The Implications of Implementations
What makes a tax system politically acceptable? A review of the evidence

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1. Introduction

The political impact of the tax law should not be underestimated. There is nowhere where the intersection between the people and their government is as important as in the area of taxation. Indeed, it is the people that fund the government through their labour, capital and consumption. As the sources of the money that the government spends, people expect tax issues not only to be prominent on the public political agenda but also to conform to the principles of equity, efficiency and simplicity.

While this century has seen few countries embrace new tax regimes, Australia has bucked this trend. There has been the goods and services tax, the carbon tax and two mining taxes: the resources super profits tax (RSPT) and the mining resource rent tax (MRRT).

Effective tax reform requires both sound principles of public finance and political acceptability. This paper focuses on what is required, politically, when implementing a new tax regime. After a brief introduction in section 2 to the Australian political landscape and government regulatory guidelines, section 3 explores the lessons to be learnt from the RSPT and MRRT. This is followed in section 4 by an analysis of these taxes against the tax design principles of efficiency, equity and simplicity. Section 5 contains concluding remarks.

2. The Australian political landscape

2.1 Parliament

Australia has a Westminster-style government where the Parliament consists of both the Executive and Legislature. This can be contrasted to other forms of government, such as that in the United States, where the Executive is separate from, and not directly answerable to, the Legislature.

Australia’s federal government consists of a 150-seat House of Representatives (House) and a 76-member Senate. With respect to taxation, the House has the greater Constitutional power. The Senate cannot initiate a bill imposing taxation. Further, the Senate may not amend bills imposing taxation nor amend ‘any proposed law so as to increase any proposed charge or burden on the people’. It can only request the House to rectify an omission or make an amendment; the House is under no obligation to do so.

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2 Commonwealth of Australia Constitution Act s 53.
Taxation bills are also different from other bills in other respects. Under the standing orders of the House, only a Minister can introduce taxation bills. In addition, taxation bills are the only legislation that may be introduced without notice, that is, without written advice of their impending presentation.\(^3\)

Both the House and Senate are comprised of members who uphold specific political ideologies and, unless independent, are governed by their party allegiance. That is, they vote along party lines. Indeed, there have only been 21 votes in the federal parliament, in either or both House of Parliament and Senate, between 1950 and 2007 where both major parties were simultaneously allowed conscience votes.\(^4\) None of these covered tax laws.

The two major parties in the Australian political landscape are the Labor and Liberal parties. To date this century there have been three ‘mid-tier’ parties: the Nationals (who form a Coalition government with the Liberal Party), the Greens and the Democrats. There are, or have been, a number of smaller parties and independents. These have, at one time or another, played an important role in Australian politics. It is these who have the task of trying to decide how something as complicated as a taxation system should work.

These mixes of political ideology had important implications for the ultimate implementation or otherwise of the tax regimes. The RSPT was an initiative of the 2010 Rudd Labor Government while the MRRT was initiated under the Gillard Labor Government. The Gillard Labor Government was a minority government and had secured the support of the Greens and a number of independents in order to form government.

The MRRT was created from the wreckage of the RSPT. The origin of the design of the RSPT, and hence of the MRRT, was the Henry Tax Review.\(^5\) As will be seen in this paper, neither of these were implemented as they were designed; both were compromised by the political process.

### 2.2 Government guidelines

The Office of Regulation Review was established in 1997 to institute the federal government’s new, best practice requirements for making regulations. The ‘regulations’ cover legislation and subordinate legislation. A core element is the preparation of Regulation Impact Statements, ‘to ensure regulatory action is well informed and achieves intended goals, while minimising any burden on business and the community’.\(^6\)

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\(^5\) Australia’s Future Tax System Review Panel, Australia’s future tax system: Report to the Treasurer (Commonwealth of Australia, 2010).

The first Guide to Regulation was released in October 1997 and set out the Government's requirements for regulation making and review and describes, in broad terms, best practice processes and requirements for the development, review and/or reform of legislation and regulation. A second edition Guide was released in 1998, renamed ‘Best Practice Regulation Handbook’ to coincide with the replacement of the Office of Regulation Review with the Office of Best Practice Regulation. This Handbook contained separate guidelines specifically for ‘taxation measures’. Consultation features prominently as well as the need for simplicity, efficiency and equity.

