, but lists the increased revenue from lowering the tax-threshold from $6,500 to $5,000 separately in a footnote, on the basis that this ‘was intended to be funded by revenue expected from the carbon tax.’ However this legislation (the Minerals Resource Rent Tax Repeal and Other Measures Bill 2013) lowers the threshold from $6,500 to $1,000.


**Date of effect and timing considerations**

The changes in the legislation, if passed, will impact on payments and tax collections in the very near future:

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• Schedule 1 (repealing the Minerals Resource Rent Tax) will take effect from 1 July 2014
• Schedule 2 (repealing loss carry back) removes the loss carry-back for the 2013–14 financial year
• Schedules 3 and 4 (lowering small business instant asset write-off caps and decreasing vehicle depreciation) apply from 1 January 2014
• Schedule 5 (removing geothermal energy expenditure deductions) begins on 1 July 2014
• Schedule 6 (delays to the superannuation guarantee charge increase) begins on 1 July 2014
• Schedule 7 (removing the low income superannuation guarantee charge increase) removes the loss carry-back for the 2013–14 financial year
• Schedule 8 (removing the Income Support Bonus) takes effect from the date of Royal Assent. The next assessment day for the Income Support Bonus is 20th March 2014 and
• Schedule 9 (removing the Schoolkids Bonus) takes effect from the date of Royal Assent. The next installment of Schoolkids Bonus is due to be paid to eligible recipients in respect of the bonus test day on 1 January 2014.

As noted in the material below dealing with the individual schedules, the timing of some of these changes may cause uncertainty or confusion for individuals and businesses.

The financial implications of these changes in legislation also depend on the date this Bill is passed. A Treasury submission to the Senate Economics Legislation Committee inquiry into the Bill noted that ‘[a]ssuming passage of the Bill, the degree to which these savings will be achieved, is some degree, dependent on the time at which the Bill receives royal assent’. 44

The Treasury submission noted the potential impact of passage of the Bill on several measures (Table 4).

Table 4 Timing issues associated with the Minerals Resource Rent Tax Repeal and Other Measures Bill 2013

<table>
<thead>
<tr>
<th>Measure</th>
<th>Timing issue</th>
<th>Savings implications</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low Income Superannuation Contribution</td>
<td>‘If the LISC amendments are not passed by 1 July 2014, the ATO may become liable to make LISC payments for contributions made on or after 1 July 2013.’</td>
<td>‘...in practice recovering any payments may be difficult’.</td>
</tr>
<tr>
<td>Superannuation guarantee charge delay</td>
<td>‘... the superannuation guarantee rate will increase under existing legislation to 9.5 per cent for the year starting on 1 July 2014. In this case, employers will be required to pay their eligible employees a SG contribution of 9.5 per cent or risk incurring significant penalties. In addition, employers will require some period to make the necessary payroll and system changes in advance of 1 July 2014.’</td>
<td>‘Hence, if Royal Assent is not received in time, the package savings could be further reduced.’</td>
</tr>
<tr>
<td>Income support bonus</td>
<td>‘... the next installment of the Income Support Bonus occurs on 20 March 2014’</td>
<td>‘If Royal Assent is not received prior to this time, package savings would be reduced by a further $161.9 million’.</td>
</tr>
<tr>
<td>Schoolkids bonus</td>
<td>‘Eligibility for the Schoolkids Bonus is determined on 1 January (for a January payment) ...’</td>
<td>‘... should the legislation not pass Parliament and receive Royal Assent prior to 31 December 2013, package savings would be reduced by $727.9 million in underlying cash terms.’</td>
</tr>
</tbody>
</table>


Statement of Compatibility with Human Rights

The Statement of Compatibility with Human Rights can be found at page 73 of the Explanatory Memorandum to the Bill. As required under Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011 (Cth), the Government has assessed the Bill’s compatibility with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of that Act. The Government considers that the Bill is compatible.

At the time of writing this Digest, the Parliamentary Joint Committee on Human Rights had not reported on this Bill.

However, in commenting on previous legislation (the Social Security Legislation Amendment (Fair Incentives to Work) Act 2012), the Committee noted:

The committee considers that the government has not provided the necessary evidence to demonstrate that the total support package available to individuals who are subject to these measures (moving from Parenting Payment to Newstart Allowance) is sufficient to satisfy minimum essential levels of social security as guaranteed in article 9 of the [International Covenant on Economic, Social and Cultural Rights] ICESCR and the minimum requirements of the right to an adequate standard of living in Australia as guaranteed in article 11 of the ICESCR. Nor has it indicated the basis on which it makes that assessment. In the absence of this information, the committee is unable to conclude that these measures are compatible with human rights.

This assessment of the adequacy of Newstart is of particular importance in relation to Schedule 8 of the Bill which deals with the repeal of the Income Support Bonus.

Schedule 1 – repeal of the Minerals Resource Rent Tax

Schedule 1 of the Bill repeals the Minerals Resource Rent Tax Act 2012, the Minerals Resource Rent Tax (Imposition – Customs) Act 2012, the Minerals Resources Rent Tax (Imposition – Excise) Act 2012, and the Minerals Resource Rent Tax (Imposition - General) Act 2012 (Cth). These four Acts were the legislative framework for the MRRT, as discussed in the Bills Digest prepared by the Parliamentary Library when the legislation was introduced.

The Treasurer has identified a number of reasons for the repeal of the MRRT. Amongst these were the complexity and compliance cost of the tax, the failure of the tax to raise the revenue predicted, and the damage to investor confidence.

Background

Rationale for a resource rent tax

A resource rent tax is a tax that enables governments to collect a return for the private exploitation of a country’s scarce, publicly owned mineral resources. It is a tax on above-normal profits – called rents – being those which exceed the return that would be earned in a competitive market.

Australia has significant mineral resources, and is a leading exporter of a number of those minerals. Those resources are owned by the Australian and state governments.

Because there is a limited supply of mineral resources, extracting and selling the minerals can result in ‘above-normal’ profits (economic rents). The Australia’s Future Tax System Review (the Henry Review) stated:

The finite supply of non-renewable resources allows their owners to earn above-normal profits (economic rents) from exploitation. Rents exist where the proceeds from the sale of resources exceed the cost of exploration and extraction, including a required rate of return to compensate factors of production (labour and capital). In most other sectors of the economy, the existence of economic rents would attract new firms, increasing supply and decreasing prices and reducing the value of the rent. However, economic rents can persist in the resource sector because of the finite supply of non-renewable resources. These rents are referred to as resource rent.52

Essentially, the scarcity of mineral resources means that the benefit associated with extracting the resources can significantly exceed the costs of mining operations (including capital costs). This can result in above normal profits – an economic rent.53

Although mineral resources are owned by the Commonwealth and the states, they allow private companies to explore for and extract these resources. They charge or tax for this access to mineral resources in a number of ways. A key goal here is ensuring an appropriate system is in place, to collect the right return for access to the resource while not being overly restrictive.

The objective in resource taxation policy is to enable the government to collect a reasonable return on the extraction of the community’s non-renewable resources (that is, to collect a major share of the resource rent), while ensuring the costs of the policy are not excessive (costs include administration and compliance costs, and negative impacts on private investment and production decisions).54

One of the most common methods that governments use is output based royalties; essentially a charge based on how much of a commodity is extracted or sold. Royalties target either the value of production (ad valorem royalty) or the volume of production (specific royalty).55 Output based royalties ‘tend to rank more highly for revenue stability ... and administrative simplicity’.56 However, royalties can also cause economic distortions:

Under these options [output based royalties], a higher share of resource rent is collected for less profitable projects resulting in negative distortions to private investment and production decisions. For example ... an ad valorem royalty, levied at a constant rate, overtaxes low profit projects and undertaxes high profit projects. Notably, some projects that were assessed to be economic before tax will become uneconomic or unprofitable under an output based royalty. While the government may collect royalty revenue throughout the production phase of a resource project, there may be significant lost revenue opportunities under an output based royalty, particularly during periods of relatively high industry profitability.57

The Henry Review also noted:

The use of output-based royalties or an income-based tax can be expected to result in fewer discoveries, less output from discovered deposits and earlier closure of projects than otherwise. Therefore, they erode the value of resources for the community while still giving away a share of the resource rent.58

Another way in which governments can charge for or tax access to mineral resources is a resource rent tax.59 A resource rent tax ‘imposes a tax on economic rents over time by collecting a share of a measure of profit’.60 A resource rent tax can exist in a number of forms.

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52. Ibid.
56. Ibid., p. 21.
57. Ibid., p. 22.
60. Australia’s Future Tax System review (Henry Tax Review), Australia’s future tax system: report to the Treasurer: part two: C1-1. The community’s return from the exploitation of its resources, op. cit.
The Henry Tax Review described a ‘Brown Tax’, where the government effectively becomes a partner, including making payments when a project makes a loss:

A Brown tax — a cash flow tax levied at a constant percentage of the difference between receipts and expenditure, or net cash flow. Where there is a negative cash flow, the government refunds the tax value of the negative cash flow to investors and thereby contributes to its share of the costs of investment at the same rate as it shares in receipts. This allows the government to collect a share of the rent equal to the tax rate ... 61

A ‘Garnaut and Clunies Ross’ resource rent tax is similar to a Brown tax, but losses are carried forward to offset future profits:

A Garnaut and Clunies Ross resource rent tax [is] a cash flow tax levied at a constant percentage of the annual positive net cash flow ... It is similar to a Brown tax, but does not provide a cash refund for the tax value of negative cash flows. Instead, negative cash flows are carried forward with interest (the uplift rate). The petroleum resource rent tax (PRRT) is an example of such a tax. 62

Different designs of a resource rent tax can depend on a number of technical factors, including how profits are calculated, and which allowances are included. 63

Resource rent taxes are more complex and administratively difficult than an output based royalty, but are less likely to distort investment. The Henry Review noted: ‘A well-designed rent-based resource tax is less likely to distort investment and production decisions’. 64

Additionally, a resource rent tax can respond flexibly to changes in commodity prices, where an output based royalty would only capture a small portion of the benefit for government:

... rent or income based taxes ensure government revenue varies with changes in economic conditions. Compared with the outcome under output based royalties, rent and income based taxes and royalties reduce investor risk and increase resource rent potential.65

The Reserve Bank of Australia commodity index shows that commodity prices increased significantly in the last decade (Figure 1).

61. Ibid. This direct refunding of losses to mining companies is similar to the design of the initially announced Resource Profits Super Tax, which was subsequently discarded (K Rudd (Prime Minister), Stronger, fairer, simpler: a tax plan for our future, media release, 2 May 2010.

62. Australia’s Future Tax System review (Henry Tax Review), Australia’s future tax system: report to the Treasurer: part two: C1-1. The community’s return from the exploitation of its resources, op. cit.


64. Australia’s Future Tax System review (Henry Tax Review), Australia’s future tax system: report to the Treasurer: part two: C1-1. The community’s return from the exploitation of its resources, op. cit.

While it’s uncertain whether commodity prices will remain at elevated levels in the future or return to a historically lower average, a resource tax is a powerful tool for responding flexibly to price variations. Lindsay Hogan estimates that over the period between the financial years 1999-2000 to 2006-07, a 22.5 per cent Brown tax in place on iron ore and coal would have raised an additional $2.24 billion AUD, and a 40 per cent Brown tax would have raised $14.4 billion AUD on those resources. While those are only general estimates, they suggest the order of magnitude that a resource rent tax can raise.

Future commodity forecasts are highly uncertain, but current forecasts by the Bureau of Resource and Energy Economics suggest that commodity prices, although receding, may remain above historical levels (Table 5 and Figure 2).

### Table 5  Historical and forecast commodity prices

<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td></td>
<td>(US$ per ton)</td>
<td></td>
</tr>
<tr>
<td>Thermal coal</td>
<td>32.35</td>
<td>89.40</td>
</tr>
<tr>
<td>Metallurgical coal</td>
<td>18.54</td>
<td>167.40</td>
</tr>
<tr>
<td>Iron ore</td>
<td>46.01</td>
<td>104.80</td>
</tr>
</tbody>
</table>


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The operation of the Minerals Resource Rent Tax

The operation of the MRRT is complex, and involves a significant number of unique accounting concepts and record-keeping procedures. What follows is a general description only. 67

MRRT liability is assessed for each mining project. The MRRT applies primarily to iron ore and coal, 68 which together make up approximately 45 per cent of mining sector revenue and profits, and 54 per cent of exports (by price). 69

The liability to tax is assessed at the ‘valuation point’, that being the point at which the minerals have been extracted but before significant processing has taken place. 70 ‘Generally, the profit attributed to the resource at this point represents the value of the resource to the Australian community. Where the taxable resource is improved through beneficiation processes, such as crushing, washing, sorting, separating and refining, the value added is attributable to the miner’. 71

MRRT liability is calculated as a portion of mining profits for a project. The concept of ‘profit’ in this context is not operating profit in the conventional or accounting sense because the assessment is made at the valuation point, which is typically before revenue is actually generated by a transaction.

