Undermining the Resource Super Profits Tax

In May 2010, Kevin Rudd's Labor government announced plans to reconfigure taxation arrangements for mining companies involved in the extraction of non-renewable resources. Called the Resource Super Profits Tax (RSPT), profits over and above the normal rate of return on capital would be taxed at a rate of 40 percent. The remaining profit would still be subject to company tax but at a rate of 28 percent instead of 30 percent. The government argued that the new regime would be fairer, allowing Australians to better share in the resources boom that had seen mining companies' before-tax profits more than treble since 2005.[1] Part of the expected proceeds was earmarked for a major infrastructure projects fund worth $700 million in its first year.[2] The mining industry was vociferously opposed to the changes, claiming that the RSPT would cost jobs, threaten future ventures and damage the entire economy. Industry representatives, individual companies and prominent mining figures launched an intensive, multi-faceted campaign to have the tax scrapped. Meanwhile, the government launched its own counter-campaign amidst criticism that this was exactly the kind of advertising the government had vowed to stamp out.

"A cancer on our democracy"

As the 2007 election approached, criticism grew of the incumbent Liberal government's approach to advertising – especially the controversial $121 million WorkChoices[3] campaign.[4] After just over a decade in office the Howard government had spent approximately $1.8 billion on advertising, prompting questions about whether taxpayers should finance what many viewed as largely propaganda or self-promotion.[5] Opposition Leader Kevin Rudd described such advertising as "a long-term cancer on our democracy" and vowed that, if elected, he would ensure that all advertising campaigns in excess of $250,000 were vetted by the Auditor-General's office before receiving public funds.[6]

This case was written by Marinella Padula, Australia and New Zealand School of Government for Peter Thompson as a basis for class discussion rather than to illustrate either effective or ineffective handling of a managerial situation.

[1] The Resource Super Profits Tax: a fair return to the nation, p.10.
[2] Ibid, p2. Note that all currency is in Australian dollars.
[3] Work Choices was the package of industrial relations reforms introduced by the Howard Liberal Government in 2006. It, amongst other things, promoted greater use of individual workplace agreements between employers and employees, place d further restrictions on union activity, and made changes to unfair dismissal laws.
[4] Marris, S. 'Work Choices ads cost $121m' *The Australian*, 16 October 2007.
[5] Koutsoukis, J.' Howard's $2 billion ad splurge' *The Age*, 2 September 2007.
[6] AAP 'Rudd promises to spend less on ads', *The Age*, 23 May 2007.

The same rules would also apply to state governments. In the end, anxiety and antagonism towards WorkChoices helped unseat the Howard government – sentiments stoked by a successful union campaign which warned workers of a dire future if they voted Liberal.[7]

After taking office in November 2007, Rudd set about realising his agenda apace. Treasury Secretary Ken Henry was commissioned to undertake a comprehensive review of the tax system in May 2008[8] and map out reforms to guide policy for the next 10-20 years. *Australia's Future Tax System Review* (more commonly known as the *Henry Tax Review*) was submitted to the Government in December 2009 and made close to 140 recommendations in nine key areas, including imposing a rent tax on non-renewable natural resources, similar to one already imposed on the petroleum industry. The government was keen to adopt the idea, but its first years in office had not been easy.

The Global Financial Crisis (GFC) struck in late 2008, prompting the government to release a multi-billion dollar stimulus package. This included the rapid deployment of a school building program and home insulation program. Though praised in many quarters for helping to steady the economy and ward off recession, implementation issues (including the deaths of several tradesmen) led the Opposition to level accusations of incompetence, inflexibility and waste. Before taking office Rudd had dubbed climate change "the greatest moral, economic and social challenge of our time" but despite such imperatives, the proposed Emissions Trading Scheme to reduce carbon output was twice rejected by the Senate.[9] The legislation then fell by the wayside as economic concerns took precedence and public enthusiasm for action on climate change flagged. Attempts to negotiate new hospital funding arrangements with the states had been fraught; meanwhile, the issue of asylum seekers had resurfaced as the number of boat arrivals increased.

These obstacles and setbacks helped foster a growing perception that the government in general – and the Prime Minister in particular – was frenetically busy but unfocussed, ambitious but short on follow-through.[10] Internally, a number of ministers and senior bureaucrats were frustrated as their efforts and advice went ignored while they were expected to produce detailed reports and policy documents seemingly on a whim. Soon, dissatisfaction amongst Rudd's cabinet colleagues and senior officials spilled over into disquiet and a new media narrative emerged, one of an intemperate, micro-managing Prime Minister more concerned with the nightly news bulletin than building alliances and delivering on commitments. There were also suggestions that courting the light entertainment branches of the media in the past had cost him goodwill amongst more "serious" outlets and commentators.[11] In any case, the popularity highs of Rudd's "Kevin '07" campaign or apology to the Stolen Generations now seemed quite distant. With an election likely sometime in 2010, the government needed to win back an increasingly disenchanted electorate.

Yours, mines and ours

At the beginning of May 2010, a few weeks before delivery of the 2010/2011 budget, the government publicly released the Henry Tax Review as well as the government response,

[8] The review was commissioned as a result of the Australia 2020 Summit held in early 2008.
[9] Van Onselen, P. 'Politics trumps a moral challenge' *The Australian*, 29 April 2010.
[10] Younane-Brookes, S. 'The risky politics of apolitical advertising' *Inside Story*, 9 June 2010.
[11] Wilson, J. 'Kevin Rudd, celebrity and audience democracy in Australia' *Journalism*, 17 June 2013.

which included plans for the Resource Super Profits Tax (RSPT). In a document entitled *Stronger. Fairer. Simpler. A tax plan for our future*, Treasurer Wayne Swan explained that in order to meet the challenges of an ageing population and a rapidly evolving global economy, change was necessary:

> "We are at a critical point in our nation's history. The return of boom conditions in the mining sector means great opportunities for our economy, our nation and our people. As a nation, we must manage the next boom better than the last, when our economy fell prey to capacity constraints and our non-resource industries fell prey to a 'two-speed economy'. And spending the proceeds of the boom meant Australia got to the end with relatively little to show for it. Unless we make smarter decisions now, we will fail again to convert our minerals bounty into a stronger economy and enduring gains for working families... We will ensure Australia gets a fair share of our resource wealth, directing the proceeds towards sustainable economic growth right across the economy."[12]

Australia's mineral and gas deposits belonged to the entire nation, Swan argued, and as such Australians were entitled to seek a reasonable return on these finite natural resources. The problem was, however, that the public's return had not kept pace with rising commodity prices and burgeoning profits for the mining industry[13] *(Exhibit A)*. Under existing arrangements, mining companies paid royalties directly to state and territory governments. These differed across jurisdictions but were usually based on the value of the commodity or the amount extracted, irrespective of the project's profitability. [14] Queensland and Western Australia collected the highest revenues from mining with payments exceeding $3 billion in each state during 2008-2009.[15] Mining royalties and exploration permit fees accounted for almost 17 percent of Queensland revenue and 30 percent of Western Australian revenue.[16] That year the mining industry paid in excess of $8.2 billion to the states and territories.[17]

From 1 July 2012, a new taxation scheme would be put in place, affecting an estimated 2500 companies. The Resource Super Profits Tax would take 40 percent from mining profits once the project's profits covered the initial outlay, plus a return on investment compounded at the long-term government bond rate, then under six percent.[18] The remaining profit would attract company tax (then 30 percent but set to eventually fall to 28 percent). States and territories would continue to collect royalties but projects attracting the RSPT would receive a refund. This departed from the Henry Tax Review which recommended that the RSPT replace state-based royalties and that the Commonwealth and states negotiate revenue distribution *(Exhibit B)*. The government claimed that the RSPT did not represent "double-dipping" nor would it discourage investment. To the contrary, new taxation arrangements would prove to be more efficient and lessen risk, especially for smaller operations.

