Creating a more dynamic and resilient economy inquiry

Questionnaire response 98

Name: Minerals Council of Australia

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1. Support business investment through corporate tax reform

1. What features of the Australian business environment have encouraged or restrained investment over the past 10 years?

• The ramp up in mining business investment from the mid-2000's was founded on Australia's uniquely large resource endowment, highly productive labour force, and ability to solve technological challenges with down-stream investment partners. Facilitated by a relatively stable political environment and a reputation as a low-risk investment destination, the Australian mining industry has played a key role in building the nation's productive capital stock of buildings and structures, equipment, machinery, workforce skills and technology.

• Today, mining accounts for the largest share of Australia's capital investment (about 30 per cent over the last 10 years). This investment has substantially contributed to productivity growth and Australia's long-term growth in per capita income by increasing the amount and efficiency of capital per worker. As a result, average household income was $19,160 higher in 2024 in real terms as a consequence of the expansion of mining since 2005 compared with what it would have been otherwise.

• However in the past ten years, Australian business investment growth has been weak. Over the last seven years in particular, there has been little change in the mining industry's aggregate real net capital stock. While there is no shortage of potential resources projects in Australia, proponents face an increasingly challenging business environment when deciding whether to invest.

• Resources project development in Australia is plagued by high dropout rates at early stages and low conversions to final investment decision (FID). Analysis of the Department of Industry, Science and Resource's annual Resources and Energy Major Projects report shows that although the stock of project proposals has increased year-on-year since 2017, final decision and completion rates are both low and unpredictable. Only 1 in 20 major projects on average moves from 'feasibility' stage to 'committed' in any given year. This situation is not sustainable if mining is to remain a vital pillar of our economy into the future.

• Mining is by its very nature a risky business. The characteristics of mining investment – long timeframes exposing activities to regulatory and other changes, irreversibility, highly uncertain commodity prices and future returns, and the ability to delay decisions until there is better information about future conditions – all of which raise risk and distinguish the industry from capital investment in most other industries.

• Investment conditions in Australia for mining, minerals processing and related infrastructure are becoming more challenging. Market pressures, higher interest rates along with rising costs, and government policy settings are either hindering investment or are generally unresponsive to deteriorating investment conditions, all of which threaten Australia remaining a favourable destination for capital investment in mining and minerals processing.

• For the mining industry, efficient and effective government policy is required so that companies are internationally competitive and able to attract investment into new projects. Necessary actions include reducing the regulatory burden, not increasing it, advancing policies that support competitive project returns, delivering efficient public infrastructure and services, making support for major industries and projects a political imperative, and putting business and productivity at the centre of fiscal policy. Policy settings need to take account of competitor jurisdictions that are actively pursuing mining investment. Capital investment does not happen as a matter of course.

2. What elements of the corporate tax system encourage and/or discourage investment and risk-taking?

• Stability of tax rates and rules and certainty as to interpretation are crucial in order to encourage investment, particularly in the mining industry where infrastructure and mines last decades. In particular, adverse tax changes such as increased royalty rates that apply to existing investments or new taxes or adverse changes to existing tax settings are a red light in terms of risk and certainty and discourage investment. A commitment from government NOT to increase the tax burden on mining would send a positive signal.

• An element of the corporate tax system that influences investment risk is the statutory corporate tax rate. The investment conditions that fostered Australia's mining boom in the 2000s were predominantly driven by our country's well-developed infrastructure, skilled workforce and relatively stable political system. Australia's corporate tax rate of 30% was competitive at that time but was far from being a key driving force behind the surge of foreign investment seeking to secure supply chains in iron ore and coal.

• Australia's international competitors for mining investment have very quickly 'caught up' – implementing policies and investing in infrastructure specifically looking to attract mining investment. One of the most effective methods for attracting investment has been lowering statutory company tax rates – something Australia has left untouched since 2001.