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68. The MRRT also taxes ‘anything produced from a process that results in iron ore or coal being consumed or destroyed without extraction, or coal seam gas extracted as a necessary incident of mining coal’ (J Tomaras, Minerals Resource Rent Tax Bill, op. cit.).
71. Ibid., p. 12.
The calculation of profit is complicated but essentially involves the imputation of revenues and expenses to operations upstream—or before—the valuation point. Detailed explanation can be found in the Explanatory Memorandum for the Bill that introduced the MRRT in 2011. Again, the expenses assessed for this purpose may be different from operating expenses as recorded for accounting purposes.

After MRRT profit is calculated as MRRT revenue less MRRT expenditures, a number of allowances may be applied to reduce the MRRT liability. Among these are:

- the royalty allowance: reduces MRRT liabilities to the extent that the miner has already paid state government royalties
- mining loss allowances: Where a mining project has a loss for a year, the loss is carried forward (‘uplifted’ by the long term bond rate plus seven per cent). This becomes an allowance in future years that can reduce a miner’s MRRT liability.

A miner’s MRRT liability is 22.5 per cent of the MRRT profit, after reduction by any allowances. Where a miner’s profit is $75 million or less, a low profit offset reduces its MRRT liability to nil. This offset gradually phases out at a higher level of mining income.

In addition to the royalty and mining loss allowances, miners may receive an additional allowance to reflect existing investment. In addition, miners may also deduct some pre-mining expenditure in certain cases, and transfer some losses between projects (although not royalty or starting base allowances).

In years where a mining project makes a loss (in MRRT terms, not in the sense measured by income tax), the losses can then be carried forward to offset future profits generated by the project. When carried forward, those losses are also increased (‘uplifted’) by a factor designed to compensate for the cost of capital associated with the project. In the legislation this was set at the government long term bond rate plus seven per cent.

**Criticisms of the Minerals Resource Rent Tax**

**Compliance costs for the MRRT**

The MRRT involved the measurement and recording of information in new ways, and a number of novel accounting concepts. For this reason it imposed a compliance burden on entities liable for the tax, particularly in first implementing new systems. This was a comparatively large cost for smaller miners.

A submission by the Association of Mining and Exploration Companies (AMEC) to the Senate Economics Committee inquiry on the Development and Operation of the Minerals Resource Rent Tax noted that:

Based on direct and anecdotal member feedback, AMEC conservatively estimates that the minimum accumulated total set up costs for all iron ore and coal smaller miners and junior exploration companies (excluding large miners) is estimated to be over $20 million in the first year, and an ongoing annual administration and compliance cost in excess of $2 million.73

Mr Craig Ferrier, Chief Executive Officer of Golden West Resources Ltd, a small scale miner, estimated at the same inquiry that over two years the in-house and external costs of compliance were approximately $50,000-$75,000 a year.74 Rio Tinto’s General Manager for taxation noted at the same inquiry that the initial compliance costs for the MRRT were on a similar scale to other major tax changes (Goods and Services Tax and tax consolidation), and in the order of several million dollars.75

The Explanatory Memorandum for this Bill notes that the cost of administering the MRRT in 2012-13 was around $20 million.76 The Explanatory Memorandum also notes that only around ten large miners (> $250 million annual business income), fewer than five small to medium miners ($2-$250 million annual business income) and fewer than five micro miners (<$2m annual business income) made net MRRT payments. Around 105 large miners, 35

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72. See for example paragraph 4.48–4.88 of the Revised Explanatory Memorandum, op. cit.
74. C Ferrier (Chief Executive Officer, Golden West Resources Ltd.), Official Committee Hansard, 8 April 2013, p. 27, accessed 3 December 2013.
75. R Lyons (General Manager, Taxation, Rio Tinto), Official Committee Hansard, 29 April 2013, p 24, accessed 3 December 2013.
small or medium miners and five micro miners have submitted MRRT instalment notices while making no net payments.  

This difference between registration and receipts may decrease with time, however, particularly as larger miners begin to incur liabilities (see material on the starting base allowance in Appendix A: Forecasting resource rent tax revenue). Additionally, the most significant aspect of the costs faced by business has already been incurred – ongoing costs are likely to be significantly lower than initial sunk costs.

One of the challenges for junior miners is that although a simpler returns process is available to allow companies with revenue below a certain level to declare a nil return, this involves not claiming expenditure that could be used to offset future tax liabilities. In practice, this means that junior miners may choose to make the simplified assessment, but in doing so forego potentially significant tax savings in the future, when they are later liable for the MRRT.

Conversely, if a junior miner chooses to undertake a detailed assessment for MRRT purposes, so that current expenditure can be used to offset any future liabilities, there may be an extended period where compliance costs are incurred, while the tax shield cannot be used.

**Distortions**

One of the significant criticisms of the MRRT was that for a number of reasons it favoured larger, more established miners with existing projects over junior miners with few or no existing mining operations.

One of these relates to the starting base allowance – an allowance designed to recognise existing investment and ensure the MRRT is not retrospective (see Appendix A: Forecasting resource rent tax revenue). However, the existence of the starting base allowance, and the way that it is structured, means that two identical projects with different start dates may face different effective tax rates. In practice, this generous treatment of existing projects means that existing miners and larger organisations may have a reduced liability, or a more generous treatment, because of their existing investment.

A second factor relates to the ‘uplift’ factor. Under the MRRT, costs carried forward are ‘uplifted’ by a particular rate—the long term bond rate plus seven per cent (LTBR+7). This is designed to reflect the weighted average cost of capital (a weighted average of both debt and equity) in financing mining operations. As highlighted by Ergas, Harrison and Pincus, the use of a standard uplift rate can distort incentives for investors.

This may make less risky investments relatively more attractive. These are typically larger operations, with more mines. More risky investments (typically smaller operations, with fewer or no mines), whose weighted average cost of capital is higher than the uplift rate, become comparatively less attractive.

**Forecasting revenues**

Another critique of the MRRT is that despite compliance costs, it has raised very little revenue, particularly compared to forecasts (Table 6). The reasons for this are complex, and involve a range of factors. However, low early collections for the 2012-13 year may reflect a number of factors that are unlikely to persist over the longer term.

<table>
<thead>
<tr>
<th>Table 6</th>
<th>Revenue forecasts for the RSPT and MRRT over time</th>
</tr>
</thead>
<tbody>
<tr>
<td>($ billion)</td>
<td></td>
</tr>
<tr>
<td>May 2010 announcement of Resource Super Profits Tax</td>
<td>3</td>
</tr>
<tr>
<td>November 2011 introduction of MRRT Bills</td>
<td>3.7</td>
</tr>
<tr>
<td>November 2011 MYEFO</td>
<td>3.7</td>
</tr>
</tbody>
</table>

77. Ibid., p. 54, para 3.38-3.39.
2012–13 Budget 3 3.5 3.2 3.7
October 2012 MYEFO 2 2.4 2.1 2.6
2013–14 Budget 0.2 0.7 1 1.4 2.2
2013–14 Economic Statement 0.6 0.7 1 1.4 2.2
2013 Pre-Election Economic and Fiscal Outlook 0.7 0.8 0.9 1.1 1.8
Explanatory Memorandum for repeal legislation - - 0.4 1.1 1.8

This difficulty in forecasting revenues results from a number of factors, including inherent difficulties in forecasting commodity prices and resource rent tax collections. Additionally, the transition to implementing a new tax means that some entities may not be liable for some years, and collections may be delayed. See Appendix A: Forecasting revenue from the Minerals Resource Rent Tax for more detail.

**Investor confidence and sovereign risk**

Another critique of the MRRT has been that the rapid changes to the framework were an appropriation of investments made under a previous investment regime, and that hasty changes in regulatory framework could result in reduced investor confidence and a perception of sovereign risk.

The Resource Super Profits Tax was announced on 2 May 2010, as part of the response to the Henry Tax Review. After a strong reaction, a heads of agreement was signed on 1 July 2010 by the Prime Minister, the Treasurer, the Minister for Resources, Energy and Tourism, and the corporate heads of BHP Billiton, Rio Tinto Australia and Xstrata Coal.80 The legislation passed both houses of Parliament on 19 March 2012, and came into effect from 1 July of the same year.

In assessing sovereign risk, a number of measures are useful, including both surveys of investors, and assessing mining investment and exploration expenditure. For a further discussion of these issues, and the degree to which the announcement and implementation of the MRRT impacted mining investment, see Appendix B: International Resource Taxation and Appendix C: Sovereign Risk and Investor Perceptions.

**Position of major interest groups**

The Minerals Council of Australia supports the repeal of the MRRT. The MCA notes:

The MCA has consistently stated that the MRRT was unnecessary to ensure all Australians benefitted from the Millennium mining boom ... The debate and misguided rhetoric surrounding the RSPT and MRRT over the last three and a half years has undermined Australia’s sovereign risk standing in a highly competitive global market for resources development ... By removing an additional and unnecessary layer of tax, repeal of the MRRT will help restore industry confidence, reduce tax system complexity and improve Australia’s sovereign risk reputation.81

The Chamber of Minerals and Energy of Western Australia (CME) of ‘supports the repeal of the Mineral Resources Rent Tax (MRRT) and accompanied legislation extending the Petroleum Resource Rent Tax (PRRT)’.82

The Australian Industry Group (AiG) supports the repeal of the MRRT.83

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However, AiG noted:

[The fundamental policy case for having a well-designed approach to the taxation of “super profits” associated with high prices received from the sale of non-renewable resources is a strong one ... If designed well and in a way that only taxed profits in excess of the level that would attract investment, distortions could be minimised and would certainly be lower than those that arise from quantity-based or price-based royalties which are levied regardless of the return on capital employed.]

The Australian Council of Trade Unions (ACTU) opposes the repeal of the MRRT and the associated expense measures. The ACTU submission noted that:

The review of Australia’s tax system chaired by Ken Henry recognised the significance of these resources for our community and that the taxation arrangements that existed prior to 2010 were not adequate ... While the subsequent MRRT arrangements were flawed in some important aspects, they nevertheless acted to secure some of the return that the Henry review panel had thought fair and legitimate for the community to expect.

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

Industry groups and mining industry organisations are key supporters of the MRRT repeal. In addition to the submissions above, BHP Billiton, Fortescue Metals Group, and the MagnetiNete Network supported the repeal. Additionally, the Association of Mining and Exploration Companies, Atlas Iron Limited and the Australian Chamber of Commerce and Industry support the repeal of the MRRT.

However other submissions, although acknowledging flaws in the MRRT, were opposed to repealing it, arguing that some resource-rent taxation framework was better than none. In addition to the ACTU (above), the Construction, Forestry, Mining and Energy Union and the Australia Institute opposed the repeal of the MRRT.

**Key issues and provisions**

**Transitions in ending the Minerals Resource Rent Tax**


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84. Ibid, p. 2.


Schedule 1 takes effect on 1 July 2014. However, if the legislation does not pass during the current Senate term, which ends on 30 June 2014, the consequence could be that during the first quarter of the 2014-15 financial year, and possibly later, mining companies might face a situation in which they are legally liable for a tax which the Government has declared an intention to remove, possibly retrospectively. This is likely to cause additional compliance concerns for liable entities.

**Schedule 1, Part 3** preserves the effect of the MRRT Acts in relation to MRRT tax years ending on or before 30 June 2014. This is to make sure that entities’ liability for the MRRT still exists in that period.

**Schedule 1, item 131** preserves the Tax Commissioner’s powers to make legislative instruments (under section 117-5 in Schedule 1 of the *Taxation Administration Act 1953* (Cth)), despite the repeal of section 117-5, in relation to MRRT collection periods before 1 July 2014.

