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Exempt - section 22

From: McDonald, Jason
Sent: Thursday, 17 June 2010 1:58 PM
To: McDonald, Hamish; Abhayaratna, Thomas; Francis, Geoff; Bartley, Scott; Jacobs, Martin
Cc: Davis, Graeme; England, Andrew; Parker, David
Subject: RE: Further email from Mr Koenig [~~SEC=UNCLASSIFIED~~]

Yes.

From: McDonald, Hamish
Sent: Thursday, 17 June 2010 1:57 PM
To: McDonald, Jason; Abhayaratna, Thomas; Francis, Geoff; Bartley, Scott; Jacobs, Martin
Cc: Davis, Graeme; England, Andrew; Parker, David
Subject: RE: Further email from Mr Koenig [~~SEC=UNCLASSIFIED~~]

Thanks Jason, are the last two hollow dots right?

I had:

- o If this same mine only earned $230 million from its operations, it would pay no net RSPT
- o If it earned $200 million it would get a refund of state royalties worth around $10 million.

From: McDonald, Jason
Sent: Thursday, 17 June 2010 1:50 PM
To: McDonald, Hamish; Abhayaratna, Thomas; Francis, Geoff; Bartley, Scott; Jacobs, Martin
Cc: Davis, Graeme; England, Andrew; Parker, David
Subject: RE: Further email from Mr Koenig [~~SEC=IN-CONFIDENCE~~]
Importance: High

Hamish

One small but important correction.

1. • The mine chosen by the Herald Sun is an extremely profitable one, in anybody's book.
2. • Treasury have told me the mine appears to be earning a before tax return of about 110 per cent.

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1. o This means the mine would pay back remaining investment in les: than a year.

3. • Even after all taxes are paid, the rate of return still appears to be around 51% in the year.

4. • Given it is so profitable, it is clear there would not be any threat to thi: mine's investment or operations from the RSPT

5. • More realistic mines will pay far less tax than this example, some will even pay less tax than now once royalties are refunded.

    1. o If this same mine only earned $200 million from its operations, it would pay no RSPT and would be refunded around $10 million in State royalties.

    2. o If this same mine only earned $230 million from its operations, it would pay no net RSPT. That is if the project earns less than $230 million it would be better off under the RSPT.

From: McDonald, Hamish
Sent: Thursday, 17 June 2010 1:35 PM
To: Abhayaratna, Thomas; McDonald, Jason; Francis, Geoff; Bartley, Scott; Jacobs, Martin
Cc: Davis, Graeme; England, Andrew; Parker, David
Subject: RE: Further email from Mr Koenig ~~[SEC=UNCLASSIFIED]~~

Thanks – this is really useful. It would be great to be able to turn it into a media reply this afternoon that we could use for
a) the Herald sun
b) Mr Koenig
c) implicitly the MCA

I'll get some comments from the media people about what might need to be tweaked / what additional information is needed.

From: Abhayaratna, Thomas
Sent: Thursday, 17 June 2010 1:31 PM
To: McDonald, Hamish; McDonald, Jason; Francis, Geoff; Bartley, Scott; Jacobs, Martin
Cc: Davis, Graeme; England, Andrew; Parker, David
Subject: RE: Further email from Mr Koenig [~~SEC=UNCLASSIFIED~~]

That's fine. You can call it before tax return. (The example ignores uncertainty and risk sharing).

From: McDonald, Hamish
Sent: Thursday, 17 June 2010 1:28 PM
To: McDonald, Hamish; McDonald, Jason; Francis, Geoff; Bartley, Scott; Jacobs, Martin
Cc: Davis, Graeme; England, Andrew; Parker, David; Abhayaratna, Thomas
Subject: RE: Further email from Mr Koenig ~~[SEC=UNCLASSIFIED]~~

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Sorry, a couple of further thoughts on it – can we say "before tax return of about 110 per cent" (rather than before tax profit...)

6. • The mine chosen by the Herald Sun is an extremely profitable one, in anybody's book.

7. • Treasury have told me the mine appears to be earning a before tax return of about 110 per cent.

    1. o This means the mine would pay back initial investment in less than a year.

8. • Even after all taxes are paid, the rate of return still appears to be around 51% in the year.

9. • Given it is so profitable, it is clear there would not be any threat to this mine's investment or operations from the RSPT

10. • More realistic mines will pay far less tax than this example, some will even pay less tax than now once royalties are refunded.