According to the government, the RSPT would "be a deductible expense for income tax purposes, so that after income tax, the effective rate of RSPT will be less than 40 per cent.

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[12] 'Stronger. Fairer. Simpler. A tax plan for our future', Attorney‑General's Department, Commonwealth of Australia, May 2010, p. iv.

[13] In interviews prior to the RPST announcement, Rudd also made a point of noting foreign companies had extensive holdings in the Australian mining industry and the much of the profits from mining went offshore.

[14] Senate Select Committee on Scrutiny of New Taxes, 'Chapter 6: The taxation of non-renewable resources and implications for the federation' *The Mining Tax: A bad tax out of a flawed process'* Commonwealth of Australia, 29 June 2011, p.126.

[15] Ibid, p.129.

[16] Ibid.

[17] Ibid.

[18] 'Between the Lines', The Australia Institute, 15 June 2010, pp.1-3.

Unlike company income tax, under the RSPT the Australian Government will guarantee to credit firms for the tax value of their extraction and exploration costs, and will even refund that credit when a project winds up."[19] Essentially, "Under the RSPT, the Commonwealth will guarantee to contribute 40 per cent of the investment cost (including, as a cash refund in some circumstances) of a resource project. In effect, the community will share in the costs of, and returns from, realising the value in resource deposits."[20] RSPT obligations would be calculated on an individual project basis. Losses from one project could be used to offset RSPT profit in subsequent years or transferred to other projects owned by the same company *(Exhibit C).* The RSPT would apply to new and existing projects but would be phased in gradually to allow companies time to adjust.

In its first year, the RSPT was expected to add $9 billion to Commonwealth coffers,[21] and contribute to a regional infrastructure fund that would grow to more than $6 billion over the next decade *(Exhibit B).* Other initiatives included the aforementioned two percent drop in the company tax rate for all businesses (earlier for small businesses), while the compulsory superannuation contribution would rise from nine percent to 12 percent.[22] Small exploration companies were also in line for a series of rebates. In announcing the RSPT, the Government detailed plans to consult with industry and other relevant stakeholders during June and July 2010 before the draft legislation was completed in 2011. For the resources sector, however, it was very much a case of too little, too late.

Digging deep

Mining companies were quick to denounce the tax with several prominent CEOs describing the plans as "shocking" (Tom Albanese, Rio Tinto), "highly regrettable" (Mick Davis, Xstrata) and "a surprise attack on us" (Andrew "Twiggy" Forrest, Fortescue Metals).[23]
The industry claimed that it had not been consulted on the design of the RSPT which would threaten the viability of existing and future ventures. Members spoke of deferred projects, job losses, mine closures and damage to an economy which had been carried through the GFC by the mining industry and relied on it heavily still. Under the RSPT, Australia was liable to lose significant investment to overseas ventures. Yet the mining industry hadn't been caught entirely off guard.

In March 2010, advertising and communications agency Lawrence Creative[24] began work on a campaign for the Minerals Council of Australia (MCA) – the industry association representing the nation's largest mining companies. The brief was to highlight the "flaws in the tax" and illustrate "the important role the minerals industry plays in the lives of all Australians" to send the message: "hurt mining and you hurt Australia".[25] Within two days they had created the first iteration of keepminingstrong.com.au *(Exhibit D),* the website which would eventually act as a campaign communications hub and portal to direct public

[19] 'Stronger. Fairer. Simpler. A tax plan for our future', Attorney General's Department, Commonwealth of Australia, May 2010, p. v.
[20] Ibid, p.13.
[21] Ibid.
[22] Senate Select Committee on Scrutiny of New Taxes, 'Chapter 2: An overview of the development of recent Resource Rent Tax proposals', *The Mining Tax: A bad tax out of a flawed process*, Commonwealth of Australia, 29 June 2011, p.9.
[23] 'Is the RSPT the breaking point for Australian tax reform?' *The Australian Business Journal*, 10 July 2010, www.australianbusinessjournal.com.au, accessed September 2013.
[24] Lawrence Creative was also the same agency behind the Labor Party's Kevin '07 election campaign.
[25] 'Keep Mining Strong' Lawrence Creative, www.lawrencecreative.com.au Accessed, September 2013.

protest. Lawrence Creative went on to produce 20 different print advertisements, eight radio ads[26] and 11 television commercials[27] with a distinct focus on the likely impact of the RSPT on individuals *(Exhibit E)*. Shortly after the tax was announced in early May, the MCA launched an advertising blitz, spending an estimated $1 million to $2 million per week.[28]

Meanwhile, the government was preparing its response. By late April, the Strategic Priorities and Budget Committee (comprising Treasurer Wayne Swan, Deputy Prime Minister Julia Gillard, Finance Minister Lindsay Tanner and Prime Minister Kevin Rudd) had approved the allocation of $38.5 million for an advertising campaign to announce and explain the coming tax reforms.

In early May, Swan wrote to the Special Minister of State, Joe Ludwig, seeking an exemption from the government's advertising guidelines. "The benefit of the exemption from the guidelines will be to ensure that the advertising is able to go to air much more quickly," he explained, "This means issues and misinformation currently being aired in the media can be addressed and the community can have the information they need to make informed business and financial decisions."[29] Swan also noted that the Independent Communications Committee (see below) had approved the overall communications strategy, although the advertisements had not been completed yet and were due to be presented to Treasury on 10th May.[30] Ludwig replied swiftly, granting an exemption for "urgent and compelling reasons".[31]

A few months prior, the government had ordered a review of the role of the Auditor General's office in vetting government advertising. Led by former senior bureaucrat, Allan Hawke, the review concluded there was a conflict of interest. The government agreed and established a three-person Independent Communications Committee to approve government advertising and appointed Hawke as its head.[32] The Auditor-General would still be involved in scrutinising government advertising campaigns but only after the fact, in the form of an annual review. Advertising guidelines were also broadened to allow rapid campaign approval for "other compelling reasons" rather than just "extraordinary reasons".[33] Auditor-General, Ian McPhee was publicly critical of the changes, later saying: "I would not want my role associated with guidelines that give the impression of integrity and strength but in reality don't have it."[34]