**Other provisions**

**Changes to the Petroleum Resource Rent Tax**

At the time that the MRRT was established by legislation, the Petroleum Resource Rent Tax was also extended to onshore projects and the North West shelf. The interaction between these two regimes means that the removal of the MRRT requires some adjustments to the PRRT.

Petroleum resources which would otherwise be taxed under the MRRT are no longer excluded from the PRRT (as the MRRT will cease to exist: **Schedule 1, item 48**). One result of this change is that coal seam gas (CSG) will then be taxed under the PRRT. The repeal legislation includes an additional amendment, which means that under certain conditions, miners will not be liable for the PRRT on the CSG recovered.

Specifically, **item 51** of **Schedule 1** excludes incidental recovery of CSG. The test here is whether the CSG is recovered as a by-product of coal mining, is required to be extracted for safe coal mining, or is necessary for minimising fugitive emissions. **Item 52** deals with a situation where a license enables exploration for both petroleum and non-petroleum resources by ensuring that only expenses associated with petroleum exploration can be used to reduce PRRT liabilities.

**Schedule 2 – repeal of loss carry back**

**Schedule 2** discontinues the company loss carry back measures from the start of the 2013-14 income year.

**Background**

The loss carry back measures were introduced by Schedules 5 and 6 of the *Tax and Superannuation Laws Amendment (2013 Measures No. 1) Act 2013*. The Bills Digest on that Bill, at pages 29 to 42, provides background to the measure including loss carry back arrangements in other countries, benefits of loss carry back, development of the loss carry back policy, the policy position of non-government parties and independents, the position of major interests groups, main provisions and key issues and the value of the tax offset. Further, this Bills Digest has a number of useful links to material relating to the matters mentioned earlier.

The Parliamentary Library Quick Guide *The Minerals Resource Rent Tax and associated expense measures: a quick guide to sources* has useful links to the associated measures including the loss carry back, the small business instant write off threshold and the accelerated depreciation for motor vehicles.

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90. The Labor Party has voted against the tax (Australia, House of Representatives, ‘Minerals Resources Rent Tax Repeal and Other Measures Bill 2013’, *Votes and Proceedings, HVP 6*, 20 November 2013), and the Greens oppose the repeal (C Milne (Leader of the Australian Greens), *Repeal of mining tax will make life tougher*, media release, 24 October 2013).


How loss carry back works

Division 160 of the *Income Tax Assessment Act 1997* (ITAA 1997), which was inserted by the *Tax and Superannuation Laws Amendment (2013 Measures No. 1) Act 2013*, deals with the corporate loss carry back tax offset. Section 160-1, which is the guide to Division 160, states that a corporate tax entity can choose to ‘carry back’ a tax loss it has for the current year, or for the preceding income year, against the income tax liability it had for either of the two income years preceding the current year.

The entity gets a refundable tax offset for the current year that is a proxy for the tax the entity would save if it deducted the loss in the income year to which the loss is ‘carried back’. The refundable tax offset is capped at the lesser of $1,000,000 multiplied by the corporate tax rate, and the entity’s franking account balance. As the corporate tax rate is 30 per cent, the maximum tax offset is $300,000.

A transitional period applies for the 2012–13 income year. For that year a claim for a loss carry back tax offset can be made only against the tax liability for the 2011–12 income year.

Position of major interest groups

In its submission to the Senate Economics Legislation Committee inquiry, the Australian Council of Trade Unions noted:

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

The Australia Chamber of Commerce and Industry (the ACCI) submission stated that the MRRT Bill which will abolish a range of tax measures such as the loss carry back regime for companies and the capital allowances for small business entities have merit in their own right to be a feature of the tax system and funded independently.

The Bill to repeal the MRRT and other associated measures will abolish a range of tax measures that were notionally funded by the mining tax. ACCI believes that some of these tax measures, such as changes to the capital allowances for small business entities and the loss carry back regime for companies, have merit in their own right and should always have been decoupled from the MRRT legislation and funded independently.

The submission of the Australia Institute questioned the rationale for repealing measures which generally assisted small business—such as the loss carry back, the reduction in small business instant write off threshold and accelerated depreciation for motor vehicles—in order to benefit big businesses in the mining sector. It added that most small business operates outside the mining industry and has been disadvantaged by the mining boom, which has made much of the Australian economy uncompetitive. It also took the view that the reduction in accelerated depreciation for motor vehicle is likely to affect motor vehicle manufacturing in Australia.

A number of other organisations opposed the repeal of the measure, including the Australian Industry Group, the Institute of Public Accountants and the Real Estate Institute of Australia.

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100.Australia Institute, Submission to the Senate Economics Legislation Committee, op cit., p. 14.

**Key issues and provisions**

**The Regulation Impact Statement consideration**

The Regulation Impact Statement (RIS) in paragraphs 3.42 to 3.47 at pages 55 to 56 of the Explanatory Memorandum considers the impact of the repeal of the loss carry back arrangements. The salient conclusions drawn in the RIS are as follows:

- the repeal will have a negligible effect on the compliance burden on companies (paragraph 3.43)
- small companies whose profitability is volatile may face a higher effective tax rate as they may not be able to readily write-off their losses against their profits (paragraph 3.44)
- there will be minor transitional compliance costs for small business entities in adjusting to the new arrangement. The total compliance costs have been estimated at $734,400, representing a 10 year average of $73,440 (paragraph 3.46).

**Item 1 of Schedule 2** repeals Division 160 of the ITAA 1997.

**Item 2 of Schedule 2** repeals the transitional provisions related to the introduction of the loss carry back provisions in the *Income Tax (Transitional Provisions) Act 1997*.

**Detailed explanation of new law**

The Explanatory Memorandum in paragraphs 2.10 to 2.16 gives a detailed explanation of the new law.

**Application**

The loss carry back is repealed with effect from the start of the 2013–14 income year (Schedule 2, item 42).

The operation of the loss carry back provisions for the 2012–13 income year is preserved, including for the purposes of any future action that relates to their operation for that year (Schedule 2, subitem 43(1)).

The RIS adds that if the repeal is not enacted by 30 June 2014, taxpayers will be able to claim the offset in their 2013–14 tax return and be subject to an amended assessment after enactment.\(^\text{102}\)

**Schedules 3 and 4 – Decreasing small business tax deductions**

**Schedule 3** effects changes to the capital allowances for small business. In consequence, small business entities will now be able to claim a deduction for the value of a depreciating asset that costs less than $1,000 (previously $6,500) in the income year the asset is first used or installed ready for use.

**Schedule 4** effects changes to the special rules that currently apply to motor vehicles, so that they are subject to the same rules as other depreciating assets. A small business entity can at present deduct the first $5,000 of the cost of a motor vehicle in the income year that it is first used or installed ready for use. This concessionary treatment will be withdrawn.

**Background**

Schedules 2 and 3 of the *Tax Laws Amendment (Stronger, Fairer, Simpler and Other Measures) Act 2011* introduced the increase to the small business instant write-off threshold and small business entities’ accelerated deductions for motor vehicles.\(^\text{103}\) For tax purposes, small business means ‘small business entity’, which is an individual, partnership, trust or company with aggregated turnover of less than $2 million.\(^\text{104}\)

The higher instant asset write-off threshold was first announced by the Government as part of its response to the Henry Tax Review in May 2010.\(^\text{105}\) The increase in the threshold from $5000 to $6500 was announced as part

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\(^{103}\) *Tax Laws Amendment (Stronger, Fairer, Simpler and Other Measures) Act 2011, accessed 4 December 2013.*

\(^{104}\) *Australian Taxation Office (ATO), ‘Are you a small business for the current year’, ATO website, 8 January 2013, accessed 8 December 2013.*

\(^{105}\) *W Swan (Treasurer) and K Rudd (Prime Minister), Stronger, Fairer, Simpler: A Tax Plan for Our Future, joint media release, 2 May 2010, accessed 4 December 2013.*
of the Clean Energy package in July 2011.106 The modifications to motor vehicle depreciation arrangements were announced on 8 May 2011.107

The Bills Digest to the *Tax Laws Amendment (Stronger, Fairer, Simpler and Other Measures) Bill 2011* gives further background information to the introduction of these measures.108

**Position of major interest groups**

The submission by the Australian Chamber of Commerce and Industry (ACCI) to the Senate Economics Legislation Committee urged that the capital allowances for small business entities which are to be amended by Schedules 3 and 4 should remain a permanent feature of the tax system.109

**Key issues and provisions**

**The current legislation**

Subdivision 328-D of the *Income Tax Assessment Act 1997* (ITAA 1997) specifies the instant asset write-off cap of $6,500 for small businesses.110 Following the amendments in Schedule 3 of the *Tax Laws Amendment (Stronger, Fairer, Simpler and Other Measures) Act 2011*, Subdivision 328-D also allows small businesses that choose to use the capital allowances in Subdivision 328-D to claim up to $5000 as an immediate deduction for a motor vehicle in the year they start to use the motor vehicle, or have it installed ready for use, for a taxable purpose.

The amendments proposed by **items 1 to 11** of **Schedule 3** of the Bill have the effect of reducing the instant write-off threshold to $1,000.

The amendments proposed by **items 1 to 8** of **Schedule 4** of the Bill have the effect of discontinuing the accelerated depreciation for motor vehicles.

**The Regulation Impact Statement**

The salient conclusions drawn in the RIS about the reduction of the instant write-off are as follows.

- the reduction in this concessional capital allowance will result in a negative impact on cash flow of some small businesses, although it will not reduce the overall quantum of deductions (paragraph 3.50) and

- there will be some transitional compliance costs for small business entities as they adjust to the new threshold. The total compliance costs have been assessed at $924,800, representing a 10 year average of $92,480 (paragraph 3.53).111

The salient conclusions drawn in the RIS about the discontinuation of the accelerated depreciation arrangements for motor vehicles are as follows.

- the reduction in this concessional capital allowance will result in a negative impact on cash flow of small business entities that use motor vehicles, due to those vehicles being depreciated over a longer timeframe (paragraph 3.57) and

- there will be some minor transitional compliance costs for small business entities adjusting to the new arrangements. The total compliance costs have been assessed at $462,400, representing a ten year average of $46,240 (paragraph 3.58).

**Detailed explanation of the new law**

The Explanatory Memorandum in paragraphs 2.17 to 2.29 gives a detailed explanation of the new law.

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106.G Combet (Minister for Climate Change and Energy Efficiency) and N Sherry (Minister for Small Business), *Helping small business adjust to a carbon price*, joint media release, no. 077, 10 July 2011, accessed 4 December 2013.
107.W Swan (Treasurer), B Shorten (Minister for Financial Services and Superannuation) and N Sherry (Minister for Small Business), *Supporting Australian small business*, joint media release, 8 May 2011.
Date of effect
The changes to the capital allowances made by Schedules 3 and Schedule 4, apply from 1 January 2014 (Schedule 3, item 11; and Schedule 4, item 8 respectively).

Schedule 5 – Deductions for geothermal exploration expenditure
Schedule 5 amends the ITAA 1997 to repeal the immediate deductibility of geothermal exploration or prospecting expenditure.

Background
Geothermal energy is heat energy contained in or stored in rock, water or any other material that occurs within the earth. Australia has significant potential for geothermal energy; companies are currently exploring for regions of elevated temperatures at five kilometres deep or less. Geoscience Australia is undertaking significant work to better understand where these hot spots are in order to support the geothermal industry and encourage exploration in Australia.112

The Policy Transition Group, in a report to the Australian Government in December 2010, recommended that tax law should be amended to include geothermal energy exploration in the definition of ‘exploration and prospecting’. 113

On 24 March 2011 the then Minister for Resources, Energy and Tourism announced that tax law would be amended to extend the immediate deductibility of exploration expenditure to geothermal energy explorers. 114

Tax deductions currently available to geothermal explorers
Schedule 3 of the Tax Laws Amendment (2012 Measures No. 6) Act 2013 amended the ITAA 1997 to extend to geothermal energy explorers the immediate deductibility of exploration expenditure provided to mining and petroleum explorers. 115

The Bills Digest to the Tax Laws Amendment (2012 Measures No. 6) Bill 2013 gives further information on the background and key provisions such as the definition of ‘geothermal energy resources’ and ‘geothermal energy extraction’. 116

Under Division 40 of the ITAA 1997, dealing with capital allowances, an immediate deduction for geothermal energy exploration and development expenditure can be claimed under two provisions.

