Group Public Affairs

bhpbilliton
resourcing the future

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Mr Tim Bryant
Secretary
Senate Standing Committees on Economics
PO Box 6100
Parliament House
Canberra ACT 2600
Australia
By email: economics.sen@aph.gov.au

Dear Mr Bryant

BHP Billiton welcomes the opportunity to make a Submission to the Senate Standing Committee on Economics (the 'Committee') Inquiry into the development and operation of the Minerals Resource Rent Tax ('MRRT'). The Committee's Inquiry provides a timely opportunity to address a degree of misunderstanding regarding both the design and operation of the MRRT and the level of tax and economic contribution the mining industry, including BHP Billiton, makes to the Australian economy, directly and indirectly.

In making this submission, BHP Billiton welcomes the separate submission of the Minerals Council of Australia ('MCA'). The MCA's submission provides the Committee with detailed information regarding the operation of the MRRT, including an explanation of internationally recognised tax policy principles that underpin the design of the MRRT.

The MRRT

BHP Billiton's submission does not seek to replicate the MCA's detailed explanation of these design issues. It is important to reiterate, however, that the past stability and competitiveness of Australia's tax system has been central to providing resource companies and investors with the confidence to invest billions of dollars in long-life projects that in turn are exposed to the risk of significant commodity price movements and exchange rate fluctuations.

Since the MRRT was agreed as a replacement for the proposed Resources Super Profits Tax ('RSPT'), which contained a number of design flaws, BHP Billiton has announced approval of more than US$28 billion (US$20 billion BHP Billiton share) in new investment in 18 capital projects across Australia. The decision to make these investments – and the significant employment, taxation and economic benefits that will flow from them for future generations – would have been seriously jeopardised under the RSPT as originally proposed.

It is also important to note that following consideration of 88 submissions, input from 187 contributing stakeholders and extensive face-to-face consultations by the Policy Transition Group, as well as significant Parliamentary scrutiny, the introduction of the MRRT was to provide an additional return to the Australian community during periods of abnormally high industry profitability - a tax 'on top of' existing royalties and corporate tax. Given its nature as a 'top up tax' the MRRT is inherently volatile, susceptible as it is to commodity price and exchange rate movements and cost pressures. It is not, and was never expected to be, a form of stable taxation revenue – that is a role better left to Australia's corporate income tax regime and royalties.

Unlike the RSPT, the MRRT never results in a lower collection of revenue than exists under the status quo (that is, company tax and state royalty payments). The MRRT ensures that profitable coal and iron ore miners will not face an effective tax rate of more than 46% on resource profits over the life of the project. This rate is higher when compared with many other countries that compete with Australia for investment. And MRRT is only payable if profits exceed $75 million, thereby shifting the tax liability to more profitable miners.

Indeed, given royalty rate increases in New South Wales, Western Australia and Queensland since the introduction of the MRRT, the Australian iron ore and coal industries are paying a higher effective rate of overall tax and royalties than was the case prior to the MRRT's introduction, irrespective of the level of profitability. It is also worthy of mention that the MRRT will never result in a refund from the Federal Government to resource companies as would arguably be the case today, given current economic circumstances, had the RSPT been enacted.

BHP Billiton therefore encourages the Committee to review closely the MCA's submission with respect to the tax principles upon which the MRRT is based – principles that BHP Billiton supports and considers imperative to sustaining the future competitiveness of, and improved investment environment in, the Australian resources sector - Australia's critical growth engine.

In particular that resource specific tax measures must be:

- **prospective** (i.e. do not re-write the rules after an investment has been made, and change must only apply to new investments);
- **competitive** (reflects the global basis upon which the Australian resources industry competes for scarce capital);
- **differentiated** (recognises different minerals generate different rates of profit);
- **resource-based** (i.e. applies to the actual minerals extraction activity and not to infrastructure, downstream processing, manufacturing or transport, which are already subject to corporate tax); and

- **Equitable and efficient** (reform of taxation and royalty arrangements should promote economic activity and improve the efficiency, simplicity and fairness of the tax system without compromising competitive neutrality).

BHP Billiton and the Australian economy

The economic benefits of the mining industry's success are shared across the Australian community in a variety of direct and indirect ways. Recent research from the Reserve Bank of Australia is illustrative of this fact.[1]

For BHP Billiton, as a leader in the global resources industry, nowhere is our employment footprint and economic contribution more enduring and more significant than in Australia. A snapshot of some of that contribution is reflected in the following points:

- **Around the world, BHP Billiton has approximately 125,000 employees and contractors, of whom 57,000 are employed in Australia.**
    - BHP Billiton paid wages and benefits of US$4.2 billion in FY2012 to its Australian employees and contractors (from whom US$914 million in employee taxes was collected).
- **Of the ~ 600,000 registered BHP Billiton Limited shareholders, ~ 575,000 are registered Australian investors, including a significant number of ordinary retail shareholders.**
    - Of those registered shareholders, more than 260,000 own fewer than 500 shares.
    - In addition, BHP Billiton estimates that there are potentially 7.6 million Australian superannuation account holders who collectively are believed to have over A$20 billion of their retirement funds invested in BHP Billiton.
- **BHP Billiton pays more tax in Australia in the form of income tax, royalties, employer payroll tax, fringe benefits tax, excise, MRRT and PRRT than any other company.**
    - Since mid-2010 when the MRRT framework was agreed, BHP Billiton has paid in excess of US$22.5 billion in Australian taxes of one form or another (up to February 2013).
    - For the year ended 30 June 2012, BHP Billiton paid US$9.1 billion of taxes in Australia, 75% of the total tax paid by BHP Billiton around the globe.
    - This included: US$5.4 billion in corporate income tax; US$2.6 billion in State royalties and other production taxes; US$800 million in PRRT and US$300 million in employer payroll and other taxes and payments.

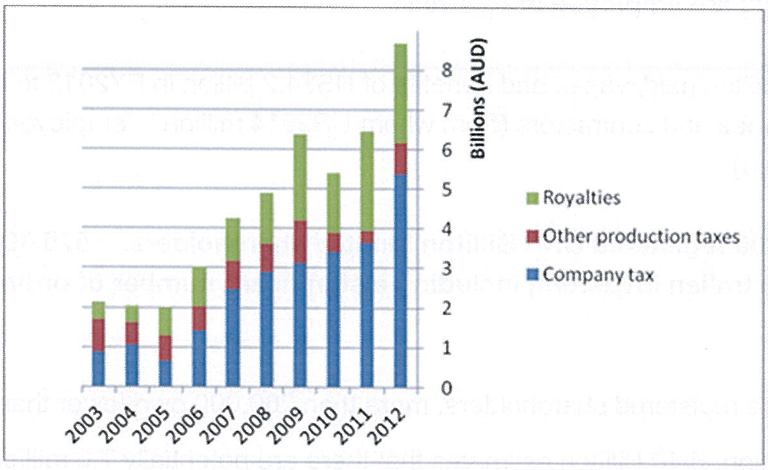
[1] Reserve Bank of Australia, Research Discussion Paper, "Industry Dimensions of the Resource Boom: An Input-Output Analysis", Vanessa Rayner and James Bishop, RBA Economic Research Department, February 2013

- As a measure of scale, BHP Billiton's US$5.4 billion corporate income tax payment in FY2012 was similar to that of the general revenue of the Tasmanian State budget (A$4.6 billion).

- **BHP Billiton's Australian effective tax rate in FY 2012 was 45%.**

  - During the period 2003-2012, BHP Billiton's Australian effective tax rate (including company tax, royalties and production taxes) has averaged more than 40%.
  - Total taxes paid by BHP Billiton's Australian operations in relation to the financial years 2003 to 2012 (inclusive) exceeded A$45 billion.
  - Even without the MRRT, Australian iron ore and coal producers are at the upper end of the global resource royalty and tax scales.

- **BHP Billiton's total tax paid in Australia by way of income tax, royalties and other production taxes has increased by more than four times from 2003 to 2012.**



- **BHP Billiton provides significant support to local, regional and national businesses when procuring through its supply chains.**

  - BHP Billiton spent US$12 billion in FY11 and over US$14 billion in FY12 with Australian suppliers and contractors.

- **BHP Billiton continues to invest heavily in its Australian operations, with some 85% of our current committed global capital expenditure in growth projects occurring here in Australia.**

Conclusion

Any Inquiry into resource taxation should reflect on the backdrop against which the industry operates. Mining investments are long-term, with their value proposition based on the tax regime in place at the time of the investment decision. For Australia to remain a globally competitive investment destination for what are scarce and mobile investment dollars, a stable and predictable tax regime is critical.

In addition, the mining sector is facing significantly changed trading conditions since the MRRT was announced. Stagnant demand from developed economies and moderating demand from growth economies, particularly China, along with an increase in low cost supply in many markets, is weighing on commodity prices. At the same time, the Australian dollar has remained persistently strong despite these weaker prices (as illustrated in the MCA submission) and at a time of significant cost pressures across the mining sector.

BHP Billiton's recent decisions to close a number of mines (including the Norwich Park and Gregory coal mines in Queensland) and to defer investment in other major projects (including Olympic Dam in South Australia and the Peak Downs coal mine in Queensland) reflect the more challenging economic conditions faced by the industry.

Collectively, this change in the trading climate has impacted profitability, as evidenced in BHP Billiton's recent interim results. It is in this context that the lower than anticipated revenue outcome from the MRRT needs to be understood – namely, when profits fall, MRRT reduces or is not payable. That does not demonstrate a flawed design. Rather, it is evidence that profit based taxes in the resources sector are inherently volatile and that the response of the MRRT to market conditions is an essential and desirable design feature.

BHP Billiton respects the role of the Government of the day to review and reform Australia's taxation system. BHP Billiton has always been, and will remain, a constructive participant in any dialogue on this topic, with such dialogue based upon sound taxation policy principles.

BHP Billiton is a major Australian taxpayer. We are proud that we pay our fair share.

Yours sincerely

Christian Bennett
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