Exemption approved, the government forged ahead with its "counter-campaign" which consisted of a series of print, radio and television commercials. The first tranche was released towards the end of May, a week earlier than originally planned. Advertisements featured a speaker in a darkened lecture theatre outlining the planned tax reforms in general and mining tax reform in particular. The print and radio advertisements *(Exhibit F)* echoed the commercials and directed the public to the government's futuretax.gov.au website where the public could access policy documents and press releases. However, the government campaign

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[26] Ibid.
[27] Lee, J. 'How a $7m advertising campaign saved a fortune' *Sydney Morning Herald*, 2 July 2010.
[28] Needham, K. 'National auditor blasts Rudd' *The Age*, 18 June 2010.
[29] Coorey, P. 'Mining group turns the tables on Rudd' *Sydney Morning Herald*, 1 June 2010.
[30] Maiden, S. 'Kevin Rudd mining ad campaign planned before industry backlash' *The Australian*, 31 May 2010.
[31] Opcit.
[32] Needham, K. 'National auditor blasts Rudd' *The Age*, 18 June 2010.
[33] AAP 'Auditor-general says government softened ad rules' *Australian Financial Review*, 17 June 2010.
[34] Opcit.

still struggled to keep pace with anti-RSPT promotions. By the height of the MCA campaign in early June, its television advertisements were screening, on average, 33 times per day on free-to-air networks – more than twice as often as the government commercials.[35] Reports suggested that the mining industry had at least $90 million more in reserve to oppose the tax.[36] Meanwhile, a number of other groups and individuals had entered the fray.

Major mining companies such as BHP Billiton ran their own advertisements *(Exhibit G)*, as did the Australian Minerals and Exploration Council (AMEC) which represented 200 of the nation's smaller miners and exploration companies. Prominent industry figures such as Gina Rinehart and Andrew Forrest also appeared at a public rally denouncing the tax *(Exhibit H).* Queensland Premier, Anna Bligh voiced concerns about the possible impact of the RSPT on her state while Western Australian Premier, Colin Barnett was vehemently opposed to any additional taxes on the industry and stated that under the Constitution, resources belonged to the people of the state in which they were mined.

In a speech to Parliament, Wayne Swan declared that: "...all reputable economists agree that resource rent taxes like the RSPT do not affect investment, jobs or production."[37] But beyond the mining industry, a broad swathe of economists, commentators and other business leaders were highly critical of the plan, believing that it would be detrimental to the sector. Former Treasury officials Vince Fitzgerald, Chris Richardson, Ed Shann and Geoff Carmody were amongst them, arguing that "resource rents" or "super-profits" were hard to identify and measure and that states would find it difficult to increase royalties despite ever mounting budgetary pressures. Added Shann: "The government is writing the tax revenue in the budget it's going to get from the RSPT, but it's not writing in the contingent liability it's creating if the company makes a loss. Ken Henry says what the government is creating is equivalent to a government bond that the mining company holds. If it's an asset for the mining company, it's a liability for the government."[38] Added ANU Professor George Fane:

> "The resource rent tax looks like the answer to a Treasurer's prayer: a non-distorting tax that allows the community to share equitably in the value of resources that rightfully belong to the community. Unfortunately, it is a chimera. Applied to existing successful projects with no compensation for past investment, it would be equivalent (economically, if not legally) to the nationalisation, without compensation, of 40 per cent of the equity in the relevant projects."[39]

Many believed that the government promise to underwrite 40 percent of the possible losses on new mining ventures could encourage marginal projects that probably shouldn't go forward. Others forecasted that the government (or future governments) would inevitably increase the RSPT or wind back tax credits and rebates. Yet others believed that treating everything from iron ore to zinc the same was unfair and criticised the RSPT on the basis that it was designed with little reference to how the mining industry actually worked. Said University of Western Sydney Associate Professor, Steve Keen: "...the RSPT proposal as drafted assumes the usual 'one size fits all' model of costs. Only by luck would it approximate the real world costs that miners actually face."[40]

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[35] Lee, J. 'How a $7m advertising campaign saved a fortune' *Sydney Morning Herald*, 2 July 2010.
[36] Ibid.
[37] Swan, W. 'Ministerial Statement: A Stronger Economy and a Fairer Share for All Australians' House of Representatives, Canberra, 24 May 2010.
[38] Toohey, B. 'Economists take issue with RSPT' *Australian Financial Review* 5 June 2010.
[39] Fane, G. 'Reputation of the nation on the line.' *The Australian*, 31 May 2010.
[40] Keen, S. 'The gaping hole in RSPT logic' *Business Spectator*, 1 June 2010.

Yet the RSPT was not without support. The International Monetary Fund expressed its approval of the RSPT. In late May, more than 20 prominent economists including Nicholas Gruen, CEO Lateral Economics, Michael Keating AC, former head of the Australian Public Service and Department of Prime Minister and Cabinet, Richard Denniss, Executive Director of The Australia Institute, and the University of Queensland's John Quiggin published an open letter in broad agreement with the tax, stating that, "Although it is appropriate to debate modifications to the design of the proposed Resource Super Profits Tax (RSPT), the current public criticism of the proposed tax has been dominated by misinformation."[41] Noted economist Professor Ross Garnaut supported the idea of a resources rent tax: "At this dangerous time for the world and for Australia it is important that we restore a capacity for Australian governments to implement policy in the public interest, independently of pressures from private interests."[42] However, he, like many of the tax's advocates, had reservations about various aspects of the current design.

Meanwhile, interest groups in support of the RSPT attempted to tackle the MCA campaign head-on. For example, activist group GetUp ran a parallel parody campaign as did the Construction Forestry Mining and Energy Union via www.fairgoforbillionaires.com.au *(Exhibit I).*

Victory, defeat and truce

Not long after the government campaign commenced, attention turned to the advertisements themselves. Criticism in the press and parliament mounted and the government soon found itself defending the use of taxpayer funds to finance the campaign.[43] Kevin Rudd acknowledged it was "'inevitable and probable" that the government was going to advertise its tax and that this had been planned for "quite a number of months"[44] However, he insisted that the exemption was only procured when it became clear that the mining industry and the Coalition were intent on launching a misinformation campaign. This did little to quell claims of hypocrisy, nor did it dampen speculation that Rudd's tenure as leader was drawing to close. Government MPs were increasingly worried that the Prime Minister's approach would land them in a long and losing battle with a very powerful industry, and ultimately cost them the election.