The Office of Best Practice Regulation released updated best practice guidelines effective 1 July 2010. This particular edition contained recommendations made by the OECD to strengthen the system ‘most notably by improved consultation’ and by the Business Council of Australia who had raised concerns about ‘the need for meaningful consultation’. These guidelines outline how government should develop regulatory impact statements which assist in the evaluation of all potential options for tackling a particular policy issue, including new taxes.

With respect to consultation:
Meaningful consultation with key stakeholders should be continuous and should start as early as possible. Consultation should continue through all stages of the regulatory cycle, including when detailed design features are being finalised. ... and consult widely to ensure consultation captures the diversity of stakeholders affected by the proposed changes.

On transparency, the guidelines state that ‘[t]he information on which the government bases its regulatory decisions should be publicly available’.

3. New mining tax regimes

3.1 Resources Super Profits Tax

Under the Australian Constitution the states and territories are the owners of onshore mineral and energy resources. Royalties derived from the output of mining companies are an important source of revenue for the states and territories. At a federal level, mining companies are subject to a company income

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9 Department of Prime Minister and Cabinet, ‘Improvements in the best practice regulation process and major regulatory initiatives’ *Best Practice Regulation Report 2009-10* (Australian Commonwealth, 2010) [1.1].
tax for which they receive a deduction for royalties paid. Thus the tax on income is reduced by the tax on production. The RSPT introduces an additional layer in the form of a type of expenditure tax.

From time to time the demand for resources, coupled with high commodity prices, ensures mining companies make above normal profits, referred to as super-profits. Australia’s Federal Treasury estimated that, during the resource boom in the 2000s, $36 billion of revenue was foregone by not effectively taxing these super-profits.\footnote{Paul Cleary, \emph{Too Much Luck: The Mining Boom and Australia’s Future} (Black Inc, 2011).} One element of the 2010 Henry Tax Review was a proposal to tax these.\footnote{Australia’s Future Tax System Review Panel, above n 5.} That this tax review was not released in its entirety, thereby allowing sweeping debate on tax reform, may have contributed to the collapse of the RSPT policy.

Indeed, instead of releasing the Henry Tax Review report and its recommendations for public debate, the government released it simultaneously with its response to the report. Thus there was no consultation with business stakeholders nor state and territory governments. This response included the RSPT which was only based on the recommendation. For example, the resource rent tax proposed by the Henry Tax Review was designed to replace the royalties system.\footnote{Senate Select Committee on Scrutiny of New Taxes, above n 10, [3.18].}

The RSPT proposal derived by Treasury was considered to be more complex than it needed to be, given there was already a workable model in the petroleum resource rent tax. Indeed, the resource rent tax is an Australian invention that is now regarded as best practice by global institutions such as the International Monetary Fund and the World Bank.\footnote{Cleary, above n 13.} These conservative economic institutions also think the RSPT good policy.\footnote{Ibid.} The gist of the RSPT involved the government taking a 40 per cent stake in resource projects, effectively sharing in both the profits and the losses. On the complexity of the scheme, Professor George Fane of the Australian National University wrote:

\begin{quote}
The RSPT rules are so complicated that they could be changed with negligible electoral consequences. To adapt an aphorism attributed to Ed Murrow, anyone who is not confused by the RSPT cannot have understood it. The accounting rules are too hard for economists, the economics are too hard for accountants and it is all too hard for everyone else.
\end{quote}

Nevertheless, considered to be a good idea, it was poorly designed and communicated.\footnote{Ibid.} There were two aspects to it being ‘a good idea’.\footnote{Ibid.} Firstly, fiscally: it was forecasted to raise $12 billion in the first two years, increasing to more than $100 billion over a decade. The second aspect was that it was to be sustainable by ensuring a more balanced development of non-renewable resources.
Yet, even before the proposal had been put into legislation and before parliament had had the opportunity to review it, the three largest mining companies began their $22 million anti-RSPT advertising campaign. These were London-based Rio Tinto, Melbourne-based and London-listed BHP Billiton and Swiss-based Xstrata. Together they have a combined share market value of $450 billion, 86 per cent foreign owned. These three companies are worth more than the size of Australia’s federal budget and about one third the size of the Australian economy. With revenue exceeding that of most Australian state and territory governments, they possess great political influence.

The RSPT was scuttled in less than eight weeks. Along with the deposal of the RSPT was the deposal of Prime Minister Rudd. Indeed, the anti-RSPT advertising campaign was suspended within hours of Rudd’s departure. Regime change had been executed only shortly before an election was due to be held. That is, before the Australian people had an opportunity to exercise their democratic rights at the ballot box. A functioning democracy had been subverted; a popular leader had been overthrown.