‘Geothermal exploration rights’ and ‘geothermal exploration information’ are intangible depreciating assets under paragraphs 40-30(2)(ba) and 40-30(2)(bb) respectively. Subsection 40-80(1A) allows the cost of depreciating a asset first used for exploration or prospecting for geothermal energy resources to be immediately deductible.

Subsections 40-730(2A), (2B) and (3) provide that expenditure on exploration and prospecting which does not form part of a depreciating asset may also qualify for an immediate deduction.

Position of major interest groups
The Australia Institute opposes the repeal of geothermal exploration expenditure deductibility:

Geothermal energy is relatively new in Australia and there is no commercial production as yet. However geothermal energy has massive potential with Geoscience Australia reporting that just one per cent of the shallow geothermal energy could supply all of Australia’s energy needs for 26,000 years. Moreover, geothermal energy can be used to provide base load power since it does not fluctuate with the wind, sunlight or rainfall in the case of hydro power. Expenditure on exploration or prospecting for the purpose of mining and quarrying is immediately deductible against assessable income in Australia. However, that did not extend to geothermal energy until amendments made

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in 2012 and which applied from July 2012 ... If this measure is repealed geothermal exploration will not have the same incentives as any ordinary explorer looking for fossil fuels will get ... This decision should not go ahead or, if it does, it should be replaced with measures to boost the attraction of investment in geothermal.¹¹⁷

**Key issues and provisions**

**Item 5 of Schedule 5** repeals paragraphs 40-30(2)(ba) and 40-30(2)(bb) of the ITAA 1997 and **item 7 of Schedule 5** repeals subsection 40-80(1A) of the ITAA 1997, thus denying immediate deductibility to geothermal energy exploration expenditure that is an intangible depreciating asset. **Item 16 of Schedule 5** repeals subsections 40-730(2A) and (2B) of the ITAA 1997, denying immediate deductibility to that part of expenditure that is not an intangible depreciating asset.

**The Regulation Impact Statement consideration**

**Schedule 5 amendments**

The Regulation Impact Statement (RIS) in paragraphs 3.60–3.64 at pages 59–61 of the Explanatory Memorandum considers the impact of discontinuing the inclusion of geothermal exploration within the wide definition of ‘exploration’ from 1 July 2014 by the amendments in **Schedule 5**.

The salient conclusions drawn in the RIS are as follows.

- removing geothermal exploration from the wider definition of ‘exploration’ will deny geothermal exploration companies the immediate write-off and require them to depreciate relevant assets over time, as is generally applicable to non-exploration assets. In consequence there will be a negative impact on the cash flows of some geothermal explorers (paragraph 3.62) and

- given the small number of geothermal explorers the compliance costs on the industry will be very small overall (paragraph 3.64).

**Detailed explanation of the new law**

The Explanatory Memorandum in paragraphs 2.30 to 2.50 gives a detailed explanation of the new law.

**Application**

**Item 39 of Schedule 5** provides that the repeal of the geothermal expenditure deduction measure applies from 1 July 2014.

**Schedule 6 – Superannuation Guarantee charge increase delay**

Schedule 6 of the Bill amends the *Superannuation Guarantee (Administration) Act 1992* (SGAA) to change the schedule of increases to the Superannuation Guarantee Charge percentage so that it remains fixed at 9.25 per cent until 2016–17 before increasing incrementally to reach 12 per cent by 2021–22.¹¹⁸

**Background**

Under the SGAA, employers are compelled to contribute a minimum percentage of an employee’s ordinary earnings into a superannuation fund on behalf of the employee.

The mechanism in place under the SGAA is that all employers are liable for the Superannuation Guarantee Charge (SGC or the charge). The amount of the charge is reduced by the amount of superannuation guarantee contributions that an employer makes into a superannuation fund by the due date. If the employer does not make the required superannuation contributions on behalf of their employees by the due date (28 days after the end of the relevant calendar year quarter) they are liable to pay the charge.¹¹⁹ Relief from paying some elements of the charge is given if the superannuation contribution payments are made within a further 28 day period.

The SGAA currently includes two measures that were linked to the passage of the MRRT:

- raising the superannuation guarantee age limit from 70 to 75—a policy which was changed to abolish the age-based threshold during the passage of the Bill and

¹¹⁷ Australia Institute, *Submission to the Senate Economics Legislation Committee*, op cit., p. 15.


¹¹⁹ Ibid., section 16.
• a phased increase in the SGC from 9 per cent to reach 12 per cent by 2019–2020.

The SGAA provides for an initial increase of 0.25 percentage points for the 2013–14 and 2014–15 financial years, followed by annual increases of 0.5 percentage points until the SGC reaches 12 per cent in 2019–20. The amendments to the SGAA proposed by Schedule 6 of the Bill change the phased increase by holding the SGC at 9.25 per cent for a further two years until 2015–16, rising to 9.5 per cent in 2016–17, then returning to the annual 0.5 percentage point increases before reaching 12 per cent in 2021–22. The differences in the legislated and proposed changes to the SGC are set out in the following figure.

Figure 3  Superannuation guarantee charge (SGC) rate, 1992–2021 (%)

Parliamentary debate on the phased increase in the SGC was combined with the MRRT Bills, thereby limiting attention given to the superannuation issues. While the Coalition supported in principle the removal of the maximum age-based threshold,\(^\text{120}\) it opposed the increase in the SGC on a number of grounds including:

• that it was specifically rejected by the Henry Tax Review

• that it would lower the take home pay of workers

• that it would increase employer costs and

• that reform of superannuation fund governance was required.\(^\text{121}\)

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\(^{120}\) B Bishop, ‘Consideration in detail: Tax Laws Amendment (Stronger, Fairer, Simpler and Other Measures) Bill 2011’, House of Representatives, Debates, 22 November 2011, p. 13424, accessed 5 December 2013. The policy to remove the maximum age limit for the superannuation guarantee was proposed in a private members bill, ‘Abolition of Age Limit on Payment of the Superannuation Guarantee Charge Bill 2011’. The policy to remove the maximum age limit for the superannuation guarantee was also a 2010 Coalition election policy (Liberal Party of Australia and the Nationals, The Coalition’s real action plan to support seniors, Coalition policy document, Election 2010, accessed 23 November 2013).

Once legislated, the Coalition’s reported policy position was to not remove the phased increase in the SGC if it were in Government.\textsuperscript{122} Despite taking this position, some Coalition members of parliament were reported as opposing the position not to remove the legislated increases.\textsuperscript{123}

The Coalition policy to delay the increase in the SGC was announced as part of the then Opposition Leader’s budget reply speech in May 2013.\textsuperscript{124} This policy position was included as part of the Coalition’s 2013 election commitments, with the rationale linked to both employer costs and employee take home pay:

[T]he gradual increase will be delayed by two years because this money comes largely from business and wages – not from government – and our economy needs encouragement as mining investment starts to wane and new sources of growth are needed. This will mean that people will have more take home pay to ease cost of living pressure.\textsuperscript{125}

**Position of major interest groups**

Several superannuation industry groups including the Australian Institute of Superannuation Trustees (AIST) and the Financial Services Council (FSC) support the phased increase to 12 per cent but were not critical of the proposed pause.\textsuperscript{126}

Both the Association of Superannuation Funds of Australia (ASFA) and the Industry Super Australia (ISA) (formerly Industry Super Network) do not support delay in the increase in the SGC, highlighting the negative impact on low income earners.\textsuperscript{127} ASFA notes that:

The increase in the SG particularly benefits those on average and lower than average incomes given that they are the ones most likely to receive contributions no greater than the compulsory rate. Women in particular are likely to receive contributions no more than the SG. As a result, those groups on average and below average incomes generally have lower superannuation savings than are needed to support a comfortable standard of living in retirement or even to support living with dignity in retirement.\textsuperscript{128}

The Australian Council of Trade Unions (ACTU) opposes the proposed pause, considering that it ‘will act to reduce aggregate superannuation savings at a time when there is a broad consensus that they are already insufficient for most workers’.\textsuperscript{129}

The Australian Industry Group (AIG) did not support the lift in the SGC to 12 per cent and supports the pause. The AIG also considers that the lift to 12 per cent should be re-examined as part of the Government’s proposed taxation review.\textsuperscript{130} The AIG note that:

> Depending on the incidence of the changes, it imposes costs on business or it detracts from disposable incomes. These impacts are occurring at a time when business costs are under pressure and household spending is weak and, regardless of the economic incidence of the measure, it has dampened economic activity and growth when the economy has been slowing.

\textsuperscript{122}\textsuperscript{A} Probyn, ‘Opposition pledge to reverse benefits’, West Australian, p. 4, 24 November 2011, accessed 5 December 2013.

\textsuperscript{123}\textsuperscript{P} Coorey, ‘Coalition split over super rise linked to the mining tax’, Sydney Morning Herald, 22 March 2012, p. 5, accessed 5 December 2013.


\textsuperscript{126}Australian Institute of Superannuation Trustees (AIST), Submission to The Treasury, Draft Mineral Resource Rent Tax Repeal and Other Measures Bill 2013, October 2013, p. 3, accessed 5 December 2013; Financial Services Council (FSC), FSC Commends Government Commitment to Superannuation, media release, 24 October 2013, accessed 5 December 2013.


\textsuperscript{128}Association of Superannuation Funds of Australia (ASFA), ibid.

\textsuperscript{129}Australian Council of Trade Unions (ACTU), Submission to The Treasury, Abolition of the Minerals Resource Rent Tax and related measures, op. cit., p. 9.

In addition to these shorter-term considerations, the selection of this means of raising the adequacy of the superannuation system from a range of alternatives, including the more substantial approach floated in the Australia’s Future Tax System Review, was not subject to consultation nor community debate.\footnote{131}

In submissions to the Senate inquiry, the Financial Planning Association of Australia, the Financial Services Council, and Women in Super opposed the pause, while the Australian Chamber of Commerce and Industry opposes the increase in the Superannuation Guarantee, and supports the pause in the increase.\footnote{132}

**Key issues and main provisions**

**Item 1 of Schedule 6** of the Bill repeals existing subsection 19(2) of the SGAA and replaces it with the amended timeline for changes in the SGC (Table 7).

**Table 7 Superannuation Guarantee Charge percentage**

<table>
<thead>
<tr>
<th>Year starting</th>
<th>Existing charge percentage</th>
<th>Amended charge percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 July 2013</td>
<td>9.25</td>
<td>9.25</td>
</tr>
<tr>
<td>1 July 2014</td>
<td>9.5</td>
<td>9.25</td>
</tr>
<tr>
<td>1 July 2015</td>
<td>10</td>
<td>9.25</td>
</tr>
<tr>
<td>1 July 2016</td>
<td>10.5</td>
<td>9.5</td>
</tr>
<tr>
<td>1 July 2017</td>
<td>11</td>
<td>10</td>
</tr>
<tr>
<td>1 July 2018</td>
<td>11.5</td>
<td>10.5</td>
</tr>
<tr>
<td>1 July 2019</td>
<td>12</td>
<td>11</td>
</tr>
<tr>
<td>1 July 2020</td>
<td>12</td>
<td>11.5</td>
</tr>
<tr>
<td>1 July 2021 (and later years)</td>
<td>12</td>
<td>12</td>
</tr>
</tbody>
</table>


As the SGC for the year commencing 1 July 2013 is unchanged, there is no impact for the 2013–14 financial year.

