

Partner Hayden Bentley
Writer Louise Horrocks
Direct line 07 3233 8734
Email lhorrocks@mccullough.com.au
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Manager
Not-For-Profit and Industry Tax Concessions Unit
Small Business Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

Email explorationincentive.treasury.gov.au

Dear Sirs and Mesdames

Submissions in response to exploration development incentive: policy design discussion paper

We provide the following submissions in response to the discussion paper '*Exploration Development Incentive: Policy Design*' distributed during March 2014.

Please note, responses are made only in relation to questions 2.1, 2.2 and 2.3.

Question 2.1 - Will a 'no taxable income test' and a 'no mining activities test' effectively target the measure to junior minerals explorers who are not able to utilise their tax losses?

As currently proposed, a company must satisfy the 'no taxable income test' and 'no mining activities test' to be eligible to participate in the scheme.

While we appreciate the intention of imposing such thresholds is to ensure that companies which already generate income from their other mining activities do not benefit from the scheme in relation to their exploration activities, there must be some flexibility in applying those tests. That is, there are many circumstances where an exploration company, without generating income from any exploration or mining activities might generate gross assessable income of a kind which, from a policy perspective, should not otherwise mean that the company should no longer be eligible to participate in the scheme. Examples of that income includes gross income from the following activities:

- (a) refunds or reimbursements (including of statutory government bonds);

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BRISBANE Level 11, 66 Eagle Street Brisbane QLD 4000 GPO Box 1855 Brisbane QLD 4001 **T** +61 7 3233 8888 **F** +61 7 3229 9949
SYDNEY Level 16, 55 Hunter Street Sydney NSW 2000 GPO Box 462 Sydney NSW 2001 **T** +61 2 9270 8600 **F** +61 2 9270 8699
NEWCASTLE Level 4, 251 Wharf Road Newcastle NSW 2300 PO Box 394 Newcastle NSW 2300 **T** +61 2 4924 8900 **F** +61 2 4924 8999

E info@mccullough.com.au **W** www.mccullough.com.au **ABN** 42 721 345 951

Partners

Brett Heading
Guy Humble
James Peterson
Peter Kennedy
Rodney Bell
Ian Hazzard
Peter Stewart

Brad McCosker
Damien Clarke
Dominic McGann
Bill Morrissey
Stuart Macnaughton
Brad Russell
Sean Robertson

Malcolm McBratney
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Mark West
Matthew Burgess
Timothy Longwill
Diana Lohrisch
Patrick Holland

Trudy Naylor
Russell Thirgood
Derek Pocock
Reece Walker
Kristan Conlon
Darren White
Kristen Podagiel

Tim Wiedman
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Hayden Bentley
Scott Butler
Matt Bradbury
Scott Whitla
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Paul McLachlan
Heather Watson
Cameron Dean
Troy Webb
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Michael Moy
Tim Hanmore

Brett Hawkins
Peter Stokes
Isaac West
Tim Case
Samantha Daly
Duncan Bedford
Sarah Blakelock

- (b) sale of equipment or other leasehold arrangements concerning equipment; and
- (c) proceeds of the sale of tenements including royalties.

This last category of income specifically is one which should not restrict eligibility to participate in the scheme. Farm in arrangements are commonly one of the sole funding opportunities available to junior explorers and the funds received usually from the partial sell-down of an interest in a tenement to establish the farm in arrangements are utilised by the junior explorer to fund their share of the costs of the farm in activities going forward. We think the inclusion of this income in determining eligibility will defeat the purpose of providing for such a scheme.

Question 2.2 - How should the 'no mining activities' test operate to ensure the incentive targets small mineral exploration companies?

For the reasons outlined above, we think there must be exceptions for certain types of gross income in the categories identified above included and that these tests should not operate as absolute thresholds for eligibility. In that sense, we think the 'no mining activities' test must be limited to ordinary income from carrying on a business of mining activities.

Question 2.3 - Could the approach to restrict eligibility to Australian resident companies that are widely held prevent some junior minerals explorers from accessing the incentive?

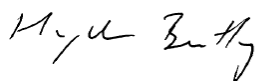
In brief, we do not think this is a practical exclusion from eligibility of participation in the scheme. To legitimately stimulate the exploration industry, this scheme must be made available to privately owned companies also.

As we understand the proposal, a company must be listed or widely held to be eligible to participate. However, in our experience, it is critically the stage prior to listing or securing wider investment that an exploration company could be assisted by such a scheme. Further, it is often not commercially viable or even available to junior explorers to list or secure investment until such time as their exploration resource has been de-risked. That process of de-risking requires significant exploration for there to be certainty regarding the resource sufficient to attract potential investors. This has been the generally accepted pathway of development for a junior explorer throughout the history of Australian mining. In fact, large listed companies such as Whitehaven Coal Limited and Macarthur Coal Limited (before it was taken over by Peabody) did not list until well after the exploration of their initial projects had occurred and was attractive to a broader range of investors.

Without removing this requirement and extending the application to privately owned companies also, we do not think there can be much application of the scheme to junior explorers and the scheme would miss the desired policy of increasing exploration within the industry.

If you have any queries or would like us to provide further details in respect of any of these submissions, please do not hesitate to contact Hayden Bentley on 07 3233 8579.

Yours sincerely



Hayden Bentley
Partner

Yours sincerely



Louise Horrocks
Senior Associate