The major cause of the policy collapse can be attributable to a lack of communication on four levels. Much of this was as a consequence of the complexity of the scheme. Most of the commentary on what went wrong came from the media. Some came from within government ranks and from a Senate Select Committee.

Firstly there was communication among the parties to the proposal. According to one insider, the Treasurer had not fulfilled what Prime Minister Rudd had asked of him. This was to ‘secure the support of at least one of the major industry players’ and ensure the backing of the states and territories. Given the encroachment into state fiscal autonomy, that the states and territories were not consulted is incredible in its assumed autocracy.

Secondly, there was an apparent lack of consultation within the government. The Resources Minister was only briefed three days before the announcement when the proposal was already being printed. Dr Craig Emerson, then Minister for Competition Policy and Consumer Affairs, wrote his doctoral thesis on the taxation of petroleum resources and sought unsuccessfully to contribute to the discussions; Gary Gray, who had experience at senior levels in the industry, was also not consulted. The lack of consultation with colleagues with the necessary expertise not only gives the public perception of disunity within the government but highlights the fact that, possibly, not all options were considered.

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20 Cleary, above n 13.
21 ibid.
22 An election was held two months later.
23 Maxine McKew, Tales from the Political Trenches (Melbourne University Press, 2012).
24 Ewin Hannan, ‘Rudd “sold a pup” on Swan’s RSPT delivery’, The Australian (Melbourne), 26 October 2012.
25 McKew, above n 23.
Industry consultation forms the third level of communication. There was no industry consultation before the tax announcement. With the launch of the anti-RSPT advertising campaign further engagement with the mining industry became impossible. Even then consultation was limited. Other companies that would have been affected were excluded from adding to the debate. For example, One Steel was twice refused a meeting as it was considered a ‘manufacturer’. Yet, due to its particular circumstances, the impact of the RSPT could see its closure in a small town where it was the biggest employer.

The final level of communication involves selling the policy to the Australian public. Part of the failure to do this can be contributed to the complexity of the RSPT. Nevertheless, when the government of the day cannot sell its message then the media will, and not always to script. Indeed, the RSPT has been rated as ‘one of the dumbest political moves since Chifley tried to nationalise the banks 60 odd years ago’. And, '[s]eldom, if ever, has there been such a dramatic and rapid policy capitulation by an Australian government.'

The political lessons to be learnt from the RSPT are:
1. The support of the states and territories is required if they are to be affected by the new tax regime.
2. Effective communication is required within the government so as not only to present a united front, but to ensure that all options and expertise have been considered.
3. Industry consultation is an imperative.
4. As the people pay the taxes they need to understand the need for the tax and the way it will operate.
5. Complexity in design and operation should be minimised.

3.2 Mineral Resource Rent Tax

On attaining the prime ministership on 24 June, Gillard stated '[t]here will be a negotiated, profit-based tax regime. But there will be no resource super profits tax'. This ‘negotiation’ was undertaken by Prime Minister Gillard, Treasurer Swan, the Resources Minister, Martin Ferguson, and their chiefs of staff, personally, secretively and exclusively with the same three largest mining companies who had launched the anti-RSPT campaign. It excluded all their competitors, industry representatives, state and territory governments and federal government officials (such as from Treasury) from that process. Nevertheless, Prime Minister Gillard asserted that ‘the agreement was the result

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26 Senate Select Committee on Scrutiny of New Taxes, above n 10, [3.8].
28 ibid.
31 Senate Select Committee on Scrutiny of New Taxes, above n 10, [3.42].
32 Senate Select Committee on Scrutiny of New Taxes, above n 10.
of intense consultation and negotiation and that [it] recognised the views of the mining industry. It took a mere eight days: on 2 July 2010 the MRRT was born.

The Heads of Agreement were drafted by the executives of BHP Billiton and forwarded to the Treasurer’s office for approval. A Policy Transition Group, headed by an ex-BHP chairman, was then chosen to finalise the design. Australian-owned, small mining companies were excluded as were their industry associations such as the Association of Mining and Exploration Companies (AMEC) and Chamber of Minerals Energy of Western Australia. As stated by Andrew Forrest, executive director of Fortescue Metals:

It’s a precedent that should not be supported. Taxation policy should be broad-ranging, it should be fair and it should be based on the constitution of being equal among states and equal among companies. That hasn’t happened. BHP has literally written a tax for everyone else to pay.