• In 2015, the GDP-weighted company tax rate for OECD countries was 31.8%. By 2024, it had fallen to 26.1%. In 2017, the United States cut their corporate tax rate from 35% to 21% and more recently has been considering a further cut from 21% to 15% under the Trump presidency. Australia's global competitiveness is at risk if it continues to ignore this global trend, particularly while developing countries also announce themselves as attractive low-cost labour and low-cost energy mining jurisdictions.

• Companies assess the full spectrum of after-tax cashflows when making capital allocation decisions. The means the broader tax environment, such as royalties, depreciation rules and transaction costs play a pivotal role in shaping investment outcomes. Changes to royalty and other tax settings for existing mine investments have a detrimental effect on investment returns while eroding confidence in jurisdiction stability which affects new investment decisions. Some state governments have been more inclined to increase royalties than others and any short term revenue gains are offset by the damage to the reputation of the state and Australia as a safe place to invest.

• Structural inefficiencies in the tax system can distort investment decisions. For example, the existence of non-depreciable expenditures such as pre-UCA mining rights or certain intangibles can significantly raise the effective tax burden on new projects. The inability to deduct these costs discourages investment, where such expenditure can be significant – creating a distortion in capital allocation. Retrospective and complex legislation implementing new rules such as those affecting global hybrid instruments make investment more difficult in Australia. Particularly when the government ignored OECD guidance to make the changes prospective. These distortions not only reduce the return on investment, but also discourage innovation.

• Similarly, upfront transaction costs, such as capital gains tax and State stamp duties, further constrain the efficient reallocation of capital to its most productive use. In this context, revisiting the Board of Taxation's recommendations on asset rollovers would support productivity by ensuring that capital is deployed where it can generate the greatest value.

• Companies value certainty, consistency and simplicity in tax policy. A stable and transparent tax system reduces risk and encourages long-term investment, while repetitive changes, complexity or ambiguity in tax treatment often leads companies to adopt conservative assumptions, which can materially reduce the attractiveness of Australian projects relative to global alternatives.

• Many other policies have influenced investment evaluation for better and worse and, despite the rolling election cycles and a shifting political landscapes, attracting investment remains an important part of the Australian economy and a significant influence on productivity:
— Research and Development (R&D) Tax Incentive - Although this policy should have been an effective way to encourage innovation and entrepreneurial activities, its effectiveness has been largely undermined by its heavy regulation, instability in the rules and scrutiny from the ATO.
— Stricter thin capitalisation and debt rules – By limiting the amount of interest deductions multinational entities can claim, as well as the implementation of the Debt Deduction Creation Rules (DDCR) the complexity and uncertainty within the system has increased while the ability of foreign investors to finance projects has been significantly impeded.
— Enhanced tax transparency obligations – Australia's tax transparency rules are not aligned with international rules – which creates additional and unnecessary compliance burdens.
— Increased scrutiny of foreign investment approvals – FIRB has intensified its scrutiny of investment proposals and tax arrangements. These initiatives create complexity and delays and increase the cost of gaining investment approval.
— Expiration of the Junior Minerals Exploration Incentive (JMEI) – Introduced in 2017/18, the JMEI was critical for encouraging investment in emerging explorers to provide for next generation of mining projects – allowing them to convert tax losses into credits to pass through to investors. Allowing this scheme to lapse is shortsighted and sends the wrong signal for investors and the industry generally, at a time when Australia should be encouraging exploration activity.
— Fuel tax credits – The operation of this scheme has always made economic sence

and is vital for industries like mining that operate in remote, regional areas. Importantly, the policy aligns with the principle of not taxing business inputs and, amongst other things, allows Australia's critical export industries to compete in competitive global markets. The fuel tax credit ensures that these inputs remain untaxed and that fuel excise costs are limited to those using public roads. This encourages investment and supports Australia's economic competitiveness.

3. Which parts of the corporate tax system do you find the hardest, or most time or cost-intensive to comply with? How could the compliance burden of the business/company tax system be reduced?