    1. o If this same mine only earned $230 million from its operations, it would pay no RSPT and would be refunded around $10 million in State royalties.

From: McDonald, Hamish
Sent: Thursday, 17 June 2010 1:23 PM
To: McDonald, Jason; Francis, Geoff; Bartley, Scott; Jacobs, Martin
Cc: Davis, Graeme; England, Andrew; Parker, David; Abhayaratna, Thomas
Subject: RE: Further email from Mr Koenig ~~[SEC=UNCLASSIFIED~~]

1. A few tweaks – look ok?
2.
3. • The mine chosen by the Herald Sun is an extremely profitable one, in anybody's book.
4. • The mine is generating $200 million of revenue after operating expenses in a year when its capital has only depreciated by $95 million.
5. • That suggests a before tax profit of about 110 per cent.
    1. – In the Herald Sun's example, the mine would pay back initial investment in less than a year.
6. • Even after all taxes are paid, the rate of return is still around 51% in the year.
7. • Given it is so profitable, it is clear there would not be any threat to this mine's investment or operations from the RSPT
8. • More realistic mines will pay far less tax than this example, some will even pay less tax than now once royalties are refunded.
    1. – If this same mine only earned $230 million from its operations, it would pay no RSPT and would be refunded around $10 million in State royalties.
9.
10. Background
11. The profit was calculated using the net receipts over depreciation. Normally profitability is assessed by looking at the project return over it's life compared to the capital outlay. However, this information was not provided in the example. A proxy for the return on the capital consumed in the period for the revenue is

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depreciation.

12. We also assumed that the 5 per cent capital allowance means the initial capital investment was $182 million (including $95 depreciation in period).

13.

From: McDonald, Jason
Sent: Thursday, 17 June 2010 1:03 PM
To: Francis, Geoff; McDonald, Hamish; Bartley, Scott; Jacobs, Martin
Cc: Davis, Graeme; England, Andrew; Parker, David; Abhayaratna, Thomas
Subject: RE: Further email from Mr Koenig ~~[SEC=IN-CONFIDENCE]~~
Importance: High

14. • The Herald Sun article really is a duffers guide – it has a number of mistakes in it, for example, the RSPT is not being used to increase super levies from 9 to 12 per cent (instead it is being used to cut company income tax, improve infrastructure and provide a super rebate to low income earners).

15. • The example itself is exactly what the mining industry wants Australians to believe – that mining will pay a tax rate of 57 cents in the dollar. But the mine chosen is an extremely profitable one

1. – the before tax profit is around 110 per cent (in fact, in the Sun's example the starting project capital would be paid back to investors in a little over a year);
2. – even after all taxes are paid the profit is still around 51 per cent - given it is so profitable, it is clear there would not be any threat to this mine's investment or operations from the RSPT;
3. – It is obvious that the minerals are worth a lot so it is appropriate that the community charges a fair price for selling its resources (not just a 5 per cent royalty). CIT is not a charge for the resource but is paid by all companies.

16. • Mines which do not make such super profits will pay much less tax, some will even pay less tax than now once royalties are refunded.

1. – If the same mine only earned $230 million it would pay no RSPT and would be refunded around $10 million in State royalties.

17.

18. Background

19. The profit was calculated using the net receipts over depreciation. Normally profitability is assessed by looking at the project return over it's life compared to the capital outlay. However, this information was not provided in the example. A proxy for the return on the capital consumed in the period for the revenue is depreciation.

20. We also assumed that the 5 per cent capital allowance means the initial capital investment was $182 million (including $95 depreciation in period).

21.

But

From: Francis, Geoff
Sent: Thursday, 17 June 2010 11:59 AM
To: McDonald, Hamish; Bartley, Scott; Jacobs, Martin
Cc: Davis, Graeme; McDonald, Jason; England, Andrew; Parker, David
Subject: RE: Further email from Mr Koenig ~~[SEC=UNCLASSIFIED~~]

Here is the Herald Sun article.

http://www.heraldsun.com.au/news/national/the-duffers-guide-to-rudds-mining-tax/storye6frf7l6-1225880647733

From: McDonald, Hamish
Sent: Thursday, 17 June 2010 11:56 AM
To: Francis, Geoff; Bartley, Scott; Jacobs, Martin
Cc: Davis, Graeme; McDonald, Jason; England, Andrew; Parker, David
Subject: RE: Further email from Mr Koenig [~~SEC=UNCLASSIFIED~~]

Is the same example in the Sun? I'd missed it.