Public opinion polls offered scant comfort. A series of surveys on the RSPT suggested that support was fairly equivocal, though it appeared to decline somewhat over the course of May 2010, while the level of confusion/uncertainty grew by a similar magnitude *(Exhibit J).* Attitudes tended to follow party lines with the majority of Labor voters in favour of the RSPT and the majority of Coalition voters opposed. However, each polling organisation asked slightly different questions making direct comparisons difficult. A couple of weeks into the government campaign and the outlook was little better with an Essential Media survey finding that 42 percent of those polled agreed that: "The new tax will result in mining companies cutting back on their investments in Australia and there will be a significant loss of Australian jobs" while 40 percent agreed that, "Mining companies will continue to make large profits. They are just trying to avoid paying their fair share of tax." The rest didn't

[41] Martin, P. (publisher) 'Economists' Statement' www.scribd.com, 26 May 2010, Accessed: September 2013.
[42] Fitzsimmons, H. 'Ross Garnaut supports a tax on mining profits' *Lateline*, Australian Broadcasting Corporation, Broadcast: 5 May 2010.
[43] Lane, S. 'Govt defends taxpayer funded mining tax ad blitz' PM, www.abc.net.au, 28 May 2010.
[44] Coorey, P. 'Mining group turns the tables on Rudd' *Sydney Morning Herald*, 1 June 2010.

know/were unsure.[45] Although many in the government believed that the public would eventually tire of the debate, the fact that the public were seemingly tired of the government was causing increasing alarm. By mid-June, Labour's primary vote had slumped to 35 percent - down from 46 percent just six months earlier.[46]

By late June 2010, rumours had become reality with Deputy Prime Minister, Julia Gillard taking the helm of a government that she determined "was losing its way". One of her first priorities was to begin negotiations with the miners, declaring she was "throwing open the government's door". She also called upon the industry to cancel its advertisements in a show of "mutual respect".[47] The mining industry halted its campaign as negotiations began on a Minerals Resource Rent Tax (MRRT). Yet although the door was open, only the heads of BHP, Rio and Xstrata got a seat at the table, along with Treasurer Wayne Swan, Energy and Resources Minister Martin Ferguson, their Chiefs of Staff and a senior adviser to the Prime Minister. As a Senate Committee later discovered, there were no Heads of Departments, state representatives or other miners present:

> "CHAIR—So the way it would have worked was that the Treasurer and Minister Ferguson were having negotiations with BHP, Rio and Xstrata and then somebody would walk out, pick up the phone and talk to a Treasury official and say, 'They have just told us this. Is this right? We have just agreed to do that. What does that mean?' Is that the way it worked?
>
> Dr Henry—That is a relatively accurate characterisation of it."[48]

Less than a week later the parties signed off on the MRRT which would apply a 30 percent levy to the "super profits" of iron ore and coal mining in Australia from July 2012. Athough forecast to raise $3 billion in 2012/2013, takings from the MRRT totalled just $126 million in the first six months.[49]

By the end of the campaign for the now abandoned RSPT, the government had spent an estimated $9 million of its $38.5 million advertising allocation.[50] By contrast, the MCA spent approximately $17 million on advertising and public relations to combat the tax.[51] Proponents of the RSPT lamented the government's capitulation and worried about the implications of more mining tax-style campaigns on policy development and democracy. Others, however, argued that industry associations and wealthy individuals were just as entitled as unions, governments or any interest group to press their case publicly. In 2011, proposed changes to poker machine legislation prompted the Australia Hotels Association to launch a $20 million advertising campaign to oppose mandatory pre-commitment technology.[52]

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[45] 'Essential Report 100621' Essential Media, 21 June 2010, www.essentialmedia.com.au, Accessed: October 2013.
[46] 'Essential Report 100615' Essential Media, 21 June 2010, www.essentialmedia.com.au, Accessed: October 2013.
[47] Levy, M. 'Labor party was losing its way under Rudd, Gillard' *The Age*, 24 June2010.
[48] Senator Mathias Cormann, Chair, Senate Select Committee on Fuel and Energy, and Dr Ken Henry, Secretary, Department of the Treasury, Fuel and Energy *Committee Hansard*, 13 July 2010, pp. 52–53.
[49] Cullen, S. 'Mining tax raises $126m in first six months' ABC News, www.abc.net.au, 9 February 2013, Accessed: September 2013.
[50] Burrell, A. 'Money spent on pushing mining tax' *The Australian*, 29 October 2010.
[51] Davis, M. 'A snip at $22m to get rid of PM' *Sydney Morning Herald*, 2 February 2011.
[52] Willingham, R. 'Heat rises in fight for pokies change' *The Age*, 12 April 2011.

The promotional paradox

Reflecting on the ill-fated RSPT, many commentators noted that the very existence of the campaign eventually supplanted the tax as the central issue, forcing the government to spend as much time justifying the advertising as explaining the reform. Every screening of the RSPT then served to remind an increasingly unmoved audience that they were paying to see the government renege on its prior undertaking to rein in government advertising. Although opponents claimed the government campaign was a partisan exercise rather than an educational one, academic Stephanie Brookes noted that no public campaign was purely informational:

> "Government advertising cannot help but function as a promotion for the incumbent. No matter how bland in tone and style, they remind us that the government is active and engaged. Whether it's asking us to Help Protect Australia from Terrorism from 2004 onwards or to Think Climate, Think Change in 2009, or trumpeting that Better Health and Better Hospitals were on the way earlier this year, government advertising speaks of reform, of change and progress."[53]

According to the architect of the MCA campaign, Neil Lawrence, lack of industry consultation and anti-business rhetoric secured his involvement despite his left-leaning views: "I didn't like the suggestion that there are a small number of rich fat mining magnates who are ripping off Australians and sending most of the profits overseas ... I found that inaccurate, misleading 1970s Trot-style thinking. They demonised the industry and tried to play the xenophobic card." In the middle of the campaign, Lawrence apparently ran into Julia Gillard, who asked jokingly: "Could you make [your ads] a little bit worse?"[54] For others, it was more about the medium than the message, noting that television worked very effectively as a simple protest medium but was far less suited to explaining complex issues such as tax reform. Discussing the RSPT, Professor George Fane inadvertently summed up the challenge faced by government advertisers:

> '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.'[55]

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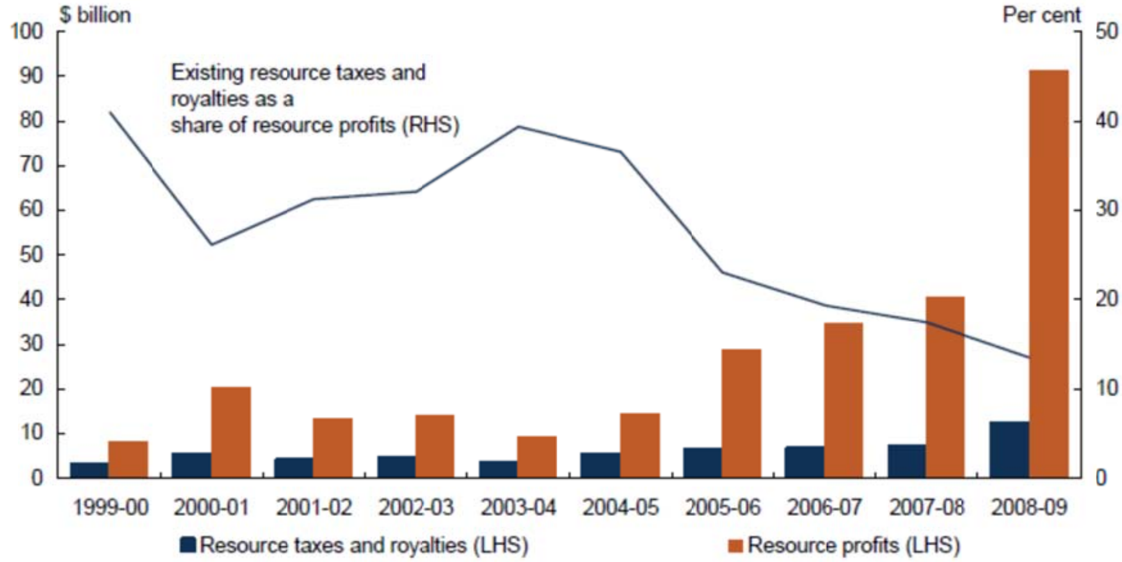
[53] Younane-Brookes, S. 'The risky politics of apolitical advertising' *Inside Story*, 9 June 2010.
[54] Knott, M. 'Neil Lawrence' The Power Index, www.thepowerindex.com.au Accessed: October 2013.
[55] Fane, G. 'Reputation of the nation on the line' *The Australian*, 31 May 2010.

