

SECRETARY MEETING BRIEF

DATE/TIME/VENUE: 27 November 12pm

MEETING WITH: Simon Bennison, Graham Short

ACCOMPANIED BY:

ORGANISATION: The Association of Mining and Exploration Companies (AMEC)

Visitor's issues*Minerals Resource Rent Tax (MRRT)*

- We understand that AMEC wishes to:
 - Section 22
 - Give their feedback on the MRRT compliance costs; and
 - Section 22

Treasury's position

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AMEC issues and MRRT compliance costs

- AMEC is concerned about the compliance burden on small and mid-tier miners. They have raised several issues including concerns about transfers of MRRT allowances, the loss of allowances when the Simplified MRRT is used, and the use of OECD pricing guidelines. AMEC has also expressed concerns about the MRRT instalment regime.
- The MRRT is designed to minimise compliance cost while ensuring the integrity of the regime.
 - Further information is provided in **Attachment**.

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AMEC

- AMEC is the peak national industry representative body for mineral exploration and small to mid-tier mining companies within Australia.
- AMEC has been an active participant in the MRRT consultation process. AMEC has previously raised issues regarding their administrative concerns on compliance costs in the following submissions:
 - MRRT Policy Transition Group (28 October 2010);
 - MRRT exposure draft and explanatory material (14 July 2011);
 - Senate Economics Committee on the MRRT legislation (December 2011); and
 - AMEC Issues Paper (May 2012).

MRRT COMPLEXITY

- AMEC has made the following recommendations to reduce administrative and compliance burden on small companies:
 - Remove restrictions on the transfer of allowances where the Alternative Valuation Method (AVM) is used;
 - A miner who elects into the simplified MRRT method does not have their allowances extinguished;
 - Small emerging miners be exempted from the instalment system for at least 2 years;
 - That all methods in the OECD pricing guidelines be capable of being applied when calculating mining revenue;
 - A ‘Class Exemption for Explorers’ from paying MRRT instalments and in lodging quarterly instalment liability notices in relation to their MRRT pre-mining interest; and
 - Individual instalment and notice exemptions.

Transfer of Losses When Using Alternative Valuation Method

AMEC position

- AMEC is of the view that restrictions on transferring allowances where the AVM is used should be removed.

Treasury Response

- The AVM is a default method that allows that taxpayer to work out the value of the resource at the taxing point, rather than using other OECD methods. Choosing to use the AVM for a mining project interest affects the future transferability of allowances.
- Using the AVM could potentially result in the resource value at the taxing point being determined as less than the costs of producing the resource. Since the AVM is intended to provide a default method, it is not appropriate for allowances resulting from the project to be applied against assessable receipts generated from other projects, or in the case of vertically integrated transformative operations, other resource streams arising from a project.

Simplified MRRT Method

AMEC position

AMEC is of the view that if a taxpayer elects to use the Simplified MRRT method then their allowance components should be allowed to be carried forward.

Treasury Response

- The Simplified MRRT method allows miners who may be below the \$75 million low profit offset threshold for some time to comply with their MRRT obligations using a prescribed method for calculating liability.
- Under the simplified MRRT method, an entity is not liable for MRRT and will not have to lodge an MRRT return for the MRRT year.
- The purpose of the Simplified MRRT method is to reduce the compliance and administration costs of the miner.
- The Consequences of selecting this method are that the entity will not have access to MRRT allowances for that year, and it will not have access to a starting base allowance for that project interest in future years. For example, if miners keep their allowances, they will have to work them out, and so compliance costs would not be reduced.

MRRT Instalments

AMEC position

- AMEC is of the view that smaller entities should be exempt from paying MRRT instalments for the first two years of its operation or from commencing production.

Treasury Response

- An entity is liable to pay instalments of MRRT on a quarterly basis if it has mining revenue or pre-mining revenue. This system ensures that an entity does not have a significant MRRT payment due on assessment.
- To exempt smaller entities from paying MRRT for the first two years of its operation would result in some miners being faced with a large MRRT liability at assessment. It would also come at a cost to revenue. Many emerging miners will already be exempt from the MRRT by way of the \$75 million low profit offset. Additionally, to exempt certain taxpayers from paying MRRT instalments based on their size, would be discriminatory.

Mining Revenue

AMEC position

- AMEC is of the view that all transfer pricing methods in the OECD transfer pricing guidelines should be capable of being applied when calculating mining revenue.

Treasury Response

- As long as miners choose the most appropriate and reliable method in the circumstances, there is no objection under the Bill to any of the OECD methods being used.

Nil rate determination

AMEC position

- AMEC is of the view that a ‘Class Exemption for Explorers’ from paying MRRT instalments and in lodging quarterly instalment liability notices in relation to their MRRT pre-mining interest should be allowed.

Treasury Response

- Miners, who do not believe they will have to pay MRRT – for example, miners whose profits will not exceed \$75 million for that year – may apply for a nil rate determination (NRD) from the Commissioner of Taxation.
- The Commissioner of Taxation can then exempt MRRT taxpayers from paying MRRT instalments by issuing them with a NRD if the Commissioner is of the opinion that those taxpayers are unlikely to be liable to pay MRRT for an MRRT year.

Individual instalment and notice exemptions

- The Australian Taxation Office (ATO) is also considering individual instalment and notice exemptions for:
 - Those companies that choose to use the simplified MRRT;
 - Low volume producers; and
 - On a case by case basis.

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