• The Australian tax system is unnecessarily complex, not least for in-bound investors, which discourages investment and reduces willingness to take on risk. Beyond what has already been outlined in the previous response, there are other elements of the current corporate tax system that create significant compliance costs for companies in the mining sector:

— Country-by-country reporting requirements. There are significant time and cost imposts associated with this initiative – particularly as local/master file compliance is still required for groups that have no international related party transactions.
— Fringe benefit tax (FBT). For the amount of FBT tax that is ultimately paid, the administrative burden of reporting and compiling the necessary records are grossly disproportionate. On top of this, legislation is frequently changing, creating further complexities.
— Justified Trust program. This initiative is becoming increasingly burdensome for business due to its growing complexity and scope. The approach places a greater onus on taxpayers to prepare more information and analysis for review by the ATO. In recent years there has been an accelerating suite of new reports, self-assessment regimes and other compliance documentation originating both within Australia and internationally. Many of the controls involve detailed documentation, ongoing monitoring, and cross-departmental coordination, which can strain internal capabilities. The perceived benefits of this scheme are rarely considered in terms of their consequential compliance costs and it is assumed that corporate groups have infinite resources to comply with the new requirements. There is no specific or general process which accounts for the significant and increasing cost and time involved in maintaining compliance. Even governments tend to focus on tax risks associated with large corporates while the ATO's own intelligence points to greater risks within small to medium sized businesses and individual sectors.
— Pillar 2 compliance. The compliance burden associated with Pillar 2 in Australia is disproportionately high relative to the modest revenue it is expected to generate. The obvious reason for this is that the local corporate tax rate is double that of the minimum prescribed global rate of 15%. Despite the low risk, the regime adds unnecessary complexity for Australian businesses that are already operating with high effective tax rates. Australia should therefore support the establishment of a permanent safe harbour under Pillar 2 which is commensurate with risk, and would significantly streamline compliance and reduce the administrative burden.
— Duplication in compliance reporting. There is significant overlap across several compliance obligations, including the Reportable Tax Position schedule, Justified Trust program, FIRB tax checklist, and the Simplified Foreign Law Fund regime. These frameworks often require the disclosure of substantially similar information, resulting in unnecessary duplication. Streamlined reporting concessions should be introduced to

reduce administrative burden for high-assurance taxpayers.
— Lack of timely guidance on complex matters. The continued absence of clear guidance on complex tax issues, adds to uncertainty and risk. The ATO's suggestions to resolve such matters on a case-by-case basis is often impractical, particularly during project negotiations where decisions must be made within tight timeframes. It is notable that in the last decade or more the ATO shifted from a position of encouraging compliance through the dissemination of carefully considered technical rulings and similar products, to a regime of practical compliance guides and taxpayer alerts which outline concerns, compliance parameters and promote self-assessment risk regimes. There is no drive to address technical issues emanating from successive integrity-based legislative changes which is of primary importance to the corporate community. The ATO has moved to a statistical and behavioural approach to administration which has not necessarily enhanced the tax system in Australia because the corporate and other sectors of the community operate better with the resolution of uncertainty.

• The compliance burden of the corporate tax system should be reduced by improving the clarity and consistency of taxation laws, streamlining digital reporting process and enhancing engagement between business and the ATO. Legislation frameworks for both existing and new tax incentives should be comprehensive and rigorous, while avoiding over-prescribed eligibility requirements and persistent scrutiny from the ATO. These factors undermine the willingness for companies to participate in what would otherwise be efficient and effective incentives.

2. Reduce the impact of regulation on business dynamism

1. What areas of regulation do you see as enhancing business dynamism and resilience? What are the reasons for your answer?

   The participant did not respond to this question.

2. How has your regulatory burden changed over time?

   The participant did not respond to this question.

3. What regulations do you find time-consuming, overly complex or otherwise constraining business dynamism and resilience? What are the reasons for your answer?

   The participant did not respond to this question.

4. Can you share any specific examples of where you think a regulator has done a good or bad job of understanding and reducing regulatory burden on businesses and why?