**Impact on employees and employers**

Debates about who pays for the higher superannuation guarantee (in economic terms, the incidence of the increase in the guarantee) distinguish between short term and long term outcomes. In the short run, employers may have lower profits. In the long run, the incidence of the increase may be passed on to consumers (in the form of higher prices), employees (in the form of lower wages).\footnote{133}

In general, academic studies have found that the incidence of the superannuation guarantee has fallen on employees, with employees having received lower wage increases as the superannuation guarantee was imposed and then increased.\footnote{134} When the SGC was proposed to be raised to 12 per cent, the superannuation industry argued that the phased increase over several years will mean that the timing provides assistance to

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\footnote{131}{Ibid, p. 4.}


employers to adapt to its introduction and that the impact on wages costs in any one year will be small.\textsuperscript{135} The Association of Superannuation Funds Australia noted that:

The increase in labour costs due to the SG increase in 2013-14 is likely to be minimal given that wage negotiations (both collective and individual) would take the SG into account when setting wages in that year. Typically nominal wages grow by around 3\% a year, in line with general growth in prices and increases in community living standards. An SG increase of 0.25\% or 0.5\% in later years similarly would be relatively small relative to other labour cost increases incurred by both small and large businesses.\textsuperscript{136}

The proposal to defer the increase in the SGC for two years may have an impact on those employers and employees who had already negotiated wage outcomes that were based on the SGC increasing in these years. However, the impact will depend on the outcomes negotiated, the extent of any additional above-SGC employer superannuation payments and when enterprise agreements expire. For example, workers employed under the ‘2DM Contracting Pty Ltd and the CFMEU Building Industry Enterprise Agreement 2011–2015’ are paid superannuation contributions as specified dollar amounts rather than as a percentage of wages and therefore are unaffected by the change in the SGC.\textsuperscript{137} In contrast, workers employed under the ‘AIDS Council of SA Enterprise Agreement 2012-2015’ receive employer superannuation contributions consistent with the SGC and would therefore be directly impacted by the changes proposed in the Bill.\textsuperscript{138}

For workers on the minimum wage, the Fair Work Commission’s (FWC) annual decision about the increase in minimum wages has generally taken into account the impact of the SGC on employers and employees. In its decision on the quantum of increase to apply for 2013–14 (when the SGC increased to 9.25 per cent), the FWC noted that:

The SG rate increase to apply from 1 July 2013 is a moderating factor in our assessment of the adjustment that should be made to minimum wages. As a result, though it would not be appropriate to quantify its effect, the increase in modern award minimum wages and the NMW we have awarded in this Review is lower than it otherwise would have been in the absence of the SG rate increase.\textsuperscript{139}

It could be expected that any change to legislated SGC increases will also be considered during the FWC’s consideration of minimum wage increases for 2014–15.

### Schedule 7 – Repeal of the Low Income Superannuation Contribution

Schedule 7 of the Bill amends the Superannuation (Government Co-contribution for Low Income Earners) Act 2003 so that the Low Income Superannuation Contribution (LISC) will not be payable in relation to eligible contributions made on or after 1 July 2013.\textsuperscript{140}

#### Background

The LISC is a superannuation contribution, paid by the Commonwealth, of up to $500 to the superannuation accounts of low income earners. To be eligible for the LISC, individuals must have an ‘adjusted taxable income’ of less than $37 000 and derive 10 per cent or more of their total income from business or employment.\textsuperscript{141} The maximum contribution of $500 is based on the contributions tax that would be paid (at a rate of 15 per cent) on the Superannuation Guarantee payment for an employee with a taxable income of $37 000.\textsuperscript{142}

\textsuperscript{135} Association of Superannuation Funds Australia, Submission to the House of Representatives Standing Committee on Economics, Inquiry into the Minerals Resource Rent Tax Bills 2011, 8 November 2011.

\textsuperscript{136} Ibid., p. 3.


\textsuperscript{139} Fair Work Commission, Annual Wage Review 2012–13, FWC, C2013/1, 3 June 2013, accessed 5 December 2013.

\textsuperscript{140} Superannuation (Government Co-contribution for Low Income Earners) Act 2003, accessed 7 December 2013.

\textsuperscript{141} Ibid., section 12C.

The LISC was first announced by the Government as part of its response to the Henry Tax Review in May 2010. The measure was one of several superannuation-related changes announced at the time. The others included an increase in the rate of the Superannuation Guarantee from nine to 12 per cent and increasing the maximum Superannuation Guarantee contribution age from 70 to 75. Importantly, the LISC and these related superannuation measures were to be linked to the proposed Resources Super Profits Tax.

Low income earners do not need to make a personal contribution to qualify for a payment, with a range of payments made on their behalf, including payments made under the Superannuation Guarantee, qualifying them for the payment. Further, there is no requirement for an individual to be proactive in claiming the payment, as the Commissioner of Taxation is given the power to determine eligibility based on information available to the Australian Taxation Office.

In June 2013, an analysis released by the former Government showed that 3.6 million workers, including 2.1 million women, would be affected by the repeal of the LISC.

**Position of major interest groups**

Several superannuation industry groups, including ASFA, the AIST and ISA support the retention of the LISC. The grounds on which they do so include that it is equitable to give such a benefit to low income earners who otherwise do not benefit from superannuation contributions tax concessions. Furthermore, it improves retirement income savings for low income earners.

The ACTU opposes the repeal of the LISC on the basis that it is unfair to low income earners.

The AIG supports the repeal of LISC as it is ‘very mindful of the need for appropriate fiscal discipline and the need to reduce costs on business, lift business investment and reduce regulatory burdens’. The AIG also notes that the Government’s proposed tax review is an opportunity to re-examine this issue:

> This flaw certainly needs addressing but measures such as the low-income superannuation contribution are patchwork rather than systemic solutions. Ai Group supports a more substantial response to this policy issue which should also be considered in the context of the Government’s tax review.

**Key issues and provisions**

**Item 2** of Schedule 7 repeals Part 2A of the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003*, which contains the main elements of the LISC.

**Item 7** provides that the amendments apply in relation to concessional contributions for financial years starting on or after 1 July 2013. As the LISC is payable in the year after eligible concessional contributions have been made, this means that the LISC will only be paid in relation to contributions in the 2012–13 income year.

**Item 9** provides that, prior to 1 July 2015, the Commissioner for Taxation must determine whether the LISC is payable (or an underpaid amount of LISC is payable) in relation to 2012–13. This transitional arrangement effectively places 1 July 2015 as the end date for the administration of the LISC.

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143. W Swan (Treasurer) and C Bowen (Minister for Financial Services, Superannuation and Corporate Law), *Stronger, fairer, simpler superannuation banking the benefits of the boom*, op. cit.

144. Ibid., p. 4.


146. *Superannuation (Government Co-contribution for Low Income Earners) Act 2003* (Cth), section 12C.


152. Ibid.
Equity of superannuation tax concessions

The main argument used by those supporting the LISC is that it addresses the inequity in tax concessions for superannuation contributions which provide a greater tax concession to those on higher marginal tax rates.

The Henry Tax Review noted that the 15 per cent concessional tax on superannuation contributions was considered by some to be inequitable:

Many submissions to the Review have stated that taxing contributions at a flat rate of 15 per cent is unfair to low-income earners. They argue that many low-income earners would pay less tax if the contributions were paid as wages. They note that low-income earners receive a significantly smaller concession than high-income earners.153

The recommendations of the Henry Tax Review relating to superannuation—which included abolishing the tax on superannuation contributions and superannuation co-contribution and treating superannuation as income taxed at marginal personal income tax rates and an offset for all superannuation contributions up to $25 000—were partly aimed at addressing the inequity of current arrangements.154

The greater benefit to those on higher marginal tax rates is based on the differential between the flat superannuation contributions tax of 15 per cent and marginal tax rates (Table 8).

<table>
<thead>
<tr>
<th>Income</th>
<th>Marginal Personal Tax Rate</th>
<th>Super contributions and investment earnings in accumulation phase</th>
<th>Investment earnings in pension phase</th>
<th>Benefit payments in taxed funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 – $18,200</td>
<td>0%</td>
<td>15% (capital gains can be 10%)</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>$18,201 – $37,000</td>
<td>19%</td>
<td>15% (capital gains can be 10%)</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>$37,001 – $80,000</td>
<td>32.5%</td>
<td>15% (capital gains can be 10%)</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>$80,001 – $180,000</td>
<td>37%</td>
<td>15% (capital gains can be 10%)</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>$180,001 and above</td>
<td>45%</td>
<td>15% (capital gains can be 10%)</td>
<td>0%</td>
<td>0%</td>
</tr>
</tbody>
</table>


The benefit of the superannuation contributions tax concession to those at higher income levels is magnified by the higher value of superannuation contributions that are paid for higher income earners. As a result, Treasury estimated that in 2012–13, individuals in the top 10 per cent of income earners accounted for almost 32 per cent of the value of contributions concessions (Table 8). This estimate included the impact of the LISC. Assuming all other things being equal, the removal of the LISC would see the distribution of superannuation contributions concessions favour higher earners even more.

<table>
<thead>
<tr>
<th>2012–13 taxable income</th>
<th>Average contribution ($)</th>
<th>Mean contribution concession ($)</th>
<th>Total contribution concession ($) ($)</th>
<th>Share of contribution concessions (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>First decile</td>
<td>1,300</td>
<td>0</td>
<td>0.0</td>
<td>-0.2</td>
</tr>
<tr>
<td>Second decile</td>
<td>2,100</td>
<td>200</td>
<td>0.2</td>
<td>1.6</td>
</tr>
<tr>
<td>Third decile</td>
<td>3,100</td>
<td>500</td>
<td>0.5</td>
<td>3.6</td>
</tr>
<tr>
<td>Fourth decile</td>
<td>4,200</td>
<td>900</td>
<td>1.0</td>
<td>6.4</td>
</tr>
<tr>
<td>Fifth decile</td>
<td>5,000</td>
<td>1,000</td>
<td>1.1</td>
<td>7.3</td>
</tr>
</tbody>
</table>


154 Ibid.
<table>
<thead>
<tr>
<th>2012–13 taxable income</th>
<th>Average contribution ($)</th>
<th>Mean contribution concession ($)</th>
<th>Total contribution concession ($b)</th>
<th>Share of contribution concessions (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sixth decile</td>
<td>5,800</td>
<td>1,200</td>
<td>1.3</td>
<td>8.5</td>
</tr>
<tr>
<td>Seventh decile</td>
<td>7,000</td>
<td>1,400</td>
<td>1.5</td>
<td>10.1</td>
</tr>
<tr>
<td>Eighth decile</td>
<td>8,600</td>
<td>1,800</td>
<td>1.9</td>
<td>12.9</td>
</tr>
<tr>
<td>Ninth decile</td>
<td>10,800</td>
<td>2,500</td>
<td>2.7</td>
<td>18.0</td>
</tr>
<tr>
<td>Tenth decile</td>
<td>17,300</td>
<td>4,500</td>
<td>4.8</td>
<td>31.8</td>
</tr>
<tr>
<td>Top 5 per cent</td>
<td>20,600</td>
<td>5,700</td>
<td>3.0</td>
<td>20.3</td>
</tr>
<tr>
<td>Top percentile</td>
<td>26,200</td>
<td>7,300</td>
<td>0.8</td>
<td>5.3</td>
</tr>
<tr>
<td>All</td>
<td>6,500</td>
<td>1,400</td>
<td>14.9</td>
<td></td>
</tr>
</tbody>
</table>


The superannuation industry, in particular the Association of Superannuation Funds of Australia (ASFA) has been critical of Treasury superannuation tax concession estimates on a number of grounds including:

- how tax concessions are measured
- the static distribution of tax concessions and
- the exclusion of support from the age pension.  

**Schedule 8 – Repeal of the Income Support Bonus**

Schedule 8 proposes to abolish the Income Support Bonus (ISB), a lump-sum supplementary payment made twice a year to people on certain income support payments. While there is no direct budgetary link between the ISB and the MRRT, the ISB was linked to tax revenue generated by mining companies via the previous Labor Government’s budget initiative: **Spreading the Benefits of the Boom**.

The Schedule is to commence upon Royal Assent. If the Bill passes in its current form, no new ISB instalments will be payable following Royal Assent. The next instalment is due to be paid to eligible recipients in respect of the bonus test day on 20 March 2014. Savings provisions will allow the ISB to be paid after commencement of the Schedule where a person is deemed to have qualified for the payment in respect of a period prior to its repeal.

**Background**

The ISB was announced as a 2012–13 Budget measure, where it was referred to as a ‘new income support supplement’ intended to ‘assist with cost of living pressures’. The payment currently provides $211.60 per annum for singles and $176.40 per annum for a member of a couple if they are in receipt of Newstart Allowance, Youth Allowance, Parenting Payment, Sickness Allowance, Austudy or Special Benefit. Some ABSTUDY, farm household assistance and Veterans’ Children Education Scheme payment recipients are also eligible for the ISB. The payment is paid in two instalments, in March and September of each year, with the first payment made in March 2013.

These income support payments are paid at very low rates, compared to pensions and the minimum wage, and there was considerable pressure on the previous government to lift the payment rates or find some other way to assist recipients who face significant financial difficulties. The campaign to raise the rate of these payments—led by welfare groups such as the Australian Council of Social Service and supported by business groups, unions, various economists and members of parliament—called for a $50 per week increase in the rate of single

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allowance payments. This was based on a recommendation by the *Review of Australia’s Future Tax System* led by Ken Henry (the Henry Review). The ISB, offering the equivalent of around $4 extra a week to allowance recipients, fell far short of the expectations of those campaigning for an increase in payment rates, including the Labor and Greens Senators who had called for an increase following the Senate Education, Employment and Workplace Relations References Committee’s inquiry into the adequacy of these payments.

