

Why Gillard won't shelve the RSPT

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Mitch Hooke and his colleagues at the Minerals Council will by now be starting to consider when and how they can re-start their campaign against the resource super profits tax without appearing recalcitrant and greedy in the face of Julia Gillard's apparent olive branch to the sector.

It is apparent from Gillard's initial statements yesterday, and comments she made today, that Gillard is genuine about wanting to negotiate with the industry, even though the "bottom line" for both Gillard and Wayne Swan is increased taxes on resource profits.

The difficulty is that Gillard and Swan's concept of a 'fair' tax on mining profits is inevitably going to be very different to that of the industry, indeed there will be a gulf between what the government will be prepared to offer and what the industry will accept.

The obstacle to a genuine re-think of the RSPT is, as my colleague Alan Kohler identified today, Wayne Swan and the fact that he not only remains treasurer but has been elevated to Deputy Prime Minister.

It was Swan who dreamed up the 'brilliant' idea to pluck the RSPT from the 138 recommendations in the Henry Tax Review and use the \$12 billion of revenue it would generate in the budget out-years to both fund a spate of pre-election spending and bring forward a return to surplus three years ahead of schedule.

Now Swan is charged with leading the negotiations with the miners that, to have any chance of succeeding, would have to involve an acceptance that his brilliant tax is a destructive dud.

At least Gillard has, unlike Kevin Rudd, brought Martin Ferguson - who understands the industry, is respected by it and, having been excluded from the decision to go with the RSPT, has no personal stake in it - properly into the tent.

Gillard can't ditch the tax and start again, nor concede the key changes to the tax demanded by the sector - in particular its retrospective application to past investment - without destroying Swan, which isn't going to happen. Nor can she somehow shelve the issue before the election by promising to conduct a complete review, without pre-conceptions, of the tax post-election without blowing up Swan's budget and credibility.

Thus, while Kohler is right that the right thing to do is to shelve the appalling tax, axe the spending it was supposed to finance and either defer the return to surplus or cut

spending further in an urgent mini-budget, it isn't going to happen.

Which suggests that, however genuine Gillard might be about wanting to negotiate, she actually doesn't have any meaningful room to manoeuvre on the issues that really matter.

Before the brutal dumping of Rudd the government had been close to announcing some changes to the tax, dropping the discredited credit for losses to pay for changes, including an increase in the uplift factor within the RSPT to something closer to the bond rate-plus-five percentage points incorporated in the petroleum resources rent tax. It would also have excluded some sectors, like quarrying and the coal seam gas-fed LNG projects in Queensland, from the super tax.

That could have fragmented opposition to the tax, with those sectors excluded and some of the smaller miners pacified, without any material net loss of prospective revenue.

The bigger miners, with their long-established and very profitable projects, however, were always going to pay the vast majority of the tax. Without changes to the headline 40 per cent rate and recognition of their hundreds of billions of dollars of past investment they would continue to face punitive taxes.

Unless Gillard is prepared to negotiate both the headline rate and the retrospective nature of the tax she is boxed in by the political framework and the continuing presence of Swan. Her desire to negotiate a compromise might be genuine but the practical realities of her position make that near-impossible.

Her conciliatory tone and nomination of the negotiations over the tax as her top priority means that the industry has to tread warily - it would rebound on the miners and neuter the effectiveness of what has been an extremely successful campaign to date if they were seen to have simply scorned her invitation in a desire to avoid any extra tax by helping kick Labor out of office.

The industry says it is prepared to pay more tax on future profits. Genuine tax reform is usually revenue-neutral at its point of introduction to avoid retrospective taxation of returns on investments made under different rules.

If the negotiations were genuine, on both sides, that would be the starting point - negotiations over the definition of a fair share of the industry's future profits after acknowledging the value of the vast sunk investment already made under the existing long-established regime.

However, it remains difficult, indeed nigh-on impossible, to see how Gillard can translate her willingness to negotiate into anything that would be remotely acceptable to the larger miners.

Hooke, Marius Kloppers, Tom Albanese, Mick Davis, Ian Smith, Andrew Forrest and

the dozens of their peers with established projects will already be thinking about how to kick-start a revised campaign strategy without it rebounding on them, knowing that campaign could have to be relaunched within a couple of weeks if it becomes apparent that Gillard's desire to negotiate is actually, and severely, compromised by the continuing presence at her side of Wayne Swan.