Exhibit A: Resource tax and royalties as a share of profits (pre-tax)



Source: Treasury estimates.
Note: Estimates of resource taxes and royalties exclude income tax.

Source: 'The Resource Super Profits Tax: A fair return to the nation', Attorney General's Department, Commonwealth of Australia, Canberra, 2010, p.10.

Exhibit B: Comparison of the Henry Tax Review Resource Rent Tax and the Resource Super Profits Tax

Taxation feature	Resource Rent Tax	Resource Super Profits Tax
Rate	40%	40%
Application	Applied to non-renewable resources (oil, gas and minerals) projects, except lower value minerals which provide no net benefits.	Applied to the extraction of all non-renewable resources in Australia.
Transferability	Allows losses to be carried forward with interest or transferred to other commonly owned projects.	Transfer to other projects or carried forward.
Deductibility	Allowed as a deductible expense in the calculation of income tax, with loss refunds treated as assessable income.	An allowable deduction for income tax purposes.
Royalties	The Australian and State governments should negotiate an appropriate allocation of the revenues and risks from the resources rent tax.	States and territories keep existing royalty regimes. Royalties remain payable with a rebate. Unused rebate can be refunded or transferred.
Company taxation rate	Not applicable.	2013-14: 29% 2014-15: 28%
Superannuation Guarantee	Not applicable.	9% to 12% by 2019-20
Regional Infrastructure Fund	Not applicable.	Established a $6 billion Regional Infrastructure Fund.
Scope	2500 companies affected.	2500 companies affected.

Source: Senate Select Committee on Scrutiny of New Taxes, 'Chapter 2: An overview of the development of recent Resource Rent Tax proposals', *The Mining Tax: A bad tax out of a flawed process*, Commonwealth of Australia, 29 June 2011, p.9.

Exhibit C: RSPT worked example

Box 4.4: The Resource Super Profits Tax — a worked example

The table below shows the RSPT calculation for a project interest.

The project commences at the start of year 1, when $100 is spent on capital. The government recognises capital expenditure through depreciation arrangements — allowing in this example $60 to be claimed as depreciation in year 1 and $40 to be claimed as depreciation in year 2.

In year 1, the project does not have any receipts. As such, the project makes an RSPT loss of $60 in year 1. The unutilised loss, $60, will be carried forward with undepreciated assets, $40, to make the RSPT capital base $100 in total.

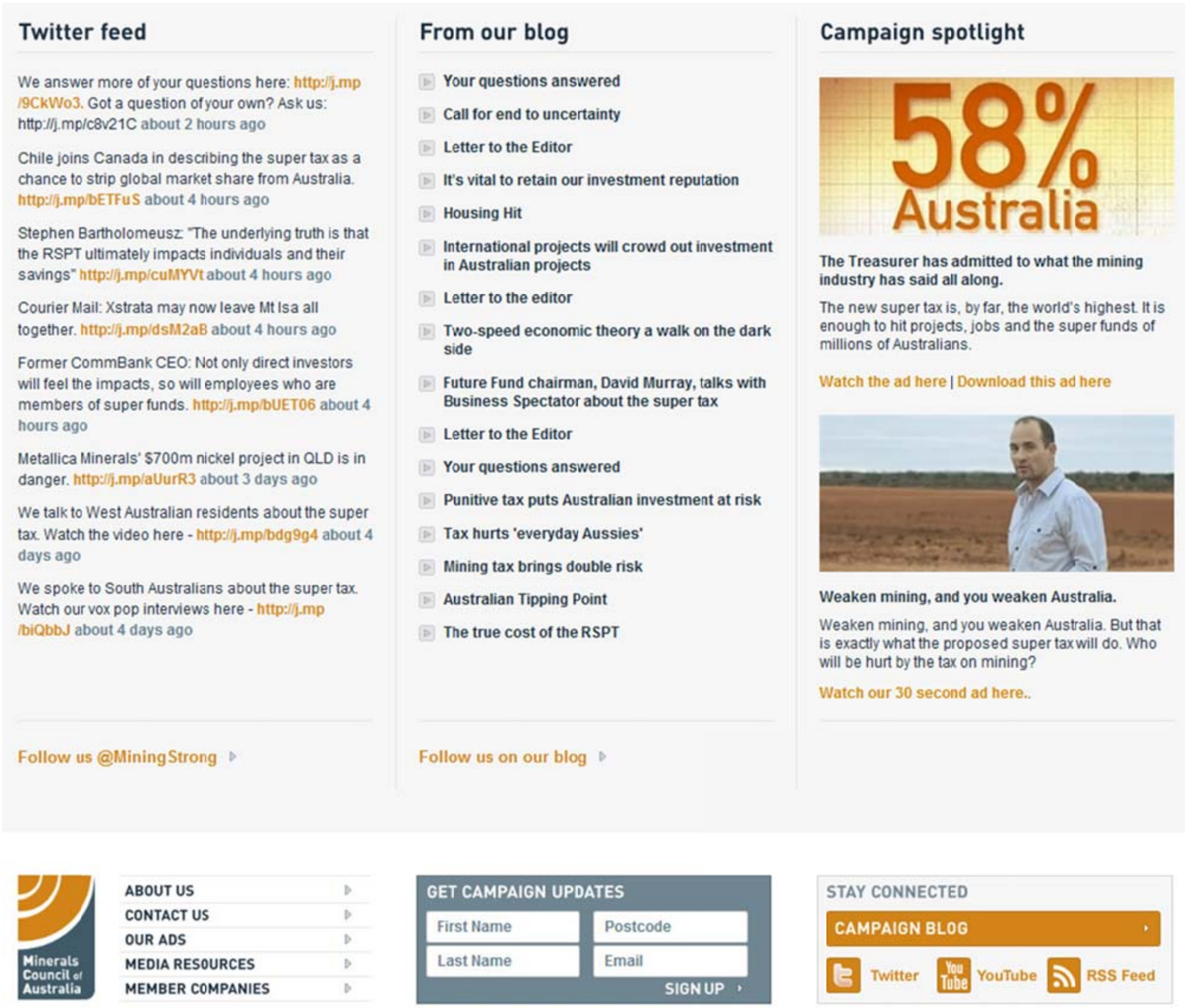
In year 2, the project has $150 of receipts. The project is able to utilise the depreciation deduction in year 2 ($40) and losses carried forward from the previous year ($60) as well as the RSPT allowance ($6).