The smaller mining companies, funded by the Association of Mining and Exploration Companies, threatened to relaunch the anti-resources tax campaign. Simon Bennison, the CEO said: ‘It’s our intention to run this over the next three weeks; whatever’s required to get a result’. No wonder every industry now threatens a ‘mining tax style campaign’ if it does not get what it wants. This has already occurred in the superannuation and motor vehicle industries. Again on 13 February 2013 the mining industry again took out full page advertisements in national newspapers warning the government that ‘enough is enough’ with what it says is the ‘obsession’ with increasing mining taxes.

As a result of the ‘negotiations’ arising from the scuttling of the RSPT, the tax rate was decreased, the tax base was restricted to encompass only coal and iron ore and some ‘creative accounting concessions’ were included. This related essentially to depreciation provisions which favoured large and established mining companies, that is, BHP Billiton, Rio Tinto And Xstrata. In return, the resource exploration rebate was removed. Again this was not a compromise for BHP Billiton, Rio Tinto and Xstrata as only smaller, Australian-based mining companies were eligible for this rebate. The total cost of the concession was $15

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33 Senate Select Committee on Scrutiny of New Taxes, above n 10, [3.26].
34 Cleary, above n 13; Senate Select Committee on Scrutiny of New Taxes, above n 10, [3.46]-[3.48].
41 Cleary, above n 13.
billion over four years, increasing to $60 to $100 billion over 10 years depending on resource prices.\textsuperscript{42}

However, the concessions from moving from the RSPT to the MRRT were not the only costs. Revenues from the MRRT were to fund a decrease in the company tax rate and fund an increase to superannuation. Indeed, the total cost of the concessions tied to the MRRT by the end of this decade will be less than one third of the revenue actually collected from the tax introduced to fund it completely.\textsuperscript{43}

The MRRT was finally passed by Parliament with the help of the independents and Greens. The Member for Denison, Tasmania, as far from mining as it is possible to get, forced a last-minute compromise by increasing the profit threshold at which the tax applies from $50 million to $75 million, an increase of 50 per cent. It has now been called ‘a deficit tax’, costing more in concessions than it will raise in revenue.\textsuperscript{44}

There are three politically induced factors that have blighted the MRRT. These are a lack of consultation, a lack of transparency and the co-existence of the royalty systems. This has resulted in a regime that is considered to be highly inefficient, as this review illustrates. As one prominent commentator stated:

It is, in short, a joke. Everybody loses. It was an idea designed to help Australia deal with the terms of trade boom that has been bastardised by politics into a complicated impost on mining that achieves nothing at all and in fact worsens the position of everyone involved.\textsuperscript{45}

The lack of consultation has largely been dealt with above. It was this lack of consultation that ‘inevitably led to a deeply flawed mining tax design’.\textsuperscript{46} The Government had promised ‘a simpler, fairer tax system as a result of the Henry Tax Review’ but delivered a tax that ‘would be more complex and less fair … is not competitively neutral and does not adequately take the implications for State and Territory governments own-source revenue into account.’\textsuperscript{47}

Mining is a long-term operation. Investment decisions are based on the tax arrangements existing at the time they are made. Therefore transition rules take on increasing importance for existing operations and are therefore a contentious design issue.

The lack of transparency has already been noted in the way the negotiations were secretive and exclusive, involving the Prime Minister, two Ministers and their chiefs of staff, and three companies. Added to this is the fact that the government has refused to make public its methodology and assumptions in determining the projected revenue from the MRRT. This is not withstanding that

\textsuperscript{42} Cleary, above n 13.
\textsuperscript{43} Brian Toohey, Australia Financial Review 23 November 2011 reported in Alan Kohler, ‘Mining tax outcomes: everyone’s a loser’ The Drum ABC 23 November 2011.
\textsuperscript{44} Alan Kohler, ‘Mining tax outcomes: everyone’s a loser’ The Drum ABC 23 November 2011.
\textsuperscript{45} Ibid.
\textsuperscript{46} Senate Select Committee on Scrutiny of New Taxes, above n 10, [3.8].
\textsuperscript{47} Ibid.
many initiatives have been directly tied to this revenue source. These included a reduction in the company tax rate, increases to the superannuation guarantee and some infrastructure spending.48