Could we please have three dots on the example – pretty much along the lines of your email, but in a way that they could be read direct in parliament?

Cheers,
Hamish

From: Francis, Geoff
Sent: Thursday, 17 June 2010 11:47 AM
To: Francis, Geoff; Bartley, Scott; McDonald, Hamish; Jacobs, Martin
Cc: Davis, Graeme; McDonald, Jason; England, Andrew; Parker, David
Subject: RE: Further email from Mr Koenig [~~SEC=UNCLASSIFIED~~]

The other point to make about these examples and the example in today's Herald Sun is that these examples have around 100 per cent return on capital in a very short time. The people who are circulating these are trying to make you think all mines will pay a 57 per cent tax rate.

But you can use it to illustrate another point.

- If you are investing money in resources and getting near a 100 per cent return within a year a lot of tax should be paid. It is obvious that the resource is extremely profitable and why wouldn't someone invest money if they were getting all of their capital paid back and getting **a 37 per cent after tax return on it**. 37 per cent returns on capital are rare and obviously a very high super profit.

From: Francis, Geoff
Sent: Thursday, 17 June 2010 10:03 AM
To: Bartley, Scott; McDonald, Hamish; Jacobs, Martin
Cc: Davis, Graeme; McDonald, Jason; England, Andrew; Parker, David
Subject: RE: Further email from Mr Koenig [~~SEC=UNCLASSIFIED~~]

Hamish

I have seen flyers like this a number of times now. It is fairly typical of the scare sheets that are being circulated. Reacting to these letters on a case by case basis is pointless because another scare sheet will simply be created. It will be a war of attrition that we will lose.

Rather than being totally reactive to an endless stream of misinformation, we need to put out proper worked examples so that the accounting firms, CFOs and analysts understand how the tax works.

Geoff

From: Bartley, Scott
Sent: Wednesday, 16 June 2010 6:40 PM
To: McDonald, Hamish; Jacobs, Martin
Cc: Davis, Graeme; Francis, Geoff; McDonald, Jason; England, Andrew; Parker, David

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Subject: Further email from Mr Koenig ~~[SEC=UNCLASSIFIED]~~

Hamish/Martin

Fyi - see below

Scott Bartley
Senior Adviser
Business Tax Division
The Treasury

(02) 6263 3829
Scott.Bartley@treasury.gov.au

From: Bartley, Scott
Sent: Wednesday, 16 June 2010 6:38 PM
To: 'Ray Koenig'
Cc: Dickinson, Howard; Markesich, Rosie
Subject: RE: How the RSPT Works ~~[SEC=UNCLASSIFIED]~~

Mr Koenig

Unfortunately I will be out of town for the next few days but I will endeavour to review your modelling and respond early next week.

Regards

Scott Bartley
Senior Adviser
Business Tax Division
The Treasury

(02) 6263 3829
Scott.Bartley@treasury.gov.au

From: Ray Koenig [mailto:ray.koenig@kruciblemetals.com.au]
Sent: Wednesday, 16 June 2010 12:15 PM
To: Bartley, Scott
Cc: Martin.Ferguson.MP@aph.gov.au'; 'Tony.Abbott.MP@aph.gov.au'; tony.alston@kruciblemetals.com.au; 'Dennis Lovell KRB'; marcus.harris@kruciblemetals.com.au
Subject: How the RSPT Works

Scott,

Further to my email of last week, the attached file indicates how the RSPT may work and it shows a disastrous result of a 63% tax. Could you please review this and let us know if this is correct. We are concerned about misinformation and have had our accountant Dennis Lovell check the calculation. He has indicated:

The basic calculation used in the assessment is correct, but can vary on a number of other factors:

1. *The "taxing point". Whether taxed at minehead, at railhead, at port or at FOB etc. – each of these add costs and reduces the net profit for the RSPT.*

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2. *The C/F capital amount that is used to calculate the 6% hurdle allowance rate – this is still not clear in the govt releases but appears to comprise of the undepreciated value plus C/F loss amounts. -(I think this should always be based on the total capital cost until fully recovered).*
3. *There are C/F loss allowances which can be "grouped" for companies with more than one project – these seem to form part of the C/F capital amount - which adds to the complications of this tax.*

Please let me know if this calculation is an accurate estimate of the RSPT requirements.

Ray Koenig

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