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Resource Tax Consultation Panel

Initial report

29 May 2010

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29 May 2010

The Hon Wayne Swan MP
Treasurer
Parliament House
CANBERRA ACT 2600

Dear Treasurer

We are pleased to present to you the interim report of the Panel, based on consultation with industry and stakeholders in the period since the announcement of the Resource Super Profits Tax (RSPT) on 2 May 2010.

In its consultations, the Panel did not enter into debate about whether the proposed tax should or would be implemented — that being an issue for the Government and the Parliament. Rather, the Panel limited itself to consultation on the design and transitional mechanisms of the tax, in the event that it is implemented.

Many resource companies noted their opposition to the tax. Most were nevertheless willing to engage with the Panel process, to provide information to the Panel on the effects of the tax on their companies or particular projects, and to indicate their preferences for potential changes to the tax — were the Government to make any changes to the announced policy. The Panel undertook to convey these views to the Government in this interim report.

In the 30 meetings the Panel held we met a significant number and diverse range of resource companies, State Treasuries, analysts, taxation and accounting specialists, credit rating agencies and industry and taxation associations to obtain a broad range of perspectives.

The Panel notes that variations in the design and transitional mechanisms could have a significant effect on the character of the tax, its economic effects, the degree of implicit prospectivity, the level and timing of revenue, and its administrative simplicity. Given this, the Panel regards the consultations as having been substantive, notwithstanding that is has not addressed the existence of the tax, or its rate, as some stakeholders wished.

During the course of the consultation there was an evident shift in the degree of understanding of the character of the tax, and in particular about the role of the long term bond rate as the uplift factor and the associated transferability and, ultimately, refundability of losses. As announced, the RSPT is best understood as a mechanism to implement a cash-flow tax with a guaranteed deferred tax asset. This is economically equivalent to a 'delayed-contribution joint venture', where capital-at-risk and both gains and losses are shared between the private sector and the Government in proportion to the tax rate. Debate about the character of the tax is likely to continue and become increasingly sophisticated.

The Panel has identified possible options for consideration which would help underpin the announced character of the tax. These would involve a change within the RSPT design that would reduce the delay or duration uncertainty of the Government's capital contribution and enhance the practical neutrality of the tax.

An alternative path, apparently preferred by much of the industry, would be to change the character of the tax to a model akin to the Petroleum Resource Rent Tax (PRRT), which taxes profits but does not share losses. This would involve a higher uplift rate, removal of transferability and refundability, with royalties creditable against the rent tax liability, but not immediately refundable. Such a tax, like the PRRT, would not be neutral and the average tax on high rent projects would generally be lower than under the RSPT.

The Panel's consultations have otherwise focused at this interim stage on transition issues, including measurement of the starting capital base and the identification of possible issues relating to the taxing point for capital and revenue measurement. On a number of occasions the Panel was asked to clarify the mechanism and extent of the refund of state royalties. The Panel's view was also sought on the treatment of various private transactions affecting the ownership of the right to exploit, or earn income from, a resource. It was also suggested that specified low-rent resources should be excluded from the scope of the tax on the grounds of simplicity, even though some of these presently pay royalties and may benefit from the refund of royalties by their inclusion.

In this interim report, the Panel has not made direct recommendations. Rather, it has identified issues, analysed options, and made certain findings. In part this reflects the fact that the Panel is continuing to receive requested information from companies and is awaiting responses from some. It also reflects the substantive nature of some of the policy issues which are properly a matter for the Government. Further, the Panel has not addressed the cost to revenue of the identified issues, options or findings at this early stage.

The Panel wishes to record its sincere appreciation to those who have made a contribution to this consultation process and to the Secretariat which supported the Panel.

Yours sincerely

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Executive summary

On Sunday 2 May 2010 the Australian Government announced it will introduce a Resource Super Profits Tax (RSPT), as recommended by the Australia's Future Tax System review. Also announced at that time was the establishment of the Resource Tax Consultation Panel (RTCP — the Panel) which would initially hold high-level targeted engagement with key stakeholders and subsequently help to steer the consultation process outlined in the Government's announcement.

The Panel, as part of its initial consultation phase, was asked to identify significant industry issues and address transitional arrangements for the new tax and key design parameters.

During this initial consultation phase, the Panel and the RTCP Secretariat have met with a significant number and diverse range of resource companies, State Treasuries, analysts, taxation and accounting specialists, credit rating agencies, and industry and taxation associations.

Key themes from the initial consultation phase

While the focus of this report was on the announced transitional mechanisms, to bring existing projects into the RSPT, several key themes arose from the initial consultation phase. Other important issues — including the taxing point, project definition, deductible expenditure and depreciation rates were also discussed during the initial consultation phase. These topics, along with others, will be subject to further consultation commencing with the July 2010 Issues Paper, where the community will be invited to provide submissions as part of the ongoing consultation process in developing a Final Design Paper due at the end of 2010 .

Key themes raised in the initial phase of the RSPT consultation process include:

- the character of the RSPT — the value of Government's guarantee to allow transferability and refundability of losses;
- refunding state royalties — the timeliness and mechanism;
- the scope of the RSPT — low value minerals and micro-businesses; and
- the transitioning of existing projects into the RSPT — including the methodology for determining the RSPT starting base for existing projects.

Some of these issues are summarised here. Part A provides a more detailed discussion and Part B lists key issues raised during this phase of the consultation that are earmarked for further discussion through the July 2010 Issues Paper process.

The character of the Tax

As announced, the RSPT is best understood as a mechanism to implement a cash-flow tax with a guaranteed deferred tax asset. This is economically equivalent to a 'delayed-contribution joint venture', where capital-at-risk and both gains and losses are shared between the private sector and the Government in proportion to the tax rate.

The RSPT is not a pure cash-flow tax where the government contribution would be paid at the time development and other costs are outlaid by the private producer.

The RSPT is akin to a cash-flow tax in the sense that the government contribution is guaranteed, in that it can be offset against tax or ultimately refunded, but it does occur at a later point in time. Transferability of losses under the RSPT seeks to make the RSPT relatively close to a pure cash-flow tax because it can accelerate access to the tax value of a loss.

The delay in the government contribution largely arises because capital expenditure is depreciated rather than immediately expensed. The delay assists in mitigating integrity issues associated with payment of a contribution upfront and also serves to smooth the impact of large investments on government revenue, thus reducing tax volatility.

The intent of uplifting capital expenditure and unutilised losses by the long-term bond rate is to preserve the value of the government contribution. The design of the RSPT is intended to be a neutral tax, that is a project which is profitable before the tax will be equally profitable after the tax because of the reduction in private capital at risk.