**Link between the ISB and the MRRT**

No formal mechanism links the ISB with the MRRT. Expenditure on the ISB is, like other welfare payments, made via a special appropriation from consolidated revenue. However, the then Treasurer, Wayne Swan, linked the ISB and other components of the *Spreading the Benefits of the Boom* package to revenue from the MRRT in the 2012–13 Budget:

> The Government will deliver a new *Benefits of the Boom* package - including major tax reforms, increases in the pension and family payments - to help families with the cost pressures they face every day ... Around 1.4 million Australians will benefit from the introduction of a new lump sum Supplementary Allowance to help recipients of Parenting Payment and allowances manage unexpected living expenses ... The *Benefits of the Boom* package is funded by revenue from the Minerals Resource Rent Tax arising from the rejection by the Opposition and the Greens of the planned company tax cut.

The Labor Government linked expenditure on the ISB with revenue from the MRRT that would have been spent on a reduction in the company tax rate, a measure blocked by the Coalition and the Greens. Then Minister for Employment and Workplace Relations, Bill Shorten, argued that the payment was a fiscally prudent way of providing assistance to vulnerable welfare recipients:

> The income support bonus offers assistance to disadvantaged Australians whilst being framed against a background of fiscal prudence, given the tough budgetary considerations of the government and our ongoing priority on jobs. Indeed, the income support bonus is fully accounted for in MYEFO as part of the budget process. It will again be accounted for in the budget bottom line. Today, the real story which gets overlooked by those opposite is that it was the unholy coalition of the conservatives and the Greens opposing a reduction in the corporate tax rate that in fact allowed us to spend some of that money on the income support bonus. We believe fundamentally in spreading the benefits of the boom.

The other major component of the *Spreading the Benefits of the Boom* package was an intended $600 per year increase in the rate of Family Tax Benefit Part A (FBT-A). This was never implemented and it was announced in the following year’s Budget that the measure would not proceed as a result of revenue write downs.

**Coalition opposed the ISB**

The Coalition voted against the Bill providing for the ISB. The then Shadow Minister for Families, Housing and Human Services stated that the new payment could not be afforded:

> The income support bonus comes with a $1 billion price tag. Let me be frank, Labor cannot afford it, and they know they cannot afford it. Let’s be clear: this new payment would supposedly be funded by a mining tax that has failed to raise the money that Labor promised. The fact is that, therefore, according to the Treasurer’s own design, this

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158. The Henry Review did not recommend a specific dollar amount increase but did recommend improving the relativity between the single and couple rates, reducing the difference between rates of allowance payments and pension payments, and setting a uniform way of indexing the different payments. A $50 per week increase would have made the single allowance rate worth around two thirds of the combined couple rate, similar to the current pension payment relativities. Australia’s Future Tax System review, *Australia’s future tax system*, Commonwealth of Australia, Canberra, 2010, recommendations 83 and 84, accessed 5 December 2013.

159. Government Senators’ Additional Comments and Australian Greens Additional Comments, Senate Education, Employment and Workplace Relations References Committee, *The adequacy of the allowance payment system for jobseekers and others, the appropriateness of the allowance payment system as a support into work and the impact of the changing nature of the labour market*, The Senate, Canberra, November 2012, accessed 5 December 2013.


payment is unfunded. As I said, this is going to be more raising of revenue by way of borrowings by the government in order to make this payment over the next four years.\textsuperscript{163}

One Coalition senator suggested that the ISB was intended purely to win electoral favour amongst its recipients. Senator Fifield stated in his second reading speech on the Bill to introduce the ISB:

This legislation was framed against the backdrop of trying to curry favour through putting particular amounts of money in particular voters' pockets. It was purely driven for electoral politics. It was, I am sure, also driven by a concern that Australians were starting to feel the impacts of the carbon tax on their cost of living. That is the genesis of this particular piece of legislation. It is pure, naked, electoral politics and nothing else.\textsuperscript{164}

\textbf{ISB recipients and expenditure}

The ISB was intended to provide assistance to over a million income support recipients and was estimated to cost around $1.1 billion over four years. The number of recipients for a selection of the eligible payments as at June 2013 was:\textsuperscript{165}

- Newstart Allowance: 660,673
- Youth Allowance (Other): 113,840
- Parenting Payment (Partnered and Single): 358,908
- Sickness Allowance: 7,494
- Austudy: 41,078 and
- Youth Allowance (Students and Apprentices): 241,899.

Most but not all of the recipients of these payments will qualify for the ISB as they must be in receipt of the payment on one of the ‘test days’: 20 March and 20 September. Austudy, Parenting Payment and Special Benefit recipients must be under age pension age to be eligible for the ISB. There is no means test on the ISB, meaning that so long as the payment is considered ‘payable’ on the test day, even where the person receives a zero payment due to their income or assets in respect of that payment period, the person is still entitled to the full instalment amount of the ISB.

The estimated savings resulting from the repeal of the ISB is the same as the estimated expenditure when it was introduced: $1.1 billion over the four years 2013–14 to 2016–17.\textsuperscript{166}

\textbf{Repeal will affect some of the most disadvantaged in the community}

The abolition of the ISB will put a small but significant dent in the incomes of some of the most disadvantaged and marginalised groups in the community. The ISB was introduced amidst a vociferous campaign to raise income support rates and many campaigners were disappointed with the small amount of additional assistance offered by the ISB – the ISB represents only a 1.6 per cent increase in the annual benefit income for singles receiving Newstart Allowance. In removing the ISB, the Government has made clear that it does not agree with the now widespread view that the allowance payment system offers inadequate support.\textsuperscript{167}

The Bill's Statement of Compatibility with Human Rights asserts the Government’s position that:

\begin{itemize}
\item Explanatory Memorandum, Minerals Resource Rent Tax Repeal and Other Measures Bill 2013, p. 7.
\end{itemize}
The removal of the ISB does not result in payments being reduced to below the minimum level necessary for recipients to meet their basic needs in relation to essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education...  

Further, it states that the basic income support payment rates, combined with other supplementary amounts and concession cards, ‘allow people to realise their right to an adequate standard of living and provide an appropriate balance between support for welfare recipients and providing appropriate incentives for people to re-engage in work and other activities to provide greater financial security for themselves and their families’.  

At least in relation to the Newstart Allowance, this position is in contrast to the view of the committee inquiry into the adequacy of the allowance payments system, which found:

On the weight of evidence, the committee questions whether Newstart Allowance provides recipients a standard of living that is acceptable in the Australian context for anything but the shortest period of time. This being the case, the only conclusion the committee could reach was that one of two possible solutions must be pursued: either Newstart Allowance should be increased to raise the standard of living available to recipients, or more careful thought needs to be applied to how best to ensure that people spend as little time as possible on welfare in between jobs.

The average duration on income support for Newstart Allowance recipients was 228 weeks in June 2013.

It is likely that the campaigners for more adequate support for the unemployed will continue to exert pressure on government.

**Position of major interest groups**

The Australian Council of Trade Unions (ACTU) strongly opposes the abolition of the ISB, noting that:

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

The Australian Council of Social Service (ACOSS) strongly opposes the removal of the ISB. In a press release, ACOSS CEO Dr. Cassandra Goldie stated:

The allowance supplement is the only real increase in Newstart Allowance for almost 20 years. ACOSS has called for a $50 increase to ease entrenched poverty among unemployed people and single parents, many of whom were affected by recent payments cuts. Against that backdrop, to take away a $4 increase is unconscionable.

In its submission the Australian Industry Group (AiG) noted its support for the repeal of the low income support bonus, on the basis that ‘These measures ... amount to a redistribution of $5.7 billion dollars over the forward estimates from an anticipated revenue source that has not materialised.’

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169. Ibid., pp. 82–83.
170. Senate Education, Employment and Workplace Relations References Committee, The adequacy of the allowance payment system for jobseekers and others, the appropriateness of the allowance payment system as a support into work and the impact of the changing nature of the labour market, op. cit., p. 50, accessed 5 December 2013.
173. C Goldie (Australian Council of Social Services Chief Executive Officer), Government’s announcement on tax bills sends wrong signal on budget strategy: ACOSS, media release by the Australian Council of Social Services, 6 November 2013.
**Key provisions**

**Social Security Act 1991**

Items 1 and 2 of Schedule 8 remove definitions relevant to the ISB from subsection 23(1) of the Social Security Act 1991 (SS Act). Item 3 removes a provision allowing for the payment of the ISB to some income support recipients during a period when they are receiving a nil rate, at paragraph 23(4AA)(ac) of the SS Act.

Item 4 repeals the entire Part 2.18B of the SS Act, which sets out qualification requirements and amounts of the ISB. Items 5, 6 and 7 remove provisions allowing for the indexation of the ISB, at section 1190, subsection 1191(1) and subsection 1192(10) of the SS Act.

**Social Security (Administration) Act 1999**

Items 8 to 11 remove provisions relating to the payability of the ISB in the Social Security (Administration) Act 1999 (SS Admin Act). Items 24 and 25 remove provisions at section 123TC of the SS Admin Act which subject ISB instalment amounts to income management regimes, where applicable.

**Farm Household Support Act 1992**

Items 12 to 14 repeal references to the ISB in subsections of the Farm Household Support Act 1992 relating to the calculation of rates of the exceptional circumstances relief payment and farm help income support.

**Income Tax Assessment Act 1997**

Item 15 removes relevant provisions providing for the ISB to be considered tax exempt income, at section 11-15 of the Income Tax Assessment Act 1997 (ITAA 1997). Items 16 to 22 remove similar provisions at sections 52-10, 52-65 and 52-114 of the ITA Act providing for the whole amount of the ISB to be exempt from income tax.

**Savings provisions**

Item 26 contains savings provisions allowing for the ISB to still be paid to persons who would have qualified for the payment in respect of a test day occurring prior to the commencement of Schedule 8. In effect, the provisions affected by the amendments proposed by Parts 1 and 2 of Schedule 8 would continue to apply to those who would have qualified for the ISB in respect of a test day prior to the repeal provisions taking effect. This allows for the full social security entitlement, including the ISB, to be paid to those whose qualification or claim for a relevant income support payment for a period before the repeal of the ISB, is only recognised after the commencement of Schedule 8. Other savings provisions also ensure that payments of ISB made before, on or after the commencement of the items in Schedule 8, continue to be treated in the same way in regards to being tax exempt income, being subject to income management, and disregarded for the purposes of calculating farm household assistance payments.

**Schedule 9—Repeal of the Schoolkids Bonus**

Schedule 9 proposes to abolish the Schoolkids Bonus, a lump-sum payment made twice a year to family assistance and other payment recipients with school-aged children.

As with the ISB, there is no direct budgetary link between the MRRT and the Schoolkids Bonus. Unlike the ISB, the Schoolkids Bonus was not part of the Spreading the Benefits of the Boom package. The Schoolkids Bonus was, however, linked to revenue from the MRRT in subsequent comments by then Treasurer, Wayne Swan. The former Minister for Families, Housing, Community Services and Indigenous Affairs, Jenny Macklin, has since explicitly denied any link between MRRT revenue and the Schoolkids Bonus:

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180. See, for example, W Swan (Treasurer), *Transcript of doorstep interview: Brisbane*, transcript, 1 July 2012; W Swan (Treasurer), *Transcript of interview with Hugh Riminton: Meet the Press*, transcript, 14 August 2012, accessed 5 December 2013.
When announced in the 2012–13 Budget, the Schoolkids Bonus was described as giving parents more help with the cost of schooling their kids ‘on top of the new measures funded from the mining tax’.  

The Schedule is to commence upon Royal Assent. If the Bill passes in its current form, no new instalments of the Schoolkids Bonus will be payable following the date of Royal Assent. The next instalment of Schoolkids Bonus is due to be paid to eligible recipients in respect of the bonus test day on 1 January 2014.