The investor will have assessable profit of $44 in period 2 and pay the government $18 in RSPT.

Description	Item	Year 1	Year 2
Revenue	(1)	0	150
less Expenses (such as depreciation)	(2)	60	40
less RSPT Allowance (6 per cent applied to RSPT capital base)	(3)	0	6
less Unutilised losses carried forward from previous year	(4)	0	60
Net RSPT profit (item 1 less items 2, 3, 4)	(5)	–60	44
Taxable RSPT profit (nil if item 5 is negative)	(6)	0	44
Tax @ 40 per cent	**(7)**	**0**	**18**
Initial investment (1 July in year 1)	(8)	100	n/a
Carry forward losses (item 5 if negative)	(9)	60	0
Undepreciated assets	(10)	40	0
RSPT capital base (items 9 + 10)	(11)	100	0

Source: 'The Resource Super Profits Tax: A fair return to the nation', Attorney General's Department, Commonwealth of Australia, Canberra, 2010, p.27.

Exhibit D: Keep Mining Strong homepage



Twitter feed

We answer more of your questions here: http://j.mp/9CkWo3. Got a question of your own? Ask us: http://j.mp/c8v21C about 2 hours ago

Chile joins Canada in describing the super tax as a chance to strip global market share from Australia. http://j.mp/bETFuS about 4 hours ago

Stephen Bartholomeusz: "The underlying truth is that the RSPT ultimately impacts individuals and their savings" http://j.mp/cuMYVt about 4 hours ago

Courier Mail: Xstrata may now leave Mt Isa all together. http://j.mp/dsM2aB about 4 hours ago

Former CommBank CEO: Not only direct investors will feel the impacts, so will employees who are members of super funds. http://j.mp/bUET06 about 4 hours ago

Metallica Minerals' $700m nickel project in QLD is in danger. http://j.mp/aUurR3 about 3 days ago

We talk to West Australian residents about the super tax. Watch the video here - http://j.mp/bdg9g4 about 4 days ago

We spoke to South Australians about the super tax. Watch our vox pop interviews here - http://j.mp/biQbbJ about 4 days ago

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From our blog

- Your questions answered
- Call for end to uncertainty
- Letter to the Editor
- It's vital to retain our investment reputation
- Housing Hit
- International projects will crowd out investment in Australian projects
- Letter to the editor
- Two-speed economic theory a walk on the dark side
- Future Fund chairman, David Murray, talks with Business Spectator about the super tax
- Letter to the Editor
- Your questions answered
- Punitive tax puts Australian investment at risk
- Tax hurts 'everyday Aussies'
- Mining tax brings double risk
- Australian Tipping Point
- The true cost of the RSPT

Follow us on our blog

Campaign spotlight

58% Australia

The Treasurer has admitted to what the mining industry has said all along.

The new super tax is, by far, the world's highest. It is enough to hit projects, jobs and the super funds of millions of Australians.

Watch the ad here | Download this ad here

Weaken mining, and you weaken Australia.

Weaken mining, and you weaken Australia. But that is exactly what the proposed super tax will do. Who will be hurt by the tax on mining?

Watch our 30 second ad here..

Minerals Council of Australia

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MEMBER COMPANIES

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Postcode
Last Name
Email
SIGN UP

STAY CONNECTED
CAMPAIGN BLOG
Twitter
YouTube
RSS Feed

Source: 'Keep Mining Strong' Lawrence Creative, www.lawrencecreative.com.au Accessed: September 2013.

Exhibit E: Minerals Council of Australia Print Advertisements

Source: 'Keep Mining Strong' Lawrence Creative, www.lawrencecreative.com.au Accessed: September 2013.

Exhibit F: Government RSPT Advertising – Television commercial transcripts and print ads

Transcript - A Tax Plan for our Future

Presenter:

Why do we need tax reform? Good question.
Well the fact is, the world's changing and our tax system needs to change with it.
You know by 2050, one in four of us will be over 65. So we need to start planning now to ensure Australians can have a secure retirement.
We need more incentives to save to put more away for the future.
We need to cut tax and paperwork for small business to help them grow... and we need to make sure all Australians share the wealth of our natural resources.
Making tax simpler and fairer will help make our economy stronger in the long run.
These proposed reforms are just the first steps but they will affect all of us so it makes sense to know what's on the table.
And how do we do that?

Announcer:

To find out more about A Tax Plan for our Future, go to futuretax.gov.au
Authorised by the Australian Government, Canberra

Transcript - Resource Super Profits Tax

Presenter:

I think everyone agrees that mining plays a key role in Australia's economic prosperity.
I think we can also agree that we need to improve the way that mining is taxed…. and that those changes need to protect the industry's long-term sustainability.
Moving away from royalties… to a system that taxes the actual profits that mining companies make… will do just that.
It'll mean that when mines make high profits… their tax will be higher. But if profits fall… so will their tax. That'll make mining more sustainable for the long term.
It'll also fund vital infrastructure in resource states… supporting jobs – and putting something back into communities.
These are big issues and they affect us all, so it's important to know the facts. And here's where to find them.

Announcer:

To find out more about A Tax Plan for our Future, go to the futuretax website
Authorised by the Australian Government, Canberra.

Source: www.futuretax.org.au

ADVERTISEMENT

Australia's natural resources belong to all of us. But while the resources boom has been good for Australia, it hasn't necessarily benefited all Australians as well as it could have. In fact, our share of resource profits has been falling.

Before the last mining boom, the Australian people received $1 in every $3 of mining profits through royalties and resource charges. By the end of that boom, our share had fallen to just $1 in every $7.

A fairer share, a stronger mining industry

For Australians to get a fairer share of resource profits while keeping the mining industry strong, we need to fundamentally improve the way our natural resources are taxed. Any change to the way mining is taxed needs to protect the industry's long-term sustainability because mining plays a vital role in Australia's economic prosperity.

The proposed Resource Super Profits Tax improves the taxation of resources by moving away from royalties, which may not recognise either increases in commodity prices or the actual production costs of mines, to a system that taxes the actual profits made on projects.

High profit mines will pay more tax, but will still deliver solid returns to investors, while lower profit mines will pay less tax. So it will be fairer for the community and also drive growth and investment in the mining industry itself.

Strengthening all sectors of the economy

The revenue from the Resource Super Profits Tax will help strengthen and grow all sectors of the economy, not least by funding a cut in the company tax rate from 30% to 28%. This will boost jobs and encourage investment across the board.