However, the neutrality of the RSPT has been a matter of considerable debate. Within the construct of the RSPT, it would be fair to say that the link between the long-term bond rate and the neutrality of the design of the tax is now better understood than in the period immediately following announcement.

Nevertheless, stakeholders generally could not identify with the concept of the Government as a silent joint venture partner contributing 40 per cent of the capital and costs and taking 40 per cent of profits. They tended to continue to view the RSPT purely in the context of a tax on a venture which remained under their sole control and ownership. If they remain unwilling or unable to change this view, the designed neutrality of the RSPT could be potentially undermined in practice.

The appropriateness of the long-term bond rate is not broadly accepted, in part because the certainty of the government guarantee far into the future or during severe economic downturns is questioned. The uncertain delay (duration uncertainty) in accessing the guarantee has also been noted as reducing the value of the guarantee to the private sector. It is argued that these uncertainties will also reduce the practical neutrality of the tax.

The RSPT is not akin to the PRRT, because the latter does not have refundability of losses nor (in most cases) the full loss transferability of the RSPT, and as a result, the government contribution is not guaranteed. The PRRT is not, in economic effect, a joint venture arrangement where losses are ultimately shared — it only taxes profits above a specified rate of return. Accordingly, the PRRT provides an interest allowance on the project's carried forward costs at uplift rates higher than the long-term government bond rate (LBTR). The PRRT is inherently not a neutral tax.

The common view held by resource companies during consultation was that they 'did not want direct Government participation in their business' and they 'did not value' the Government's guarantee in the form of ultimate refundability of losses. This is due to the uncertainties noted above and because of the way they take investment decisions - a resource project will only go ahead if they assess it is likely to be successful.

A response to that perspective could take one of two alterative paths.

One path would involve strengthening the certainty of the guarantee in order to make it valuable — that would underpin the announced character of the tax and enhance the practical neutrality of the tax. The guarantee could be strengthened by minor changes within the RSPT design that would

reduce the delay or duration uncertainty of the Government's capital contribution and enhance the practical neutrality of the tax.

Possible mechanisms to achieve this result include securitising the right to the refund in some form which allows the right to be tradable, or putting a specified time limit on the refund. A change of this sort could provide a ready basis for financial intermediation to monetise the value of the deferred tax asset to mining companies at an early stage of a project. Other possibilities were also raised, including an increase in the rate of access to the project's costs through accelerating the rate of depreciation on capital investment.

An alternative path, apparently preferred by those consulted, would be to change the character of the tax to a model akin to the Petroleum Resource Rent Tax (PRRT), which taxes profits but does not share losses. This would involve a higher uplift rate, removal of transferability and refundability and royalties would be creditable against the rent tax liability, but not immediately refundable. Such a tax, like the PRRT, would be a profit-based tax but would be a less neutral tax than the RSPT.

Under a PRRT model the ideal uplift rate is related to the design of the tax and the riskiness of the particular projects or indeed a particular phase of a project such as exploration. It is not feasible to set project specific rates for different projects or commodities and accordingly the PRRT adopts generic uplift rates. In any case, companies use a number of decision making factors, such as net present value based on a weighted average cost of capital, internal rate of return, payback ratio, annual growth in production, reserves and resources, and targeting projects in a particular part of the cost curve rather than on net present value derived from a project or commodity risked discount rate.

Most companies put the view that while making the guarantee more valuable would improve their assessment of the RSPT, they did not want it and thought it was inappropriate for the Government to directly participate in and share in losses from the mining sector (the latter because that would expose the Government's balance sheet to greater risk). Some also raised the question of risk from a political perspective and questioned whether a future government would always honour the guarantee in difficult economic times. Companies prefer the PRRT model.

Also put to the Panel was that investors in the exploration sector are more than willing to take on higher levels of risks in return for potentially very large rewards, particularly if they can tap equity markets. With such personal appetites for risk (a 'gamblers' preference set), the absolute value of the guarantee of the refund on failed exploration appears small relative to the absolute size of the reduction in value of a 'win' of a large resource find (even though the proportionate reduction in the risk and reward is the same). The PRRT model with a higher uplift rate for exploration is one means to address this issue. The Resource Exploration Refundable Tax Offset announced in the Budget is also a mechanism that would support explorers in a loss making position.

Refunding state royalties

The announcement paper outlined that the Government will provide resource entities with a refundable credit for payments of state royalties. The credit will be available at least up to the amount of royalties imposed at the time of announcement, including scheduled increases.

Industry broadly welcomed the effective removal of inefficient royalties though raised a number of concerns with the Panel, including:

- the possibility of States raising royalties in the future in excess of the cap announced by the Government;

- the administration burden associated with continuing to comply with state royalty regimes as well as complying with the RSPT;
- timing of refund of the royalties; and
- continuity of refunds during times of low commodity prices when royalties might exceed RSPT revenues.

In order to avoid these difficulties, some stakeholders encouraged the Government to seek the States' agreement to abolish their royalties.

The Panel investigated the option that the timing of the refund be as close as possible to payment, perhaps using the Business Activity Statement, to minimise additional compliance costs.

The issue of the potential for the States to increase their royalties in the future is a subject for further engagement between the States and the Commonwealth.

Scope of the RSPT

The main issue raised about the scope of the RSPT were suggestions to exclude low-value minerals (such as gravel, clay, salt, dolomite, lime, gypsum halite, magnesium salts and talc). There was relatively little discussion of the application of the RSPT on small to micro-businesses.

The Panel recognises the Government's reasons for the proposed inclusion of low-value mineral resources in the RSPT, with consultation on the potential for exclusion, is that a number of these resources give rise to royalties despite being low value and selling their product into competitive domestic markets. Consequently, such minerals could be better off within the RSPT (subject to the compliance burden) than out.

Decisions to exclude particular commodities would need to be guided by administrative issues, and potentially, competitive neutrality between included and excluded commodities.

The Panel has not had the opportunity to consult comprehensively on this matter and suggests targeted consultation be undertaken with stakeholders that would be potentially impacted by an exclusion from the RSPT. There would be benefit in the Government clarifying that the RSPT will apply to non-renewable resources only. Some confusion has been identified with certain resources, such as geothermal energy, which are renewable resources and therefore outside the scope of the RSPT.

Transitional arrangements

The main transitional issues raised in consultations with the Panel were:

- prospectivity and the inclusion of existing projects under the RSPT;
- the quarantining of the RSPT starting base;
- assets to be included in the RSPT starting base, and the exclusion of the value of the resource; and
- the book value versus market value for measuring the RSPT starting base.