The Policy Transition Group was given the task to ‘consult’ with the industry. However, its task was severely constrained by both the brief given through the Heads of Agreement and by the government in subsequent announcements.49 An essential aspect/component of the brief was to make ‘revenue neutral’ recommendations. That is, only changes which would be revenue neutral could be considered. It is argued that applying a constraint that no one should be worse off with tax reform, and ‘in particular as it affects capital income more than labour income, is very costly if the changes generate significant national productivity gains’.50

Nevertheless it is submitted that maintaining revenue neutrality is next to impossible given the government’s refusal to release its mining tax revenue assumptions. The lack of transparency around revenue estimates and key assumptions can only compound concerns stakeholders have with the process.

As the Senate Select Committee stated:

The projected revenues remain highly speculative with unknown commodity price and production volume assumptions, unknown implications of State and Territory government decisions around royalties into the future and question marks over the constitutional validity of the new tax.51

Implemented with effect 1 July 2012, the midyear budget updated the 4-year revenue forecast, reducing it from $13.4 billion to $9.1 billion. Around this time it was reported that the three large mining companies that devised the MRRT had not paid any MRRT.52 In the first six months $126 million was collected, leading to a revised budget for the 2012-13 financial year of $0.2 billion.53 When the MRRT legislation was introduced in November 2011, the forecasted revenue for its first year, that is 2012-13, was $3.7 billion.54

The lack of revenue raised is not so much about commodity price volatility as it is about the high cost of the concessions made. These concessions go to the heart of the design features: the promise to credit all royalties paid, the in excess of 10 per cent compound interest on any unclaimed royalty credits and the opportunity to use the market valuation depreciation method. The latter, especially, favours BHP Billiton, Rio Tinto and Xstrata.

49 Senate Select Committee on Scrutiny of New Taxes, above n 10, [3.52].
51 Senate Select Committee on Scrutiny of New Taxes, above n 10, [3.85].
52 Phillip Coorey, ‘Mining tax compromise cost billions in revenue’ Sydney Morning Herald 3 November 2012.
53 Swoboda, above n 48.
54 Ibid.
Finally, one of the major problems with the MRRT was the continuing operation of the states and territories royalty systems. The Henry Tax Review recommended that a resource rent tax replace state and territory royalties. Under the RSPT an attempt had been made to limit the amount of royalties refunded to that which existed, or had been announced, as at 2 May 2010. Under the MRRT there was no limit on royalty refunds.

Many states and territories consequently increased, and are still able to further increase, their royalty rates. This undermines the MRRT revenue. The response from the Federal Treasurer was a threat to withhold federal payments or decrease the GST revenue due to any offending state. This illustrates the costs of unilateral action by the federal government. This makes it as much a federation issue as a tax policy issue.

The political lessons to be learnt from the MRRT are:
1. Broad industry consultation is an imperative.
2. The support of the states and territories is required if they are to be affected by the new tax regime.
3. Transparency is an imperative and key assumptions need to be disclosed.
4. Complexity in design and operation should be minimised.
5. Extreme care is needed when spending the revenue before it is received.

4. Assessment

As noted in the introduction, effective tax reform requires both sound principles and political acceptability. Chief among tax principles are equity, efficiency and simplicity. Equity, in a business context, means corporate taxpayers in the same or similar situations should be treated equally. Efficiency means economic distortions should not arise and therefore the effect of the tax should be one of neutrality. Simplicity in tax design involves minimising uncertainty and compliance costs.

The mining industry is one of the most important industries for Australia’s economic prosperity. That it is economically efficient is vital for Australia’s national and international interests. That it is equitable is vital for competitiveness and hence for productivity. Simplicity enables taxpayers to understand the law and therefore comply with it. It also decreases the costs of compliance.

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56 John Freebairn, ‘Reforming the mining tax: is it possible?’ Australian Mining 15 March 2013.
57 Robert Carling, ‘Mining tax as a federalism issue’ (The Centre for Independent Studies, 2013).
59 Senate Select Committee on Scrutiny of New Taxes, above n 10, [5.1].
With respect to mining taxes, the Henry Tax Review recommended a profit-based tax to replace production-based royalties. The objective was to remove the distortions caused by the royalty regime on production for both investment and production decisions. It therefore recommended the replacement of the existing state and territory royalty regimes with a resource rent tax. However, both the RSPT and MRRT were designed independently of the royalty system. A lack of consultation with the states and territories indicates that even any co-existence was not contemplated in the design of either new mining tax. As the royalty regimes remained in place, the replacement is one of economic effect and therefore does not impact on the complexity.