**Background**

The Schoolkids Bonus was announced as replacement to the Education Tax Refund (ETR). The ETR allowed families to claim 50 per cent of the cost of education-related expenses in their tax returns (up to a maximum of $397 for each primary school child and $794 for each secondary school child). The replacement of the tax refund with a direct payment was a recommendation of the Henry Review. The Review had criticised the time lag between the expense being incurred and when the refund was received, as well as the added tax compliance and complexity it produced (by requiring evidence of the education-related expenses claimed). The Coalition again promised a more generous model, with a larger range of claimable expenses (including school fees) and refunds of $500 per primary school student and $1000 per secondary school student. In its 2010 version, the Coalition linked eligibility for the refund to receipt of FTB Part-A. After securing a second-term of government, Labor implemented its election commitment and expanded the ETR to cover school uniforms in 2011.  

Prior to the introduction of the Schoolkids Bonus, as a transitional measure, the Government paid the 2011–12 ETR in full in June 2012 for all eligible families. This transitional measure, referred to as an ‘ETR payment’, was paid directly to families who received the qualifying benefits for children attending school and no claim was required.

**Schoolkids Bonus eligibility and payment amounts**

The Schoolkids Bonus is paid to families eligible for Family Tax Benefit Part-A (FTB-A) for a dependent child who is in primary or secondary education or study and to those who:

- are 16 to 18 (or turning 19 in the 2013 calendar year)

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are in full-time secondary study, and

are receiving Youth Allowance, Disability Support Pension, Carer Payment, Parenting Payment or Special Benefit.

Payments are made twice yearly in January and July. For each instalment, a family receives $410 for an eligible secondary school child and $205 for an eligible primary school child.

Schoolkids Bonus recipients and expenditure

According to the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) Annual Report 2012–13, 1.25 million families received the Schoolkids Bonus. Data provided in an answer to a question on notice for the 2012–13 Additional Senate Estimates hearings breaks down the January 2013 recipients by state and total entitlement:

<table>
<thead>
<tr>
<th>State</th>
<th>Families</th>
<th>SKB Entitlement Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australian Capital Territory</td>
<td>12,642</td>
<td>$6,034,120</td>
</tr>
<tr>
<td>New South Wales</td>
<td>394,628</td>
<td>$198,573,074</td>
</tr>
<tr>
<td>Northern Territory</td>
<td>14,648</td>
<td>$7,224,633</td>
</tr>
<tr>
<td>Queensland</td>
<td>266,088</td>
<td>$129,925,242</td>
</tr>
<tr>
<td>South Australia</td>
<td>98,973</td>
<td>$45,568,409</td>
</tr>
<tr>
<td>Tasmania</td>
<td>35,843</td>
<td>$17,510,404</td>
</tr>
<tr>
<td>Victoria</td>
<td>306,190</td>
<td>$151,825,656</td>
</tr>
<tr>
<td>Western Australia</td>
<td>108,895</td>
<td>$51,998,294</td>
</tr>
<tr>
<td>Not Specified</td>
<td>193</td>
<td>$81,744</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>1,238,100</strong></td>
<td><strong>$608,739,575</strong></td>
</tr>
</tbody>
</table>

*This is the most up-to-date payment data available. Families that claim Family Tax Benefit after the end of the financial year will receive their Schoolkids Bonuses instalments when their claims are processed.

Source: Answer to Question on Notice 81, Senate Community Affairs Committee, Additional Estimates, February 2013, FaHCSIA Portfolio.

Coalition opposed the Schoolkids Bonus

At the time of its introduction, the Coalition opposed the Schoolkids Bonus on the grounds that it would transform the ‘targeted’ ETR payment into a handout unrelated to education expenses. A number of Coalition members were of the view that a lump-sum payment would be wasted or not directed towards education-related expenses. The shadow Minister for Families, Housing and Human Services stated:

Instead of having a targeted payment, where all that is required is for parents to keep the receipts of their expenditure on the list of allowable expenditures, they are saying, 'We'll just give you the money.' What is the consequence of that? There is no connection between the money that is being handed out and educational expenditure.

Parents can go and spend the money on what they like. If they want to go down to the local club and put it through the poker machines they can do that. If they want to go and buy some new electrical gear from the electrical retailer they can go and do that.190


Other Coalition members argued that the new payment was a ‘cash splash’ intended to divert attention from the impact of carbon pricing on the cost of living, and that the Schoolkids Bonus was an ‘indiscriminate and careless sugar hit’.  

Family use of lump sum payments

While the Schoolkids Bonus would not always have been used to cover education costs, it is likely that most families will have used the funds to cover other priorities and the available evidence indicates that few would have spent the money on frivolous or wasteful items. Research on the way families spent a similar lump-sum payment, the Baby Bonus, indicates that recipients’ directed their expenditure at items and activities related to their newborn, such as healthcare, clothing and transport. The research found that there was no significant change in expenditure on groceries, meals eaten out and takeaway food, furniture and appliances, or on electronic goods. The available research dispels the myth, primarily based on anecdote, that lump-sum payments such as the Schoolkids Bonuses were wasted by the majority on gambling and alcohol or used to purchase luxury items such as plasma televisions.

Impact of the repeal

The loss of the Schoolkids Bonus will affect more than a million families, almost all of them low and average income families. For many, particularly those with multiple children attending school, the Schoolkids Bonus will have been worth over $1000 a year, a significant amount for any of the families entitled to FTB-A. The decision by the Government to abolish the Schoolkids Bonus and not reinstate the ETR nor implement the more generous education rebate it committed to at the 2010 election will mean that these families will lose a level of assistance that has been available to them for more than five years. If the Schoolkids Bonus is abolished, it will be difficult for many of these families to recover the lost income.

Position of major interest groups

The Australia Council of Trade Unions does not support the abolition of the bonus, describing it as a ‘reduction in support for low and middle-income families.’

The Australian Council of Social Service suggested that the Schoolkids Bonus should be ‘re-directed into higher Family Tax Benefits for low income families, not abolished altogether.’

A number of private individuals also made submissions in relation to this item (on both the draft legislation and to the Senate inquiry). The United Sole Parents of Australia compiled in their submission comments from a number of parents detailing how they had used the Schoolkids Bonus and strongly opposed its repeal.

Key provisions

A New Tax System (Family Assistance) Act 1999

Items 1–10 remove definitions relevant to the Schoolkids Bonus from the A New Tax System (Family Assistance) Act 1999 (FA Act).

Item 11 repeals Division 1A of Part 3 of the FA Act, which sets out the eligibility requirements for Schoolkids Bonus. Item 12 repeals Division 1A of Part 4 of the FA Act which sets out the payment amounts of Schoolkids Bonus.


Items 13 and 14 repeal items at clause 2 and subclause 3(1) of Schedule 4 of the FA Act which provide for the indexation of Schoolkids Bonus amounts.

**A New Tax System (Family Assistance) (Administration) Act 1999**

Item 15 repeals Division 2A of Part 3 of the *A New Tax System (Family Assistance) (Administration) Act 1999* (FA Admin Act) which provides for the payment of the Schoolkids Bonus to those deemed eligible under the FA Act. 198

Items 16–20 remove relevant provisions relating to the administration of the Schoolkids Bonus from the FA Admin Act.

**Income Tax Assessment Act 1997**

Items 21 and 22 remove relevant provisions from the ITAA 1997 at sections 11-15 and 52-150 which provide for the Schoolkids Bonus to be considered tax exempt income. 199

**Social Security (Administration) Act 1999**

Item 23 repeals subdivision DG of Division 5 of Part 3B of the SS Admin Act which provides for the entire amount of any Schoolkids Bonus instalment to be subject to income management provisions. 200

**Savings provisions**

Item 24 contains savings provisions allowing for the Schoolkids Bonus to still be paid to persons who would have qualified for the payment in respect of a test day occurring prior to the commencement of Schedule 9. In effect, the provisions affected by the amendments proposed by Part 1 of Schedule 9 would continue to apply to those who would have qualified for the Schoolkids Bonus in respect of a test day prior to the repeal provisions taking effect. This allows for the full family assistance entitlement, including the Schoolkids Bonus, to be paid to those whose qualification or claim for an eligible payment for a period before the repeal of the bonus, is only recognised after the commencement of Schedule 9. Other savings provisions also ensure that payments of Schoolkids Bonus made before, on or after the commencement of the items in Schedule 9, continue to be treated in the same way in regards to being tax exempt income and being subject to income management provisions where relevant.

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Appendix A: Forecasting revenue from the Minerals Resource Rent Tax

Forecasts for MRRT revenue have varied significantly over time. This reflects a number of factors, including the inherent difficulty in forecasting commodity prices as well as challenges involved in applying a new tax.

Forecasting revenue from resource rent taxes

One of the most significant challenges in forecasting revenue for the MRRT is allowing for the high variability in commodity prices. This variability is magnified by the nature of the MRRT which, like other resource rent taxes, varies more than profits do.

As highlighted by work commissioned by the Minerals Council of Australia, the Petroleum Resource Rent Tax provides a useful example. Between 1997–98 to 2010–11, PRRT revenue levels varied significantly and were consistently difficult to forecast. There are several years where forecasts were significantly above or below actual collections (figure A1).

Figure A1  PRRT forecasts and revenue collected

Starting base allowance

An additional factor which increased uncertainty, and may have contributed to lower revenue levels, is the starting base allowance.

Starting base allowances ‘recognise investment in assets (starting base assets) relating to the upstream activities of a mining project interest that existed before the announcement of the resource tax reforms on 2 May 2010. They also recognise certain expenditure on such assets made by a miner between 2 May 2010 and 1 July 2012’.


This starting base allowance, recognising existing investments, then reduces an entity’s MRRT liability, or the amount of tax it pays on its MRRT profit. Under the MRRT, the starting base allowance can be calculated as either the market value, or the book value, for relevant assets. Subject to a number of factors (market conditions and accounting procedures), the market value associated with particular projects may be well in excess of the book value.

The primary rationale for using market valuation is to avoid retrospective taxation. For larger industry investments (particularly those made many years ago), a book valuation might have undervalued assets, and could have resulted in higher effective tax rates. As noted by Professor Ergas:

You would have extremely high effective tax rates because – in some cases, at least – these are very long lived assets that were built many years ago at times when the price level was much lower than it is today. As a result of that, you would be identifying as superprofits returns that from any reasonable economic perspective were not superprofits in any sense that we might normally imagine.

So, from that moment, what would have happened if you had done that is that you would effectively have expropriated a very large share of the value of investors’ claims over those resources.\(^{203}\)

Similarly, the Minerals Council of Australia (MCA) noted in its submission to the Senate inquiry:

… The starting base allowance provides a form of compensation to miners for the retrospective features of the MRRT, recognising that mining is highly capital-intensive with considerable, high-risk exploration outlays, large upfront capital commitments, long-life assets, sophisticated technologies and long lead times to profitability.

It is based on the key design principle of “prospectivity” – that new tax arrangements should not unduly penalise past investments.\(^{204}\)

However, enabling liable entities to use market values has significant implications for revenue projection and collection. The Treasury Secretary noted the starting base allowance as one of the variables for which information was not directly available in estimating MRRT revenues.\(^{205}\)

More importantly, a number of economists commented during the Senate inquiry that because a market valuation would include the value of any expected super-profits, it would significantly reduce MRRT revenues.

Dr Richard Denniss of the Australia Institute commented:

So when we allow the mining companies to value their investment at the new market price rather than the depreciated actual expenditure, we have already wiped out, for the taxpayer, most of the super profit because the super profit is now built into this new market price. So if the purpose of the superprofits tax is to collect windfall revenue for the owners of the resource – you and I – then to let the miner use today’s valuation of their mine, rather than what they actually spent on the mine, as the base is an incredibly generous gift from us, the owner, to them, the miner.\(^{206}\)

Similarly, in an opening statement Professor Pincus said to the same inquiry:

Fundamental to our submission is the economic proposition that expected profits will be fully capitalised in the market price of an asset. The value of an asset should be equal to the present value of the cash flows anticipated from the asset … The amount of the MRRT revenue depends on the extent to which profits succeed market expectations at the MRRT valuation date.\(^{207}\)

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203. H Ergas (Professor, SMART Infrastructure Facility, University of Wollongong), Senate Economics References Committee, _Official committee Hansard_, 3 April 2013, pp. 24–25.
205. Dr M Parkinson (Secretary, Commonwealth Treasury), Senate Economics References Committee, _Official committee Hansard_, 3 April 2013, p. 27.
206. R Denniss (Executive Director, the Australia Institute), Senate Economics References Committee, _Official committee Hansard_, 3 April 2013, p. 6.
207. J Pincus (Professor, School of Economics, University of Adelaide), Senate Economics References Committee, _Official committee Hansard_, 3 April 2013, p. 17.
And Professor Garnaut:

If you genuinely were allowing a deduction for the market value of an asset, the current market value of those assets includes the value of the untaxed rent. If you are genuinely deducting the market value, almost by definition you are giving away the revenue from established projects.  