Prospectivity and the inclusion of existing projects in the RSPT

Strong representations were made to the Panel that only future projects, or future investment, should be subject to RSPT. Sovereign risk was argued as the key issue with the Government viewed as introducing the RSPT on a retrospective basis sending negative signals to investors about Australia as an attractive investment destination.

Given that the Government's intention to bringing existing projects within the RSPT is a basic design feature of the tax, the Panel did not address this issue but rather sought views as to how such projects might be best incorporated. Consideration of options to address implicit prospectivity should be balanced with a need for competitive neutrality between owners of existing projects and those acquired post announcement of the RSPT, such as for operators who are 'locked' into binding supply contracts before the announcement of the RSPT. Complexity in the design of the tax ought to be taken into account in considering any such options.

The Panel notes that the design features of the transition mechanisms are a matter for consultation and that depending on the settings adopted for these transmission mechanisms varying degrees of implicit prospectivity may be achieved. The accelerated write-off of the starting base is one example which reduces the initial impact of the tax and adds to the net present value of a project, measured against the benchmark of depreciation rates for new investment.

The Panel received representations on a number of other issues that would have the same effect, as discussed below.

Quarantining and uplift on the RSPT starting base

The proposed quarantining of losses arising from the RSPT starting base from being transferable to offset revenues from other projects, and from being refundable in the event of project closure, was argued as being overly restrictive. There was recognition for the need to achieve integrity in the calculation of the RSPT starting base for the purpose of calculating RSPT liability for a particular project. There was also a recognition that the integrity issues would be more significant if transferability and refundability were to be allowed and even more so in the event that some form of asset revaluation were allowed (see below). Nevertheless, stakeholders argued that integrity issues could be dealt with a more tailored mechanism, such as reliance on externally audited accounts or on certified market valuation.

The Panel believes that this issue would be worthy of further investigation. If a PRRT type model were adopted, which would not have general transferability and refundability, the potential scope of this issue would be reduced.

In substitution of transferability and refundability, a proposal was made that the uplift rate for the starting base should be increased, even if ongoing expenditure was uplifted at the long term bond rate. This issue is also worthy of further investigation. Such a dual uplift rate system would be more complicated but it would be another implicit prospectivity enhancement.

Assets to be included in the RSPT starting base, including the value of the resource

The Government stated that 'in principle' the value of the resource should not be included in the RSPT starting base.

Stakeholders raised the issues of the exclusion of the value of resource from the capital base (starting base). The Panel understands that the intention to exclude the value of resources from the starting base rests on the argument that inclusion of that value would be a transfer of those resources to private ownership for minimal or no charge by the community as these resources would be sheltered from the RSPT along with royalties being refunded. The value of the resource base was not included in the PRRT capital base.

The value of the resource is excluded expenditure under the PRRT, even if the production licence is purchased. Similarly, the receipt from a sale of a production licence is not counted as a receipt for PRRT purposes. Rather, under the PRRT the undeducted capital base is passed from the seller to the purchaser. In this way, the PRRT does not tax the value of resources before they are extracted. Like the PRRT, the RSPT is a tax on the profits from resources *as they are extracted*, not a tax on the expected future value of those resources. This is the reason why the announcement excluded the value of resources from the RSPT starting base.

A transitional issue was raised with the Panel where a transaction involving the production licence or mining right occurred *before* the RSPT was announced, because purchasers may have acquired a project (either by direct purchase of the production licence or mining right or the purchase of an interest in the entity which owns it) for a price reflecting the higher estimated value of the resource under the pre-RSPT taxation arrangements. That higher price might already have led to capital gains tax under the income tax law, depending on the structure of the transaction. Another issue is the need for the approach to the starting base to be consistent. For instance, should an entity that bought shares in a resource company receive the same treatment as an entity that bought the company assets directly? The Panel believes that further consultation on these issues is appropriate.

A related issue is the treatment of profit-sharing arrangements (sometimes called 'net profit interests'), where the seller of an interest in a mining right retains an interest in a future income stream from the project (for example, 10 per cent of the receipts from selling the resources). These are neither deductible nor assessable under the PRRT and that would be the appropriate ongoing treatment for projects under the RSPT. The Panel recommends that the Government undertake further consultation on the treatment of such arrangements that existed before the RSPT was announced.

Stakeholders raised questions about whether the RSPT starting base should include assets not directly associated with extracting resources and getting them into the taxing point, including intangible and enterprise assets. Although there was general agreement that the taxing point should occur as close to the resource as possible, and thus exclude beneficiation and transport assets, as an alternative some stakeholders held the view that in particular cases the value of downstream assets, such as pre-existing vertically integrated processing plants, might be included in the RSPT starting base as those plants, if left out, are only viable without the application of the RSPT on the value of the minerals consumed by a vertically integrated operation. Extensive consultation will be required in respect of identifying an appropriate design for the taxing point or whether a pricing mechanism would be more appropriate to address the issue.

Some considered that past losses should be included in the starting base, as these would be valid deductions under the ongoing scheme.

The book value versus market value for measuring the RSPT starting base

Consultation revealed particular concerns with use of audited book value of existing capital to establish the RSPT starting base. Many considered that the audited book value may be different from the underlying economic value of an asset. An example was where an asset had been impaired but is likely to recover in value. Stakeholders suggested that this is likely to be a significant issue since the most recent set of audited accounts for many entities will be from June 2009 — a time when the global financial crisis was impacting and creating uncertainty for industry. In addition, the subjective elements of accounting standards mean that in some cases, entities in similar circumstances will have taken different positions in their financial statements while some stakeholders were subject to their home accounting standards, such as for a foreign partner in a joint venture. Stakeholders consider it would be unfair if these differences led to different liabilities to tax.

Another concern expressed about book value was that there may be a range of costs that are properly expensed under accounting rules that conceptually should be eligible for inclusion in the starting base (such as the costs of work done to gain access to a mineral deposit).

Stakeholders were of the view that a market value approach would overcome many of the inconsistencies generated by different accounting treatments and would provide for greater equity between taxpayers. However, some expressed concern about the compliance costs involved in determining market values.

The Panel is of the view that these issues, along with potential options, should be set out in detail in the Issues Paper based on already commissioned expert advice.

Progressing the themes and issues raised in the initial consultation phase

As outlined above, this part of the consultation is only the initial stage of what will be an extensive consultation process with stakeholders. The next major phase in the consultation process is the preparation and release of the Issues Paper in July 2010. This phase will give the opportunity to provide greater detail around issues raised, and options proposed, with stakeholders being invited to provide their views through a formal submission process.

As a result of this initial consultation phase, the Panel has identified some particular issues which the Government may wish to clarify.