The Resource Super Profits Tax will also enable the establishment of a $700 million per year infrastructure fund to provide ongoing support for the resource states. This is in recognition of the major infrastructure demands they face.

Ongoing consultation with the mining industry

There will be transitional arrangements for mining companies to ease the impact of the reforms on existing investments, as well as ongoing consultation with the industry on the design of the tax.

The overall result will be better balance across our tax system, ensuring our mining industry can continue to play a vital role in our economic prosperity.

Get the facts

Along with a range of other proposed reforms, the Resource Super Profits Tax is an important step towards making our tax system simpler and fairer, and our economy stronger. The reforms will affect us all, so it's important to know what's on the table.

To find out more, call 1800 614 133 or go to **www.australia.gov.au/futuretax**

Australian Government

A tax plan for our future
Simpler. Fairer. Stronger.

Authorised by the Australian Government, Capitol Hill, Canberra.

ADVERTISEMENT

Australia's natural resources belong to all of us. But our share of the mining profits has actually been falling.

Before the last mining boom, the Australian people received $1 in every $3 of mining profits through royalties and resource charges. By the end of that boom, the share of profits had fallen to just $1 in every $7.

The proposed Resource Super Profits Tax will return the overall tax share closer to where it was before the boom.

This revenue will fund vital infrastructure that will benefit us – and future generations – for years to come. It will also allow a reduction in taxes to make our economy more competitive.

This will strengthen and grow all sectors of our economy across the whole of Australia, and boost superannuation savings for Australian workers.

The Resource Super Profits Tax will improve the way non-renewable resources are taxed in Australia, replacing a variety of state royalties that discourage production with a single tax on super profits. High profit mines will pay more tax but will still deliver solid returns to investors, and less profitable mines will actually pay less tax and be better off.

Along with a range of other proposed reforms, the Resource Super Profits Tax is an important step towards making our tax simpler and fairer, and our economy stronger. The reforms will affect us all, so it's important to know what's on the table.

To find out more, call 1800 614 133 or go to **www.australia.gov.au/futuretax**

Australian Government

A tax plan for our future
Simpler. Fairer. Stronger.

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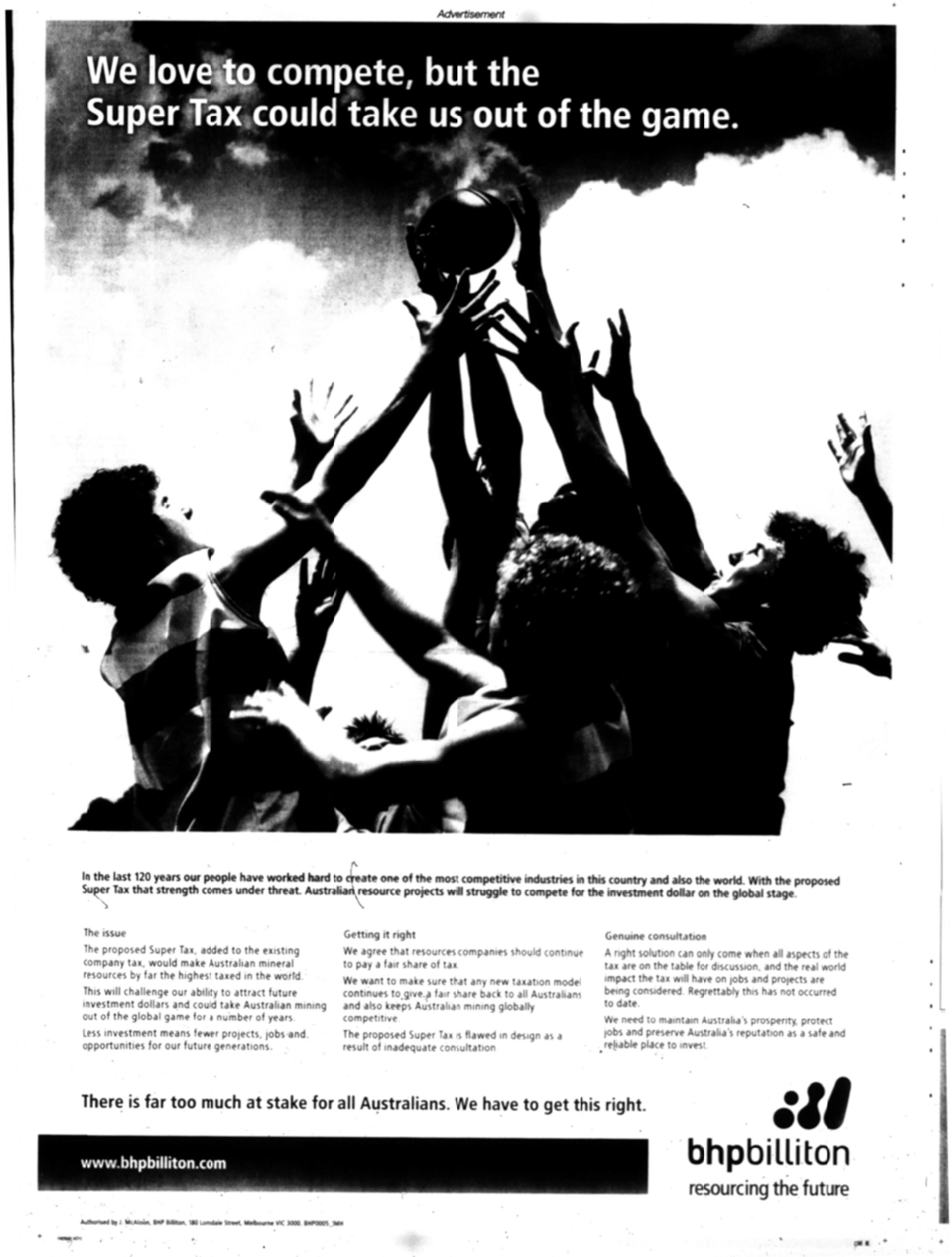
Exhibit G:



Source: *Sydney Morning Herald*, June 2010.