Significantly, Professor Garnaut also commented:

... That is a reason you cannot expect early revenue from established projects, and from new projects. The structure of the resource rent tax is such that a new project is not meant to pay resource rent tax until it has recouped its investment with a reasonable rate of return. If the market-value deduction has shielded all past investments then, almost by definition, you do not expect early revenue.  

Representatives of the three major mining corporations also noted that they expected their liabilities to be significantly reduced, at least initially, as a result of the starting base allowance. This was recognised through their ‘deferred tax assets’.

A representative of Rio Tinto explained that:

.. you look at future deductions that you have available to you and, to the extent to which you think you are going to be able to utilise those future deductions, you recognise an asset on your balance sheet and then do an assessment of the recoverability of it, in the same way as we do for any asset on our balance sheet.  

To the extent that mining companies think that the starting base allowance reduces a liability they would otherwise pay, they recognise the deferred tax asset on their balance sheet. The ‘unbooked deferred tax asset’ reflects that part of the starting base allowance that might be used in circumstances where they were making higher profits (and consequently would otherwise be paying larger amounts of tax, were it not for the starting base allowance). Note that a deferred tax asset does not exactly reflect the expected reduction in liabilities, but represents a number of factors.

Representatives of the three major mining corporations provided rough estimates of their deferred tax assets (Table 8).

<table>
<thead>
<tr>
<th>Company</th>
<th>Deferred tax asset</th>
<th>Unbooked deferred tax asset</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rio Tinto</td>
<td>‘…approximately $1.1 billion’</td>
<td>‘… approximately $12 billion’</td>
</tr>
<tr>
<td>BHP Billiton</td>
<td>‘… about $700 million’</td>
<td>‘About $10 billion as I recall’</td>
</tr>
<tr>
<td>Xstrata</td>
<td>‘We have no current deferred tax asset’</td>
<td>‘… we have an $11 billion unrecognised deferred tax asset for MRRT’</td>
</tr>
</tbody>
</table>

Source: R Lyons (General Manager, Taxation, Rio Tinto), B Purdy (Senior Manager Finance, BHP Billiton Iron ore), D Smith (Tax Manager, Xstrata Coal), Senate Economics References Committee, *Official committee Hansard*, 29 April 2013, pp. 22–23.

Effectively, the design of the MRRT means that in striving to avoid the possibility of retrospective taxation, a comparatively much lower tax rate is applied during the initial years of the tax, through creating a tax shield based on market prices of existing mines.

**Delayed tax revenues**

An additional complication in assessing MRRT revenue is that because some tax returns are delayed (particularly following the introduction of the MRRT), a completely accurate assessment of revenue raised may take some

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209. Ibid.
210. R Lyons (General Manager, Taxation, Rio Tinto), Senate Economics References Committee, *Official committee Hansard*, 29 April 2013, p. 22.
time. In providing evidence to a Senate inquiry, an Australian Taxation Official noted that because of delayed returns, full information will not be available until potentially June 2014.\footnote{S Martin (Deputy Commissioner, Resource Rent Tax, Australian Taxation office), Senate Economics References Committee, \textit{Official committee Hansard}, 3 April 2013, p.49.}
Appendix B: International Resource Taxation

This Appendix provides a summary of international minerals resource taxation arrangements. It updates material the Parliamentary Library has previously published.212

Changes over time to the international tax arrangements applying to coal and iron ore mining projects suggest countries use minerals resource taxes to make up for revenue shortfalls when global mineral prices are rising.

In the face of persistently low global mineral prices during the 1990s, many countries recognised that imposing higher royalties would make many existing mines unviable. Imposing high taxes and royalties can also lead mining companies to only exploit the best deposits, thereby shortening the potential life of any resource project. As such, imposing high tax rates can lead to sudden project cancellations and truncated operating lives of existing operations, with potentially negative flow-on effects for the wider economy. As the North South Institute has noted:

Shortened and often abrupt termination of mining projects increases instability in local economies. Thus, leading mining nations in Latin America, such as Chile and Peru (for example), accepted the WB-IMF recommendation to apply royalties or other taxes to profits instead of revenues.213

Since the global financial crisis (GFC) in 2008, in the face of strong mineral commodity prices a number of countries have sought to extract more revenue from the mining sector. Typically this has involved some combination of: new industry specific taxes and royalties; increasing tax rates; and restricting the ability of mining companies to offset losses incurred at one mining site against profits generated at other sites when calculating their company income tax liability (in other words introducing a ‘ring fencing’ rule).

Argentina has increased the mining tax rate above rates previously prescribed by the Mining Investment Law.214

Brazil has introduced a new policy framework to modernise minerals taxation arrangements. The framework includes a standard mineral product reference price and a maximum and minimum tax rate which can be modified by presidential decree. Brazil has also reduced ‘interest deductions attributable to related party indebtedness of Brazilian subsidiaries of non-Brazilian companies’.215

China has introduced a new resource tax which ‘resulted in royalty tax rates being increased for certain minerals’.216 This came into effect from November 2011.

Ghana also proposed an increase to the corporate income tax rate from 25 per cent to 35 per cent and an additional tax of 10 per cent on mining companies. Ghana also introduced a ‘ring fencing’ rule in the 2012 Budget.217

Indonesia has ‘introduced a benchmark price for royalties which has effectively increased the royalty collection base’.218 More importantly new regulations require foreign mining companies to reduce their ownership to less than 49 per cent by the tenth year of production of a project.219 This is significant because most of the costs of a mining project are incurred early in its life, whereas profits are typically generated further down the track. One consequence of the new legislation is a lower equity position and rate of return for foreign investors looking to make a long term investment.

Kazakhstan has introduced a rule requiring mining companies with below the surface mining operations to maintain separate accounts and records for tax purposes for each of its mining operations. The subsurface

215. Ibid., p. 2.
216. Ibid., p. 3.
217. Ibid., p. 2.
218. Ibid., p. 3.
219. Ibid., p. 5.
contract miner is not permitted to offset costs of one mining contract against income of another contract or activity’. 220

Mexico has imposed a new royalty of up to 7.5 per cent on profits plus 0.5 per cent on revenue from precious metals. 221

Mongolia has imposed foreign investment laws for certain specified sectors, including mining. They require government approval for deals over US$75 million and in cases where foreign investors control more than 49 per cent of a company. 222 Further, Mongolia has amended its Mineral Law and introduced a new surtax royalty regime effective from 1 January 2011. Under the new two tier system, a surtax royalty is imposed on the total sales value of 23 types of minerals in addition to the standard flat rate royalty. The surtax royalty rates vary depending on the type of mineral, its market price and the degree of processing, generally from 0 per cent to 5 per cent of market prices. 223 A foreign investor in the mining sector can apply for a stability (or investment) agreement, which provides certainty about the tax treatment of their investment for a fixed term. The stability provisions depend on the level of investment. 224 Further changes to Mongolia’s mineral resources taxation arrangement are currently being debated. 225

Quebec (a Canadian province) has proposed a new tax regime on mining. The proposals would introduce a minimum tax rate and a super-profits tax on all mine operators as of January 1, 2014.

- If adopted, the minimum tax would equal one per cent of the value of ore extracted, measured at the mine shaft head less expenses, on up to the first C$80 million (US$78 million) of ore extracted. All ore extracted above the C$80 million threshold would be subject to a four per cent rate. 226

- The super profits tax would levy a tax ranging from 16 per cent to 28 per cent on mining corporations with profit margins in excess of 35 per cent, rising to the top rate as profit margins reach 50 per cent. By comparison, the current top tax rate is 16 per cent. 227

With Quebec’s minority government, it is unclear when or if this new regime will become law. 228

Tanzania enacted a new Mining Act in 2010 which changed the base of its minerals tax arrangements and royalty rates. 229 Tanzania also introduced a ‘ring fencing rule’ in July 2010. 230

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220. Ibid., p. 3.
224. Ibid.
227. Ibid.
228. Ibid.
230. Ibid.
Appendix C: Sovereign risk and investor perceptions

One of the significant criticisms of the Minerals Resource Rent Tax (MRRT) was that it was a rapidly introduced significant regulatory change that appropriated from miners, decreasing mining investment and increasing perceptions of sovereign risk.

The Minerals Council of Australia stated that ‘The debate and misguided rhetoric surrounding the RSPT and MRRT over the last three and a half years has undermined Australia’s sovereign risk standing in a highly competitive global market for resources development.’231 As described by a senior Treasury official, ‘Sovereign risk is the risk that investments will be reduced in value by future changes in government policy’.232

There are a number of ways in which investor perceptions can be assessed:

- **Mining investment** in the long run reflects expectations of returns to investment, determined in part by the regulatory regime. But year to year expenditure or investment may not be the best guide, as it typically reflects pre-existing investment decisions, and mining projects may take many years to develop.

- **Investor surveys and country rankings** are another useful tool. Many organisations and institutions rank sovereign risk between jurisdictions, using a range of methodologies.

- **Mining exploration expenditure** can also be a useful guide to investor perceptions of the regulatory regime, although perceptions are influenced by a number of other factors, including expectations about commodity prices.

**Mining investment**

ABS data shows that capital expenditure did decrease after the tax was introduced, although not after it was announced (figure A1).233

![Figure A2 Coal and Metal Ore Mining Capital Expenditure](source)


However this likely reflects a broader trend of mining investment peaking, and the transition away from heavy mining capital expenditure, while existing projects begin or continue operation.\(^{234}\)

Deloitte Investment Monitor reports track both existing investment projects, and also those projects which are committed (announced but construction has not yet started) as well as those under consideration or merely possible.\(^{235}\)

Between 2009-2013, investment or potential investment in coal mining projects increased overall (including ‘possible’ and ‘under consideration’ categories, which are more sensitive to investor confidence). Investment or potential investment in metal ore mining projects dipped following the introduction of the MRRT, but recovered in subsequent quarters.

**Figure A3** Coal mining projects, September 2009 to September 2013 ($billion)


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\(^{235}\)‘Projects under consideration are those where a decision whether to proceed with the project is expected in the reasonably near future. Projects with possible status are those projects which have been announced but where no early decision on whether to proceed is likely.’ Deloitte Access Economics, *Investment Monitor*, September 2013.
Investor surveys - the Fraser Institute

The Fraser Institute (a Canadian think-tank) regularly surveys mining executives for their opinions on investment opportunities in various jurisdictions, and uses the results to generate scores for each area. The survey results represent responses from 742 companies, with exploration spending of $6.2 billion in 2012.236

The following chart shows the ‘Potential Policy Index’ scores resulting from a survey by the Fraser Institute. Higher scores (closer to 100) reflect a higher assessment of the policy settings in a particular jurisdiction. For the purposes of the MRRT, Australia’s three key jurisdictions are Queensland, New South Wales and Western Australia, where the vast majority of MRRT liable mining operations take place.

The movement in survey ratings reflects the fact that investor decisions are made based on a number of factors, and, while tax changes can negatively impact investment decisions, they are only one of a number of factors.

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Investors are also, in effect, selecting between jurisdictions when making investments. For that reason the Fraser Institute survey also provides rankings, comparing different jurisdictions. The following chart shows the percentile ranking of the key Australian jurisdictions. The higher the percentile, the higher the rank of the jurisdiction relative to other jurisdictions internationally.

Although the rankings of key states vary over time, they remain above average and in the case of Western Australia and Queensland their attractiveness relative to other jurisdictions increases over the period.

A number of other institutions assess sovereign and political risk. Political Risk Services ranked Australia six out of 100 countries, with a consistent 86-88 score between 2009 to 2013. Behre Dolbear (minerals industry advisors) ranked Australia first of 25 countries in both 2011 and 2012, although noting tax changes as an issue.

Exploration expenditure

Exploration expenditure can reflect longer term expectations of profitability, influenced by a range of factors including commodity prices and regulatory regimes. Exploration expenditure does show a peak around 2011-2012, although this follows a sharp increase around June 2011. This may well reflect some concerns about regulatory certainty, although expectations about commodity prices are more likely the significant factor.

Figure A7  Exploration expenditure on iron ore and coal resources, 1988 to 2013 (2013 $million)