These issues are:

- whether the Government wishes to provide greater certainty to the value of the guaranteed government contribution within an RSPT framework or whether it wishes to change the design of the tax to a PRRT model;
- whether to exempt low value minerals (and micro — small operators) and if so, to identify a workable mechanism; and
- whether to provide a more generous implicit prospectivity for existing projects, by means of a wider use of market valuation to determine the proposed starting base and/or changes to the subsequent treatment of the starting base.

Issues of detail for consideration in the next stage of consultation

Many issues were canvassed during the initial consultation phase. These issues, along with the details that will be needed to support the issues above, will be the subject of further consultation commencing with the July Issues Paper. The RTCP secretariat is continuing to receive input from stakeholders in developing the Issues Paper.

PART A: THEMES RAISED IN INITIAL CONSULTATION

1 The character of the Tax

'Current arrangements provide an inadequate return to the community and do not recognise the cost of resource investment and production, which can be particularly important during periods of low resource prices ... A large share of the Australian economy is devoted to the resource sector so it is important to get these parts of the resource system right.
The Australian Government's Resource Super Profits Tax (RSPT) will ... provide a more efficient mechanism for collecting a share of the returns from our non-renewable resources, removing impediments to mining investment and production.'

Sunday 2 May 2010 — *THE RESOURCE SUPER PROFITS TAX: a fair return to the nation* — page 9

'The Government will consult extensively with stakeholders on the design of the RSPT ... The consultation will also cover the need for exemptions from the RSPT where, due to compliance costs, there is no net benefit to society in applying the RSPT. This may occur in respect of low value minerals or micro businesses.'

Sunday 2 May 2010 — FACT SHEETS — *STRONGER FAIRER SIMPLER: A tax plan for our future* — page 19

'The Australian Government will provide a refundable credit to resource entities for state royalties paid to State governments following the commencement of the RSPT.
The refundable credit will be available at least up to the amount of royalties imposed at the time of announcement, including scheduled increases and appropriate indexation factors.'

Sunday 2 May 2010 — FACT SHEETS — *STRONGER FAIRER SIMPLER: A tax plan for our future* — page 26

1.1 Transferability and refundability of losses

The announced design of the RSPT uses a cash-flow tax as a benchmark and it is through this mechanism that the RSPT seeks to be an efficient tax. As such, the RSPT design is intended to have minimal impact on investment and production decisions made by those involved in the exploitation of Australia's non-renewable resources. However, unlike a cash-flow tax, where a government would contribute upfront a proportion of the costs associated with capital expenditure outlaid by a private producer, the RSPT uses a mechanism where the Government's 40 per cent contribution is delayed. The delay assists in mitigating integrity issues associated with payment of the contribution upfront and also serves to smooth the impact of large investments on government revenue, thus reducing volatility in tax revenue.

The announced RSPT would allow costs on a project to offset revenue from any project owned by the private producer or of a private producer belonging to the same wholly owned corporate group. However, delays in recognising costs will still occur.

The delays would arise because the announced RSPT would depreciate capital costs (in line with existing income tax rules) and carry forward costs that exceed a project revenue for a given assessment period.

To preserve the tax value of the deferred costs to the private producer, the announced RSPT proposed increasing the value of any carried forward cost by the LTBR — the uplift rate. This increase in value is called the interest allowance and is deductible against project revenue. Because the contribution is guaranteed, the announced RSPT settled on the long term government bond rate as the appropriate uplift rate.

The RSPT's mechanisms of transferability, refundability and the guaranteed contribution, seeks to deal with the different risk premiums (which may be thought to apply for individual project and commodity profiles) are conceptually dealt with in a uniform manner, removing the need to differentiate between projects and between commodities from a risk premium perspective.

This is the area of key difference with the PRRT model. The PRRT model limits transferability of costs to exploration costs (in a restricted form) and does not provide for refundability of costs if a private producer were to leave the resource sector or close the project. Because of this, a higher uplift rate is required as a way to take into account a project's risk premium.

Feedback from stakeholder's was that they did not want and did not value the RSPT's mechanism to deal with varying private sector costs of capital, in the form of the government guarantee, as they only committed to undertaking viable projects. Further, they were of the view that the guarantee is unlikely to reduce the cost of capital and in that event the uplift rate, set at the LTBR, is too low causing the imposition of tax under the RSPT to come in too early.

Stakeholder's held the view that the guaranteed refund was of little value, as future governments are not tied to the guarantee while, during times of low commodity prices, a government may come under fiscal pressure to reduce the guaranteed refund. This sovereign risk, that is that a future government may negatively change this or other aspects, impacting on 'locked-in' projects, was of a key concern to stakeholders.

It was suggested these risks could be mitigated somewhat and the refund made more valuable through mechanisms such as allowing the right to the refund to be 'bankable' in the form of tradeable security or a time limited refund of undeducted capital. Other suggestions were to move away from the income tax depreciation schedules to accelerated rates of depreciation or immediate expensing of capital costs while maintaining the transferability feature. It was said that such a move would bring forward cash flows of a project for the private producer and would move the RSPT design closer to a pure cash-flow tax.

In respect of exploration activity, stakeholders provided an additional reason for not valuing the guaranteed refund. They posited that the risk/reward profile of their investors was such that they were freely willing to take on the higher risks associated with such activity (particularly where it was equity funded) in the knowledge that rare but higher rewards from exploration success would be taxed more lightly than that proposed under the RSPT.

A number of companies put the view that while making the guarantee more valuable would improve their assessment of the RSPT, they nevertheless argued that it was unwanted or inappropriate for the Government to directly participate in, and share in, losses from the mining sector (the latter because that would expose the Government's balance sheet to greater risk).

Overall, the preference was to remove the refundability mechanism and provide a higher uplift rate (possibly on a project-by-project and commodity-by-commodity basis). Some also thought the

transferability feature of the RSPT should be retained or achieved implicitly through a wide definition of a project to capture all like extractive activities.

Decisions at this level of design would have significant implications for the legislative design of the RSPT with flow on implications for compliance with, and administration of, the legislative scheme. Adopting a RSPT model with enhanced refundability features would allow for the examination of an alternative to a project definition as a tax unit for assessment, such as a company or entity basis as a tax unit, a position raised by some stakeholders as an alternative. Such a model does also present the opportunity for a simpler law which ought to have beneficial implications for compliance and administration.