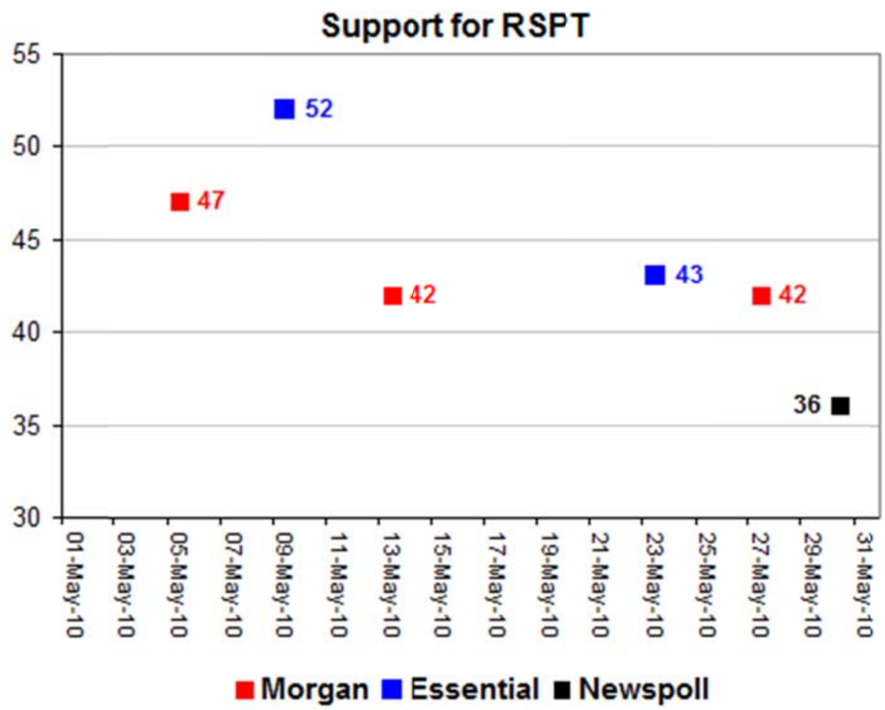
Exhibit H: Andrew Forrest Mining Tax Protest

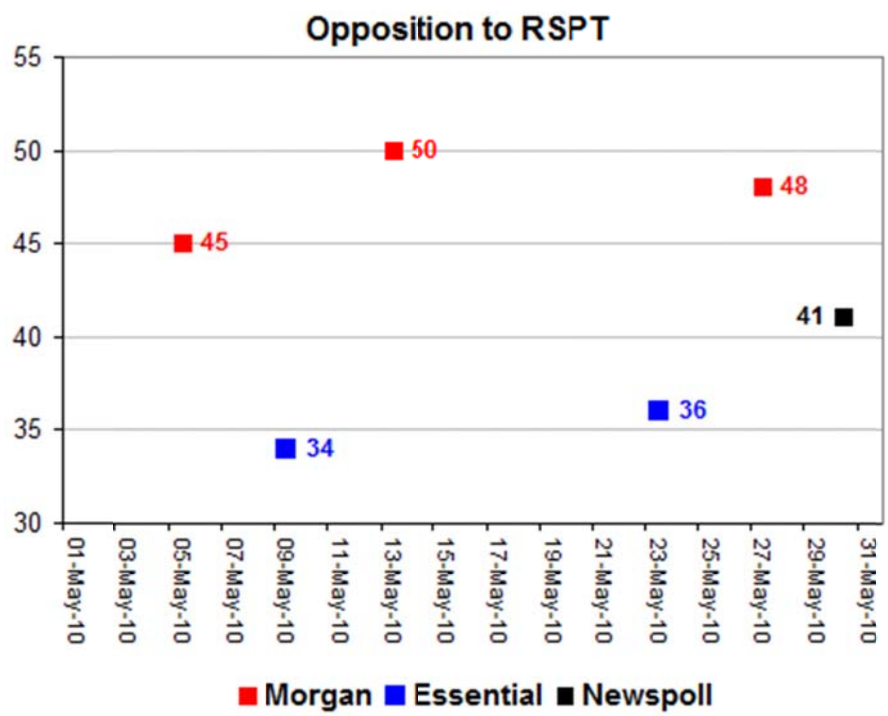
Source: www.asiancorrestpondent.com, Accessed: September 2010.

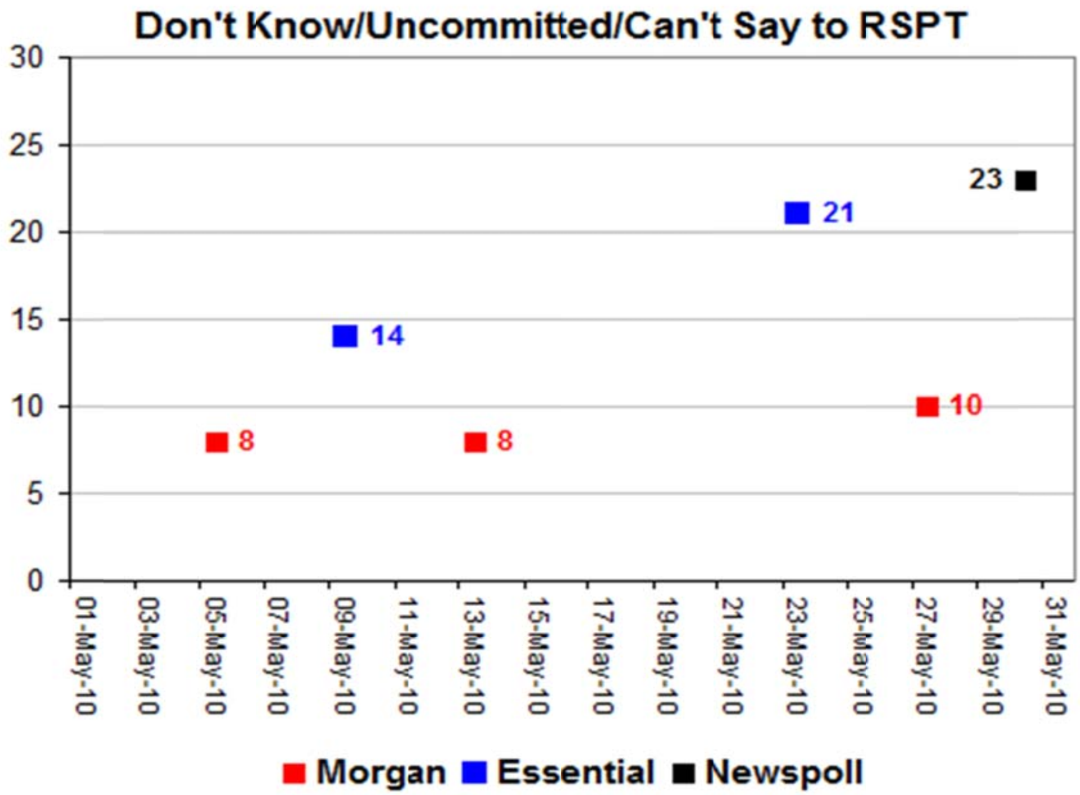
Exhibit I: GetUp RSPT newspaper advertisement

Source: GetUp, www.getup.org.au/campaigns, accessed September 2010.

Exhibit J: Public Support for RSPT, May 2010.







Morgan asked the same question over the three polls:

The new 40 percent tax on profits of mining projects. Do you approve or disapprove?

Essential asked in their first poll:

The Federal Government recently announced changes to our tax system as a result of the Henry Report, which was a review of Australia's taxation. Do you approve or disapprove of the following Government proposals?

While their second poll asked:

The Government has proposed a resources super profits tax – which is a 40% tax on the large profits of mining companies – in order to fund a reduction in company tax, assistance for small business and an increase in superannuation. Do you support or oppose this tax?

Newspoll asked:

Are you personally in favour or against the proposed resource super profits tax?

Source: Steel, S. 'RSPT polling and low hanging fruit' *Crikey*, 2 June 2010.