

28th May 2010

Mr David Parker
Executive Director, Revenue Group
The Treasury
Langton Crescent,
PARKES ACT 2600

Dear David,

Federal Government's response to the Henry Tax Review

Following a meeting with the Government's Resource Super Profits Tax (RSPT) Panel, AMEC was requested to forward a brief submission to support the comments that were made in Canberra on 12th May 2010.

The Association of Mining and Exploration Companies (AMEC) is the peak national body representing hundreds of mid tier mining and junior exploration companies operating throughout Australia, the majority of which are either located or have projects in Western Australia.

Following the announcement of the Federal Government's response to the Henry Tax Review, AMEC has convened a number of meetings and discussions in order to obtain, and then disseminate the industry's reaction to the response.

AMEC also surveyed it's members and received a number of confidential comments from a range of mining and exploration companies, as well as feedback from service providers to the industry. These comments have been aggregated into the attached table (Appendix 1). In view of the market and employee sensitive nature of some of the comments and observations, the names of the companies have been removed for confidentiality purposes.

In determining industry's reaction to the proposed tax measures, it should be noted that a stable public policy framework and fiscal regime is essential in order to enhance the investment and decision making processes in the mining and minerals exploration industry.

Following that extensive consultation, AMEC and its members:

1. Overwhelmingly oppose the introduction of the Resource Super Profits Tax (RSPT), and
2. Welcome the concept of a Resource Exploration Rebate (RER) as a possible means of increasing exploration expenditure. However, a RER is not acceptable if it is coupled with the introduction of a RSPT.

AMEC has long advocated a Flow Through Shares (FTS) scheme as a priority policy initiative and believes this is a more beneficial mechanism in attracting exploration investment and would increase exploration expenditure in Australia.

AMEC members are opposed to the RSPT on the basis that:

1. The Federal Government should not adopt a 'one size fits all' approach to mining taxes. The individual circumstances and experiences of junior exploration and mid-tier mining companies are not the same as for larger mining operations.
2. The Federal Government's proposal will seriously penalise Australia's most successful industry and major revenue earner at a critical time.
3. The RSPT is discriminatory to the mining sector and will reduce the strong economic benefits the industry delivers to the broader Australian economy. The strength of the mining industry has been a key feature of Australia's ability to negate the consequences of the global financial crisis.

4. Initial financial modelling indicates that the effective tax rate on project profits will be 56.8%¹ (excludes payroll tax, stamp duty and the myriad of other levies, fees and charges paid by the sector). This rate is far in excess of what is considered to be reasonable and 'fair'.
5. Australian Tax Office data indicates that the resources sector already pays 13% more tax than other industries. The resources sector paid \$21.9 billion in royalties and company taxes alone and the Federal Government's proposal does not recognise the many more billions of dollars that are paid to State and Territory Governments; Traditional Owners and Native Title Representative Bodies; local authorities and local communities. Nor is there any recognition for the significant financial contribution the industry makes to social and public infrastructure.
6. The industry already pays more than its fair share of the tax burden and makes a substantial social contribution in remote and regional Australia,
7. The proposed RSPT will become a significant dis-incentive for project investment in Australia and will result in the loss of potential projects, jobs, social and economic benefits.
8. The Federal Government's proposal will put at jeopardy hundreds of Australian mining and exploration projects. These 'works in progress' represent an estimated \$200 billion (this includes capital raising and finance, projects undergoing feasibility studies and others awaiting approval or currently under construction).
9. The proposed threshold point is far too low. The proposed 'threshold point' at which the RSPT will be triggered is the 10 year long term government bond rate (currently 5.7%) with the subsequent 'super' profit being taxed at the rate of 40%.
10. The proposed threshold point does not take into account the significant risk involved through the 'whole life of the exploration and production cycle and the fact that the high risk investment should be rewarded,²
11. There exists a high possibility that equity finance and project development costs will be re-directed to international competitors where the "Rate of Return" is higher than Australia. Australia accounts for less than 10% of global output in most key commodities, and does not have a monopoly on resources.
12. The Federal Government's proposal will lead to lost opportunities. Companies are now reviewing their individual project viability with the result that exploration and mining projects will be deferred or cancelled.
13. Other Australian industries linked to the mining and exploration sector will be directly affected as projects are abandoned, deferred or driven offshore.
14. The proposed RSPT is considered to be complex and an additional administrative burden,
15. The proposal may diminish the long term tax revenues for Government by driving exploration and mining offshore.

¹ KPMG Reform in Focus 6th May 2010 – page 3.

² Gold and Minerals Gazette – editorial, August 2008 – stated that "the probability of finding an economic deposit on any piece of ground is 1/100, whereas finding one that is of 'world class' is 1/1000.

16. The industry is not mounting a 'scare campaign', 'scare mongering' or 'crying wolf' but simply bringing to the attention of the Federal Government the very real risks and potential harmful effects of the proposal on Australia's mining and exploration industry.

AMEC member comments on the RER and Flow Through Shares:

1. Minerals exploration companies and mining companies are inextricably linked.
2. The resources discoveries of today, will result in the operating mines of tomorrow.
3. There is a possibility that minerals exploration activity will increase as a consequence of the RER but is not expected to attract additional investment. This is the essential element of a FTS scheme.
4. A joint industry proposal to introduce a Flow Through Shares (FTS) scheme was submitted to the Federal Government in November 2008. A subsequent robust cost benefit analysis was conducted by Synergies Economic Consulting in May 2009. The analysis showed that the estimated costs of the scheme (\$130m p.a) were far outweighed by the significant social and economic benefits.³
5. The FTS model included in the joint industry proposed was based on the successful franking system/dividend imputation scheme that has successfully operated in Australia for many years.
6. A FTS scheme has successfully operated in Canada since 2000. Canada's accumulated exploration expenditure has significantly exceeded Australia's since that date. (Canada's share of global exploration expenditure significantly lagged Australia's share throughout the 1990's). The improvement has been directly attributed to the FTS scheme.
7. To our understanding the Canadian model has operated without any major administrative or compliance issues.
8. Although there is a clear preference for a FTS scheme an RER would be acceptable to industry, but not tied to the proposed revenue stream from the RSPT.

We now look forward to the Government withdrawing the proposal to introduce an RSPT on the Australian mining industry, and implement immediate strategies to repair the significant and unexpected collateral damage to Australia's reputation, investor confidence and decision making processes that has already been caused since the policy announcement on 2nd May 2010.



Simon Bennison
Chief Executive Officer

³ <http://www.amec.org.au/index.php?id=82>