A move closer to the PRRT model, involving removing RSPT refundability feature would also necessitate a removal of the RSPT transferability feature. In general, a PRRT model would necessitate the continued use of a project definition as a tax unit for assessment. Under the PRRT model, in attempting to maintain the concept of neutrality in the tax design on investment and production decisions would require (in theory at least), the unrealistic task of differentiating project and commodity risk premium profiles for specific projects. The quest for simplicity would almost certainly require a single uplift rate meaning some projects would be under compensated and others over compensated.

Companies in general use a number of decision making factors, such as net present value based on a weighted average cost of capital, internal rate of return, payback ratio, annual growth in production, reserves and resources, and targeting projects in a particular part of the cost curve, to make investment decisions. In that event, the degree of the distortion from a PRRT model may remain relatively constant across different projects.

1.2 Finding

The Panel suggests further investigation of at least the following options:

- maintain the design of the RSPT (including the refundability and transferability of losses) with an enhancement of the value of the guaranteed government contribution. Potential mechanisms are:
  - accelerating the rate of depreciation of capital expenditure within a specified period with the period to be determined in consultation with stakeholders; and
  - allowing for the right to the guaranteed government contribution to be 'bankable' such as 'tradeable security' with the precise mechanism to be determined with stakeholders.
- investigate the viability of a move away from a cash-flow tax benchmark and to a PRRT model where both the refundability and transferability features of the RSPT are removed though a higher uplift rate is provided. Royalties could be creditable against the tax liability but not immediately refundable.

1.3 Refunding state royalties

Stakeholders welcomed the announced proposal to refund state based royalties. However, there were some concerns with the proposed approach.

Key to stakeholder's concerns was the ability for States to increase their royalty rates above those applying at the time of announcement on Sunday 2 May 2010, raising the question as to whether the Government would allow the refunding of royalties mechanism to match such increased rates. (The Panel was also asked to clarify whether increases in royalty rates which had been announced in subsequent state budgets were 'scheduled increases' contemplated in the RSPT announcement).

Even though royalties would remain tax deductible for income tax purposes, to the extent they exceed the Government's proposed refund going forward, the deduction would be less valuable than a full refund and would fail to totally remove the distortive impacts of additional royalties on investment decisions and would increase the total tax level above the proposed 40 per cent rate.

The other main area of concern was with the administrative burden of having to comply with ongoing royalty regimes and a new tax regime through the RSPT. Further on the issues of compliance, questions were raised on how the royalty refunds by the Government could be streamlined from a compliance and administration point of view and the timing of the actual refund. In addition, some raised whether it was desirable to have the refund of royalties first credited against any commonwealth liability.

Some stakeholder's presented a view that they would prefer for the state royalty regimes to be abolished.

1.4 Finding

The Panel considers that it is important for royalties to be refunded in a timely and efficient manner and in a way that minimises compliance and administrative costs.

The precise mechanism for refunding royalties will be the subject of consultation with both industry, the States and the Australian Taxation Office (ATO) to ensure compliance and administration costs are minimised.

The Panel recognises the issue of States and Territories raising royalties beyond the rates at the time of announcing the RSPT as being inconsistent with the intent of the tax. However, the interaction between the royalties and the RSPT is a matter for the State, Territory and Commonwealth governments. Further, the imposition of state and territory royalties lay with the States and Territories' powers under the Australian Constitutional arrangements.

2 Scope of the RSPT

'The RSPT will apply to all mining and petroleum projects, with the exception of PRRT projects ...
In relation to marginal low-value projects, it is important that they are included in the RSPT scheme, as these projects are likely to benefit most from a switch from a royalty regime to the RSPT.
Difficulties arise in determining meaningful boundaries for exclusions. For example, many projects may produce several resources with different degrees of profitability.'

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2.1 Exclusion of resource classes

Representations have been made to exclude low value commodities such as: gravel, clay, salt, dolomite, lime, gypsum halite, magnesium salts and talc from the scope of the RSPT. It was suggested that the RSPT would make such operations unviable due to low profit margins or that it would lead to increases in prices. It was noted that some commodities could be advantaged through the refunding of state royalties (for those operations subject to royalty payments).

However, representations were also made to ensure competitive neutrality is maintained and to not provide one sector of the resource industry a competitive market advantage over another sector via an exclusion from the RSPT.

The principle for examining the need for exclusions from the RSPT is sound on the basis of avoiding raising associated compliance cost where there is likely to be little rent that would be properly subject to the RSPT. The Government has flagged the need for consultation on how to determine when such an exclusion is appropriate.

The design of exclusion raises additional questions, such as:

- what is an appropriate definition of a 'low value' commodity?
- what apportionment rules would be required for determining RSPT revenue and RSPT deductions where a single project extracts both 'low' and 'non-low' value commodities?
- as a subsidiary question, how to deal with situations where a commodity ceases to be within a definition of a 'low value' commodity due to technological changes allowing for additional value to be released from the commodity or due to economic cycles in respect of commodity values? and
- how to ensure that the exclusion of certain commodities does not result in a competitive advantage or disadvantage to certain entities?

2.2 Exclusion of micro-businesses

As for 'low value' commodities, the Government has flagged the need to ensure the RSPT would not cause an unreasonable compliance and administrative burden on very small and micro-operators. This could also be in the form of exclusion from the RSPT or through a simplified version of the RSPT.

As with the design of any exclusion, additional complexity will arise in both the design of the legislation supporting the exclusion and in the administration of the law from a compliance point of view. It is important therefore to ensure the design of any exclusion keeps in mind both the need for appropriate integrity rules while minimising the impacts on associated compliance and administration costs.

In this respect, it is worth investigating the viability of a single exclusion that could deal with both 'low value' commodities and smaller operators. However, this may be difficult given some companies with 'low value' commodities are large operations.

As with 'low value' commodities, design issues will arise, such as:

- setting an appropriate base and threshold in a way that allows for sufficient targeting of the intended category of taxpayers while not inadvertently distorting a taxpayer's investment and production decisions, such as encouraging a project to stay below a given threshold in lieu of expanding a project;
- identifying the type of grouping rules that should be adopted, using natural systems such as existing definitions and legislated income tax rules could be beneficial (for example, the small business definition in the income tax laws); and
- identifying which project or taxpayer costs, if any, should be allowed to transition into (or out of) the RSPT on a taxpayer exceeding (or falling below) a given threshold.

As outlined in the discussion above, decisions on the precise definitions, thresholds and integrity rules etc would benefit from further consultation with industry. The next phase of the planned consultation phase will give an opportunity to stakeholders to provide submissions on these issues in response to a more detailed discussion on the scope of the RSPT in the Issues Paper.

2.3 Finding

The Panel has not had the opportunity to consult comprehensively on this matter. Given this, along with the low level of representation made in respect of small to micro-operations, the Panel suggests targeted consultation be undertaken with stakeholders that are potentially impacted by an exemption.

