DEPARTMENT OF PRIMARY INDUSTRIES

TO: THE MANAGER
   RESOURCE TAX UNIT
   BUSINESS TAX DIVISION
   THE TREASURY

FROM: DALLELE MIKHAEL 14/07/2011
   EARTH RESOURCES DEVELOPMENT
   DEPARTMENT OF PRIMARY INDUSTRIES

SUBJECT: MINERAL RESOURCES RENT TAX DRAFT BILL AND
         EXPLANATORY MEMORANDUM SUBMISSION

Purpose
To provide Victoria’s Policy position and comment on the Mineral Resources Rent Tax (MRRT) draft Bill and Explanatory Memorandum

Context
On 10 June 2011, the Australian Government released the MRRT draft Bill and Explanatory Memorandum for public consultation as part of the public consultation process to provide interested parties with an opportunity to comment until 14 July 2011.

Legislation implementing the new resource taxation arrangements is expected to be introduced into Parliament towards the end of 2011.

Victoria’s Policy Position

- Victoria largely supports the proposed arrangements, however, expresses some concern around application of the tax to the brown coal industry and to its ability to set appropriate royalties to the resources that the State owns.

- Victoria’s major concern remains the application of the tax to the brown coal industry and the possible impact on the cost of electricity to Victorian residential areas and businesses

- While it is noted that inclusion of brown coal in the MRRT scheme is for conformity, and is unlikely under most circumstances to result in a tax in effect, the uncertainty in this area should be resolved as soon and as simply as possible. A “forward pass, cost based” approach to valuation prior to coal entering the power station has been recommended in the past.

- Victoria notes that Recommendation 17 of Attachment F of the Policy and Transition Group’s (PTG) Report to the Australian Government on New Resource Taxation Arrangements provides for the ATO working with industry to develop an acceptable approach to allocating costs at the taxing point for cases such as brown coal where there is no clear accounting system for the resource at that point. Victoria would like to be engaged in this development.

- While Victoria understands that its industries are unlikely to pay MRRT, Victoria would like to see clarification of the mechanisms by which sovereign decisions to increase royalties (or decrease royalties) translate into penalties (or benefits) to the States, as has been suggested. It has always been Victoria’s position that inequities between states could be produced unless there is a deeming mechanism, and Victoria would like to see consideration of that in determination of any penalties.

- Victoria laments the conclusion of the PTG that because Australia has efficient capital markets there is no need to consider Commonwealth support for greenfields exploration, and also notes that despite this the PTG suggested a mechanism by which this support could be provided. With a Commonwealth resources tax it would seem reasonable that the Commonwealth sustains the industry that provides that revenue stream. [It is generally considered that new resource discoveries are not keeping pace with the rate of exploitation of Australia’s mineral wealth (Victoria in particular is an example in point)].
Comment

- The MRRT will apply to iron ore and coal only. By focusing on these commodities, less than 15 per cent of the companies that would have been affected by the original Resource Super Profits Tax (RSPT) will be affected by the MRRT.

- The MRRT and the Petroleum Resource Rent Tax (PRRT) will be applied to Victorian coal, oil and gas commodities but is expected to have negligible impact on Victorian business in its current form. However, the MRRT may introduce administrative burden on some operations.

- Establishing a suitable taxing point has been a major point of negotiation by the PTG. The PTG has recommended that resources be taxed after they have been extracted but before the next unit of operation. The PTG has also recommended that the ATO work with industry to develop acceptable administratively efficient approaches to allocating costs at the taxing point where existing accounting and administration systems are not aligned to that point. This recommendation will apply to Victorian brown coal which does not have a clear market value at that taxing point.

- The PTG has recommended that for MRRT purposes, companies should be credited for all current and future state royalties and that there should be a disincentive for States and Territories to increase royalties. The Federal Government has suggested that it plans to force states to cap existing mining royalties or face penalties. Mechanisms for applying such penalties seem to be focused on the Commonwealth Grants Commission (CGC) and redistribution of GST payments. The States have little influence over the CGC. This announcement has changed the Federal Government's negotiation focus on future royalty increases from companies to the States.

- This federal restriction of State royalty increases is being tested by WA which recently stated in its State budget that it will increase the royalties on iron ore fines from the current 5.625 per cent to 7.5 per cent by 2014. The plan has sparked a disagreement with the federal government as it could remove 2 billion from the Commonwealth budget.

- Under any extension of the MRRT to commodities beyond iron ore and coal (not currently proposed), Victoria may not have the ability to increase its now low royalties to be commensurate with those of other states. Higher initial royalties are rewarded with higher rebates but increased royalties from a low base are not.

- The fiscal incentives to promote exploration that were originally proposed under the RSPT were expected to have a relatively high impact in Victoria. The PTG announced that there is currently no compelling case for such incentives and has withdrawn its commitment to this.

- The role of the Victorian State Government in any future administration of the MRRT is unknown.

Background

- On 2 July 2010, the Federal Government announced a new MRRT regime (to replace the previously proposed RSPT) and extended the PRRT to onshore oil and gas resources. The new regime is proposed to commence on 1 July 2012.

- Industry supported the concept of a profit-based royalty in the past, particularly when the profits from export-based mining industries were much lower. However, during development of the RSPT there was high resistance from industry, particularly around the proposed profit threshold and uplift rate. The MRRT, which revised these values, and limited the scope of the tax to large bulk export commodities (iron and coal) was better received by the larger mining companies.

- The Association of Mining and Exploration Companies that represents the mineral exploration industry in Australia is still seeking a revision of the proposed arrangements.

- The Federal Government established the PTG led by the Federal Resources Minister, the Hon Martin Ferguson MP and Mr Don Argus to consult with stakeholders and advise the government on the implementation of the MRRT.

- The PTG has undertaken consultation that has included the release of an issues paper and informal meetings with stakeholders. Victoria's input into the design of the MRRT was limited to this informal Departmental participation in the PTG.