



## Notes for meeting with Resources Super Profits Tax (RSPT) Consultation Panel – Canberra 20 May 2010

1. Generally, we do not comment on the appropriateness of the tax at a policy level – many of our members will have views on the efficiency or otherwise of the tax and we will leave it to them to comment separately. There are however some points that we think worth raising :
  - a. We would encourage the panel to again consider the level of the tax (ie 40%) in the context of international competitiveness. We think this is particularly important in the context of explaining how the tax rate was established and how it will affect Australia’s financial competitiveness. This would be further assisted by explaining the economic modelling which seems to show some counter-intuitive outcomes like increasing the level of production caused by the new tax.
  - b. The introduction of a new tax does not seem consistent with the government’s stated aim of simplification of the tax system.
  - c. Consideration will need to be given to how the ETS will interact with this tax and the likely implications of particular sub-sets of the mining sector which are likely to face two imposts in very short order.
2. Our first focus is on the transition issues and we believe:
  - a. That it is wholly inappropriate to introduce this tax to existing projects. Taxpayers have invested in good faith based on tax law as it stood at the time of the investment and should not be penalised for expecting the Federal Government to maintain the sovereignty of that tax law throughout the project life. An inevitable consequence of increase of risk to investors is the increase in the cost of capital for Australian enterprises.
  - b. Should the retrospective approach be continued with :
    - i. Any capital base transitioned into the RSPT should be available for future refund.
    - ii. Consideration should be given to the market value of existing assets as the RSPT Starting Base to ensure that inconsistent previous accounting treatments do not penalise taxpayers.
3. The second area of focus will be on the implementation issues with the tax including :
  - a. The use of the government bond rate clearly does not include a risk premium that would be appropriate in the calculation of the “super” profit amount.
  - b. The extent of the risk premium needs to take into account :



- i. The nature of the mining activity, location and style of mining (underground or open cut).
    - ii. The characteristics of the commodities being mined and the volatility of pricing of that commodity.
  - c. Clarity is needed on how the market value at the mine gate is calculated, when there are no external sales of the product. In particular, the calculation must recognise that the composition of individual mined materials determines that value. That is, mined materials with high content of available mineral will have higher market value than similar mined materials with low content of available mineral.
  - d. All royalties actually paid (private or government) should be included in the RSPT calculation and where there is no RSPT payable then state government royalties should be immediately refundable. We understand that royalties are a state matter but the risk of double taxation should be dealt with by the various governments and not transferred to the private sector. Further, specific clarity on the method of royalty refund to taxpayers (timing and process) would greatly assist in understanding the cash flows from the new tax.
  - e. Imputation credits should be available from the RSPT. We believe that imputation credits have been a clear source of integrity in the Australian tax system and the extension of this integrity to the new tax is essential. This should also help alleviate the impact on investors (including superannuation funds) from the potential capital value loss associated with the introduction of the new tax.
4. The final area of focus is on the use of the proceeds and other policy considerations :
- a. We think it appropriate that the funds be used for the establishment of a national sovereign fund rather than simply absorbed into general revenue. If this is truly about accumulating the benefits from a “non-renewable” asset then the proceeds should be set aside and not just spent with other government expenditures.
  - b. We are concerned that the modelling of the expected outcomes does not fully consider the flow on impacts into other industries especially the impact on service and support industries and hence impact the overall tax collection. Even the simple process of delay in project expenditures while companies consider the impact of the new tax will have material flow on impact to the broader economy.
  - c. Certain 'own use' industries such as building products manufactures , steel makers , power suppliers and potentially others should be wholly or partly excluded from the new tax where the impact of the tax leads to higher manufacturing costs in Australia