3 Transitional arrangements

'Existing projects will be transitioned into the RSPT with a generous RSPT starting base to reduce future RSPT liability in recognition of past investment. This RSPT starting base can be deducted against RSPT revenue from the project but is not transferable between projects or refundable. Capital expenditure between the announcement and commencement of the RSPT (the interim period) will be entitled to the same RSPT loss transfer rules and loss refund rules following commencement.'

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3.1 Projects existing pre-announcement of the RSPT

A key issue raised was how the announced RSPT would apply to projects entered into before the announcement. Strong representations were made to the Panel to only include future projects, or future investment, in the RSPT thereby excluding existing projects from the RSPT.

One of the main concerns raised by stakeholders with applying the RSPT (apart from PRRT projects) to existing projects is that of sovereign risk — having a government change the taxation arrangements on past investment decisions.

Strong views were presented in dealing with implicit prospectivity ranging from exclusion of existing projects from the RSPT (actual prospectivity) to the implicit via concessional adjustments to the design of the transitional rules about the measurement and treatment of the RSPT starting base (implicit prospectivity). An important principle suggested was the need to preserve competitive neutrality between existing projects brought into the RSPT and projects that commenced post announcement of the RSPT. Ideally, any consideration of addressing this issue of implicit prospectivity should take into account the need to promote equivalent treatment on competitive neutrality grounds so as to neither over compensate nor penalise projects.

The Panel notes the Government's intent in this area and the reasons for bringing in all existing projects on the basis that excluding existing projects from the RSPT arrangements would distort investment decisions, by providing a competitive advantage to those projects over new projects, which could potentially retard the development of new mining operations. Including all existing projects (other than PRRT projects) also limits what might otherwise be difficult compliance and complexity problems from distinguishing between 'old' and 'new' projects.

Such projects can be brought into the RSPT with a degree of implicit prospectivity depending on the transition arrangements and the generosity of the RSPT starting base.

The Panel also notes that the design features for transitioning existing projects into the RSPT are a matter for consultation.

The quarantining of the RSPT starting base

The quarantining of the RSPT starting base, where the base is neither transferable nor refundable, was considered by stakeholders as being heavy handed. Stakeholders understood the need to have

an acceptable level of integrity around the calculation of the starting base though felt the announced design to be working from the lowest denominator. Most private producers have a significant level of internal integrity measures around the measurement of asset values and capital expenditure, such as audited financial accounts. Stakeholders suggested that there are alternative means to ensure integrity around the measurement of the starting base that would reduce pressure on the need for quarantining, although no specific proposals were tabled.

Concern was also raised by some stakeholders on the proposal to have both a quarantined RSPT starting base and a five year write-off period as this could cause some of the starting base to be inappropriately lost. For example, where an existing project with a relatively short project life is brought into the RSPT and generates project revenues exceeding the written-off portion of the starting base during the first three years of operation, resulting in RSPT liabilities, but closes in the fourth year leaving unused starting base that cannot be refunded. This outcome was seen as inappropriate. While not directly stated, the suggestion was that access to the starting base remaining in the fourth year should at least be available to recoup RSPT liabilities paid in the previous years.

Assets to be included in the RSPT starting base including the value of the resource

A point emphasised by stakeholders, about assets to be included in the RSPT starting base, was the price paid for goodwill (for the issue or assignment or licence to extract known resources). This transaction could have occurred by either directly paying for the value of the licence, such as through a state government auction, or through the purchase of shares in a company holding a licence to extract resources.

Another issue is the need for the approach to the starting base to be consistent. For instance, should an entity that bought shares in a resource company get the same treatment as an entity that bought the assets directly?

A related issue is the treatment of profit-sharing arrangements (sometimes called 'net profit interests'), where the seller of an interest in a mining right retains an interest in a future income stream from the project (for example, 10 per cent of the receipts from selling the resources). These are neither deductible nor assessable under the PRRT and consistency would suggest that that treatment should be provided under the RSPT.

Measuring the value paid through a state government auction for issue of a mineral extraction licence would be straightforward. In these cases, it would nevertheless not directly follow that all of the purchased value ought to be included in the starting base as the application of the RSPT to the resource, and effective removal of the royalties, would affect the value of the resource while some or all of the purchased resource may have been extracted in the intervening period.

A purchase of that licence via the purchase of shares in a company raises several significant technical issues and would need to be addressed if valuation through the purchase of shares was adopted. Some technical issues that arise are:

- The price paid for equity would reflect the value of unrecovered resources and anticipated resources over which the operating entity has extraction rights.
- Rules may be required to gross-up the price paid for the equity to reflect the impact on that price of the operating entity's liabilities.
- Apportionment rules would be required to determine the extent assets and liabilities of the entity have a sufficient nexus with the undertaking of the exploitation of non-renewable resources.

- The question arises as to which acquisitions of equity should be recognised. For example, should it only be acquisitions within a specified period before the announcement of the RSPT?
- An acquisition may be of a partial equity stake in an operating entity requiring consideration of how to marry the price paid for the equity with the value of the operating entity's relevant assets and liabilities.

The RSPT applies at the entity level, which is at the level of the entity undertaking the exploitation of the non-renewable resources, and does not apply at the equity level either at the level of shareholders in a company or unit holders in a unit trust. If market value is adopted as a valuation methodology then the valuation at the entity level would obviate the need to undertake a valuation at the equity level as the appropriate values would present themselves at the entity level. This would simplify any valuation exercise.

Assets and the relevance of the RSPT taxing point

Another issue raised by stakeholders was the relevance of the taxing point as a basis for including assets in the starting base. It was noted that the taxing point in principle should be close to the point of extraction of the non-renewable resource.

The RSPT announcement material specifically identified the taxing point as defining the scope of revenue and costs that should be taken into account in determining an RSPT profit or loss. In principle, the taxing point should be set close to the point of extraction of the resource to be consistent with the inclusion of the market value of the resource at that point in time in the RSPT revenue. This would provide symmetric treatment of revenues and costs at the taxing point. However, the market value of the resource at this stage in the production process is rarely observable and would need to be derived. The Panel notes that the Government raised the potential for flexibility in the taxing point and that this point be subject to consultation with industry, such that additional downstream processes could in some cases be included within the scope of the RSPT if that was seen as desirable by industry.