While the RSPT had a broader tax base, it was designed as a replacement tax to the royalty regime. The MRRT, however, is a ‘top-up’ tax as it only provides credits for royalties paid. It will therefore have a distorting effect on investment and production decisions. The MRRT fails on efficiency grounds and has been referred to as ‘an extremely inefficient tax’.

It has many of the inefficiencies of the RSPT ‘but adds some further serious inefficiencies of its own’; further ‘it keeps the main inefficiencies of royalties and adds the inefficiencies of a rent tax’.

It is narrowly based, causing distortions in the mining sector. It provides a competitive advantage to three large mining companies at the expense of smaller, Australian-based mining companies.

Thus it lacks competitive neutrality. There are also efficiency impacts at a federalism level: the states and territories are limited in their capacity to make their own sovereign decisions about future mining royalty arrangements. All of these combine to increase the risk of adverse implications affecting investment in the industry.

Providing a competitive advantage to three mining companies by treating them more favourably under the tax is also inequitable. Indeed, ‘when tax policy is used as a form of social engineering or industrial policy to reward those individuals and firms with the greatest political influence, it cannot help but be inequitable as well as inefficient’.

Simplicity in tax design involves minimising uncertainty and compliance costs. There was significant uncertainty in the design of the RSPT and additional compliance complexity. This included the fact that no transitional relief was provided for. In an article derived from documents obtained under freedom of information, it appears that those in the government privy to the tax did not understand the basic structure and core features of the tax. The documents

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60 Senate Select Committee on Scrutiny of New Taxes, above n 10, [4.10].
62 Ibid, 369 and 378.
63 This is because the MRRT is favourable to mining companies that have a portfolio of mature Australian projects with high market values while also having international mining interests. This applies to three companies: BHP Billiton, Rio Tinto and Xstrata.
64 Dorn, above n 1, 368.
65 Deloitte, Between a rock and a hard place? Some practical issues with the resources super profits tax (Deloitte, May 2010).
66 Sinclair Davidson, ‘RSPT anniversary’ Macrobusiness 2 May 2011.
reveal that, while most of the problems were foreseen, they were not addressed. Much of the complexity is attributed to circumventing the fact that the federal government does not own the resources. The result is a ‘work-around’ with respect to state and territory royalties. As already noted, Australia already had experience with a best practice resource rent tax model in the form of the petroleum resource rent tax. This could have been extended to encompass onshore mining operations.

5. Conclusion

The last few years has seen the attempt to introduce new mining tax regimes into the Australian economy. As evidenced in this review, neither were implemented as they were designed; both were compromised by the political process. Special interests were allowed to hijack the common interest and threaten the objectives of efficiency, equity and simplicity. Indeed, the respective governments breached their own best practice regulatory guidelines. As evidenced in this review, the government failed to undertake any consultation before announcing the RSPT. With respect to the MRRT, the negotiations with the three largest mining companies were exclusive and secretive.

The Labor Party has been burnt by its tax experience. In every election for the past 20 years, tax policies have been proposed. However, during the 2013 election campaign, neither Prime Minister Gillard nor Treasurer Swan mentioned tax reform although discussing national competitiveness and managing the end of the mining boom. Even the civil libertarian party, the Australian Sex Party, included tax reform on its platform.

Do our governments, and therefore leaders, opt for the most politically expedient outcomes rather than those in the best long-term interests of the country? Has short-term self-interest replaced the national good? The pounds of flesh from the minor parties and independents have tended to be both expensive and distortive. The fiscal positions of federal versus state and territory governments curtail the scope of worthwhile tax reform. While individuals tend to act in their own interests and companies must act in the interests of their shareholders, governments must act in the national interest. Tax reform is in the national interest.

This review of the literature supports the contention that tax innovation requires a ‘political opportunity’. That is, ‘politicians are most likely to adopt a new tax instrument when they are least likely to pay an electoral cost for such behaviour’. Any discussion of tax reform must consider the political landscape. This takes into account not only ‘where we are’ and ‘where we want to be’ but, importantly, ‘how to get there’.

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67 Senate Select Committee on Scrutiny of New Taxes, above n 10, [4.54].