Some of the downstream assets are used for refining the non-renewable material, others are part of the basic processing, allowing for the mineral to be brought to a state where it can be sold. Stakeholders raised questions about whether the RSPT starting base should include assets not directly associated with extracting resources or getting them to the taxing point, including intangible and enterprise assets. Although there was general agreement that the taxing point should occur as close to the extraction of the resource as possible, and thus exclude beneficiation and transport assets. An alternative view was expressed by some stakeholders that in particular cases the value of downstream assets, such as pre-existing vertically integrated processing plants, might be included in the RSPT starting base as those plants (if excluded) are only viable without the application of the RSPT on the value of the minerals consumed by a vertically integrated operation. Extensive consultation will be required in respect of identifying an appropriate design for the taxing point or whether a pricing mechanism would be more appropriate to address the issue.

While there was some discussion on the approaches to the RSPT taxing point during the initial consultation phase, further consultation on this issue is needed and is proposed to be discussed in more detail through the second consultation phase via the Issues Paper. This would potentially allow for a consistent approach to the taxing point, and its impact on what assets should come within the starting base, for both the transitional rules and the mature RSPT system.

Measuring the RSPT starting base

> *'In principle, 100 per cent of the accounting book value of existing capital will be included in the RSPT starting base and this value will be taken into account when calculating resource super profits.'*
>
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Stakeholders generally did not favour the use of book value as a methodology to calculate the starting base. A principle espoused by several stakeholders was the need for providing equitable treatment between taxpayers. It was argued that accounting book value did not achieve this.

The Panel notes the reasons that audited book value methodology was identified as a starting position. Consultations revealed a number of technical and equity issues to be addressed in the final design of the transitional arrangements, which are outlined below.

Considerable discretion is available to reporting entities in respect of their capitalisation policies. Accordingly, it is possible that an identical set of facts could have been accounted for in two completely different ways by two different companies. For example, some companies capitalise exploration costs against future potential revenues from mining, while others expense these costs as they are incurred. In using book value to calculate the starting base, the former treatment would provide a starting base credit for these costs, while the latter would not provide any. This raises a significant issue of equity that may need to be addressed.

Further, there may be a range of costs that were properly expensed under accounting rules that conceptually should be eligible for inclusion in the starting base. An example would be overburden costs (ie the costs of getting to an ore deposit such as stripping) which are generally expensed, but represent work done to gain access to a mineral resource which may then generate significant profits.

For some companies, the most recently audited statements would be the 30 June 2009 accounts. At this time, the global financial crisis was having a significant impact on resource prices, and many companies would have 'impaired' (that is, written down) assets in their Statement of Financial Position. It was suggested that this impairment should be written back (or increased) to the extent markets improved in 2010 reversing these impairments at the announcement date.

A number of more technical arguments were raised about whether to take the values of assets in the accounts of a consolidated entity or the individual companies were raised. This will be an issue where accounting adjustments are made at the consolidated level, rather than at the subsidiary level, and will also impact where the subsidiary is not large enough to require audited statements in its own right. These issues will need to be clarified.

Further technical issues included:

- where otherwise eligible capital costs (eg the costs of sinking a mine shaft) have been capitalised to the mineral asset on the books (which will be excluded from the starting base);
- the allocating of shared assets to individual projects;
- issues where companies do not report under Australian Accounting Standards or their international equivalents; and
- whether older accounts suffice if audited accounts had not been prepared in the past 12 months?

It was suggested that many of these equity and technical issues raised above could potentially be solved by going back to historical cost and by providing a standard rate of depreciation to all holders of similar assets. The merits of such adjustments should be further investigated.

A number of stakeholders strongly argued that a market value approach would overcome many of the inconsistencies generated by different accounting treatments and provide for more equitable treatment between producers. While some stakeholders suggested utilising the previous tax consolidation market valuation experience, others view that experience to be a 'painful' one. Some expressed concern about the compliance costs involved in determining market values.

While a market valuation approach will deal with a number of the equity issues outlined above, this approach brings with it a range of different issues:

- Under a market valuation approach, there are a number of measurement issues that would need to be overcome in separating out the value of the resources from the total value of a project where the value of the resource were to be excluded from the starting base.
- From a practical perspective, a full market re-valuation of the mining plant and equipment in Australia would be a substantial exercise. New guidelines would be required, although these could draw heavily on the existing market value guidelines prepared by the ATO for the tax consolidation regime.
- Even with market valuation, there is still a level of subjectivity and interpretation that could lead to differences in outcomes between entities.
- There could be a significant integrity risk with market valuations due to the very strong incentive on resource companies to maximise the value of the starting base.
- The compliance costs on mining entities would be significantly higher under this option.

The Secretariat was asked whether market values should be GST inclusive, or exclusive. In principle, GST should be excluded because of the input tax credit being available to a taxpayer in respect of acquisitions.

3.2 Finding

The issues with valuing a 'starting base' for existing projects arise equally whether they are brought into the RSPT model or some form of PRRT model.

The consultation process raised a number of valid concerns over using the accounting book value of assets in the most recently audited accounting statements as the primary mechanism to calculate the starting base value.

The Panel is of the view that these issues, along with potential options, should be set out in detail in the Issues Paper based on already commissioned expert advice.

3.3 Projects coming into existence post announcement but before commencement

Some stakeholders raised the issue of uncertainty in respect of costs outlaid post announcement. The announcement material stated that capital expenditure between the time of announcement and commencement of the RSPT would be provided with the same tax treatment as for expenditure outlaid post commencement. Further, the announcement material provided that such capital expenditure during this interim period will be included in the RSPT account valued at historical costs and indexed, from the time of purchase at the LTBR, with such expenditure not depreciated during the interim period.

Some stakeholders asked for a definition of a project and specifically at what time is a project considered to be a new project as apart from a project that existed pre-announcement. The announced material draws a distinction between pre and post announcement capital expenditure. Because of this the issue of what is a new project becomes obsolete in that capital expenditure outlaid post announcement will be treated on the same bases as if it were incurred post commencement.

PART B: KEY TOPICS TO BE ADDRESSED IN THE RSPT ISSUES PAPER

4 Key topics

The initial phase of the consultation process was very valuable in raising a number of topics for further consultation and consideration. The remit of the initial consultation phase was to focus on the transitioning of existing projects into the RSPT along with other key design aspects as they arose. While some of these topics have been discussed in the previous sections of this report, stakeholders and industry will still be able to provide comments on these topics in the second consultation phase. The second consultation phase represents an extensive consultation process with the release of a detailed Issues Paper in July 2010. Stakeholders and industry will be invited to submit comments on the Issues Paper where submissions will be considered in the development of a Final Design Paper that is due to be released in late 2010. The Final Design Paper will form the basis for the draft RSPT legislation. This draft legislation will be available for consultation around mid 2011.

Key topics raised by stakeholders during consultation to be included in the Issues Paper

Topic	Sub topic	Explanation	Process for dealing with issue
Transition issues	Methodology	The use of book value methodology raises various issues in respect of how certain assets are valued based on individual circumstances or practices. This may cause some inequity between entities with essentially similar assets.	Discussed in this paper and to be discussed in the July Issues Paper
	Quantum of starting base — prospectivity issue	The book value methodology can undervalue the assets held by the entity.	Discussed in this paper and to be discussed in the July Issues Paper
	Ring fencing	Rules will need to be provided to allow for the proper allocation of an asset's cost where the asset is used in multiple projects or for multiple purposes.	Discussed in this paper and to be discussed in the July Issues Paper
	Asset purchase versus buying company shares	Will the valuation occur at the actual asset level or also at the level of shares in a company or units in a unit trust?	Discussed in this paper and to be discussed in the July Issues Paper
	Access	Will there be accelerated access to the RSPT starting base?	To be discussed in the July Issues Paper
	Trapped starting base	Can a remaining balance in a starting base be used to offset prior tax paid if a project closes with the proposed 5 year write-off?	Discussed in this paper and to be discussed in the July Issues Paper
	Interim expenditure	How will expenditure outlaid between the time of announcement and commencement of the RSPT be dealt with?	Discussed in this paper and to be discussed in the July Issues Paper

Key topics raised by stakeholders during consultation to be included in the Issues Paper (continued)

Topic	Sub topic	Explanation	Process for dealing with issue
Refundability	Valuation of the guaranteed government contribution	Will the guaranteed government contribution be sufficiently valued by investors and financiers?	Discussed in this paper and to be discussed in the July Issues Paper
	Remove refundability and provide higher uplift rate	The removal of the refundability of the guaranteed government contribution with a higher uplift rate would require the transferability of the RSPT to be also removed.	Discussed in this paper and to be discussed in the July Issues Paper
	A reasonable basis	On what basis would a refund be made to an entity for the guaranteed government contribution?	To be discussed in the July Issues Paper
Scope	Low-value commodities and micro-operations	On what basis would low-value commodities and micro-operations be exempted from the RSPT?	Discussed in this paper and to be discussed in the July Issues Paper
Uplift rate	Refundability	The proposed LTBR is too low to reflect an investor's risk/reward profile.	Discussed in this paper and to be discussed in the July Issues Paper
	When does it commence?	At what point in time does the uplift rate commence, on the day the expenditure is incurred or at the start of the income year on the opening RSPT account balance or when the capital asset is installed ready for use?	To be discussed in the July Issues Paper
Exploration	Interaction with income tax rules	How does refundability of exploration costs interact with the income tax law?	To be discussed in the July Issues Paper
	When does a project commence	At what point in time would exploration activities come within the scope of the RSPT?	To be discussed in the July Issues Paper
Refunding royalties	The cap	What happens if States raise their royalties?	Discussed in this paper and to be discussed in the July Issues Paper
	Refunding mechanism	How will royalties be refunded?	Discussed in this paper and to be discussed in the July Issues Paper
	Cash refund or offset against any commonwealth liability or RSPT liability only?	Will refunds be in cash or can they be offset against any commonwealth tax liability?	To be discussed in the July Issues Paper
Private royalties	Deductibility	What is the status of private royalties paid by a miner? Are they deductible?	Discussed in this paper and to be discussed in the July Issues Paper
	Private royalty as deferred sale proceeds of a project	Should a royalty which is in substance deferred sale proceeds be deductable?	To be discussed in the July Issues Paper
Tax unit	Project versus company (entity)	Should the RSPT tax unit of assessment be based on an interest in a project or on a company basis?	Discussed in this paper and to be discussed in the July Issues Paper
	Definition of a project	A definition of a project based on mine gate is problematic for some operations where facilities are outside the mine gate and services several projects.	To be discussed in the July Issues Paper

Key topics raised by stakeholders during consultation to be included in the Issues Paper (continued)

Topic	Sub topic	Explanation	Process for dealing with issue
Taxing point	Multiple joint venture partners	How will the RSPT taxing point deal with situations where there are multiple joint venture partners — could each partner choose a different taxing point for the one project?	To be discussed in the July Issues Paper
	Substituted Accounting Periods	Will taxpayers be able to adopt their substituted accounting periods for assessments under the RSPT?	To be discussed in the July Issues Paper
RSPT revenue	Market value of commodity on being consumed as part of a vertically integrated operation	What is the value of a commodity for RSPT revenue purposes where a miner uses the commodity in its vertically integrated operations?	Discussed in this paper and to be discussed in the July Issues Paper
	Legacy contracts	What should the value of the commodity be for RSPT purposes where the entity has entered into a binding agreement pre announcement with set pricing arrangements? This could also be in respect of contracts with a government.	To be discussed in the July Issues Paper
	Revenue not directly related to extraction of non-renewable resources	Should the profit made on the sale of an asset, such a land, that is used as part of a resource project be included in the RSPT revenue?	To be discussed in the July Issues Paper
RSPT deductions	Cash flow benchmark	How are 'blackhole' costs dealt with in the RSPT?	To be discussed in the July Issues Paper
	Direct/indirect costs	Indirect costs should be allowed as an RSPT deduction to properly reflect the cost to the producer for the project. In particular where the cost can be identified as relating to the project.	To be discussed in the July Issues Paper
	Immediate expensing versus depreciation	Will the RSPT move to immediate expensing of capital costs?	Discussed in this paper and to be discussed in the July Issues Paper
Rate of depreciation	When do you include costs on a depreciating asset into the RSPT account?	Can costs on depreciating assets go in to the RSPT account when the expenditure is incurred rather than at the time the asset is installed ready for use?	To be discussed in the July Issues Paper
	Income tax depreciation rates	Will depreciation rates be the same as those for income tax?	To be discussed in the July Issues Paper
PRRT opt-in	Basis	Should the opt-in be on the basis of: a project interest; a whole project; a company; a company group?	To be discussed in the July Issues Paper

Key topics raised by stakeholders during consultation to be included in the Issues Paper (continued)

Topic	Sub topic	Explanation	Process for dealing with issue
	Expansion of an existing project	Is the expansion of an existing PRRT project in the PRRT or in the RSPT?	To be discussed in the July Issues Paper
	Time limit on opt-in?	Is there a time limit on when an irrevocable election can be made?	To be discussed in the July Issues Paper
	Extend opt-in	Can the PRRT opt-in be extended to onshore oil and gas operations?	To be discussed in the July Issues Paper
International issues	Crediting	Should the RSPT be credited for double tax agreement purposes?	To be discussed in the July Issues Paper

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