

# Company Income Tax and Other Taxes

## Company Taxation Arrangements

The company tax rate (also known as the corporate) is 30%.

The treatment of business expenditure for the mining and petroleum industries is generally the same as for other industries. Expenditure that is not capital, such as daily operational expenses, is usually deductible at the time incurred. The cost of depreciating assets is generally deductible over the effective life of the asset.

The following special treatment is given to certain capital expenditures:

- Immediate deductions are allowable for the following:
  - expenditure on eligible exploration or prospecting activities for minerals, including petroleum. This can include the cost of acquiring depreciating assets after 30 June 2001, including mining or prospecting rights and information, if first used in such activities.
  - expenditure on rehabilitating mine sites upon which the taxpayer conducted the extractive activities, including expenditure on the removal of redundant offshore platforms.
  - payments of petroleum resource rent tax.
- Expenditure on developing or operating a mine site, or petroleum field, or certain mineral transport facilities (but not the cost of a depreciating asset), can be deductible over the life of the project.

In addition to these special deductions, there are a number of generally available deductions:

- An immediate deduction for expenditure to the extent that it is incurred for the sole or dominant purpose of carrying on environmental protection activities (EPA). EPA activities prevent, fight or remedy pollution, or to treat, clean up, remove or store waste from your earning activity. Your earning activity is one you carried on, carry on or propose to carry on for the purpose of producing assessable income; exploration or prospecting; or mining site rehabilitation. However if your expenditure forms part of the cost of depreciating assets it is not deductible as expenditure on EPA if a deduction is available for the decline in value of the assets; and
- Expenditure on EPA that is also an environmental impact assessment of your project is not deductible as expenditure on EPA. Instead, it could be deductible over the life of the project using a pool.

## Tax Concessions for Research and Development

The Australian Government recognises the desirability of companies initiating and undertaking their own Research and Development (R&D) activities. Accordingly, where companies, incorporated in Australia and registered in the relevant year with the Industry, research and Development Board, undertake R&D activities, eligible

R&D expenses are deductible for taxation purposes at up to 125%, or in limited circumstances at 175%, in the year that the expenses are incurred. The decline in value on tangible depreciating assets used in R&D activities may also qualify for the 125% deduction. Note however, that there are exclusions from deductibility under the tax concession for R&D activities based around prospecting, exploring or drilling for minerals, petroleum or natural gas for the purpose of discovering deposits, determining more precisely the location of deposits, or determining the size or quality of deposits.

## **Payroll Tax**

The general revenue base of the States and Territories includes a tax on payrolls with the payroll exemption threshold ranging from \$A504,000 to \$A1,250,000 per annum. The tax is payable by all employers and is based on wages paid or payable. In most States, this includes non-cash fringe benefits to employees.

Broadly speaking, the rate varies between 4.75% and 6.2%. Some States apply a single marginal rate, while others have progressive marginal rates or a deduction system, or both.

## **Capital Gains Tax (CGT)**

There is not a separate tax on capital gains. Capital Gains Tax (CGT) is the tax payable on any net capital gain included in an annual income tax return. A net capital gain (broadly capital gains reduced by capital losses) is merely a component of assessable income. Accordingly, companies are taxed on a net capital gain at the company tax rate. The rate at which individuals are taxed on a net capital gain will depend on their marginal tax rate and the availability of the CGT discount (as detailed below).

Generally a capital gain arises, if your capital proceeds are greater than your cost base, for example if you received more for an asset than you paid for it. You make a capital loss if your reduced cost base is greater than your capital proceeds. A capital loss can only be used to reduce any capital gains in the immediate or subsequent year of income. It is not deductible from assessable income.

Australian residents make a capital gain or capital loss if a CGT event happens to any of their assets anywhere in the world. As a general rule, foreign residents make a capital gain or capital loss only if a CGT event happens to a CGT asset that has the 'necessary connection with Australia'.

There are special rules that apply to depreciating assets. A capital gain or capital loss can only arise to the extent that a depreciating asset has been used for a non-taxable purpose (for example, used privately). To the extent that a depreciating asset is used for a taxable purpose (for example, in a business) any gain is treated as ordinary income and losses as deductions.

For all taxpayers, indexation of the cost base of an asset (for calculating a capital gain) was frozen at 30 September 1999.

Individuals can reduce any capital gain remaining after applying capital losses by the 50% CGT discount. For assets acquired before 21 September 1999 they have the

choice of applying the 50% CGT discount or by using cost base indexation (frozen at 30th September 1999). Companies do not qualify for the CGT discount but can use the indexation method for assets acquired before 21 September 1999.

## **Fringe Benefits Tax (FBT)**

Employers generally are required to pay FBT on the value of certain fringe benefits they provide to their employees. A fringe benefit can be a right (including a property right), privilege, service or facility such as the provision of company cars, subsidised accommodation and travel, entertainment and the like.

The FBT year is the 12 months beginning 1 April and ending 31 March. The rate of tax may vary from year to year. For the FBT year commencing 1 April 2006 the rate of tax is 46.5%.

Employers may benefit from specific concessions in the taxation of benefits provided in “remote areas” (40km from a population centre of 14,000, or 100km from a centre of 130,000 or more) and in the methods used to calculate some benefits.

For example, subject to certain conditions, there is a full exemption from FBT for the provision of remote area housing benefits provided by employers to employees.

## **Dividend Imputation**

Australia has an imputation system of company taxation. Australian resident individuals who receive a taxable dividend from Australian resident companies receive a credit for tax paid by the company on its income: These dividends are called “franked” dividends.

- For the shareholder this means that, subject to their marginal tax rate, the tax payable on the dividend is effectively fully or partially paid; and
- For the company this means that certain records must be maintained to verify the amount of credit that can be passed on to its shareholders.

The extent to which the company may “frank” a dividend depends on the credits or balance in its franking account at the time the dividend is paid. Franking of dividends by companies is not mandatory. Credits to the franking account arise when a company pays tax or when a company receives a franked income from another company.

Foreign residents do not pay tax on the amount of franked dividends paid by an Australian resident company. However, they will pay withholding tax on the amount of the dividend that is not franked. The withholding tax rate is levied at 15%, but may vary depending upon which country the dividend is going to and to the impact of any arrangements such as Double Tax Agreements.

## **Dividend Withholding Tax Exemption for Foreign Source Dividend Income**

Unfranked dividends paid by Australian resident companies to foreign residents are not subject to dividend withholding tax to the extent that they are declared to be ‘conduit foreign income’ (CFI).

## **Agreements on Avoidance of Double Taxation and Foreign Tax Credits**

Australia has concluded comprehensive agreements with a number of countries for the elimination of double taxation. The agreements adopt rules whereby the rights to tax are either exclusively allocated to one of the countries or are divided between the countries to the agreement. In general, where both the country of residence and the country of source of income are given the rights to tax, the agreements generally provide for the country of residence to provide relief (via a tax credit, a deduction or exemption).

The question of income source arises in the context of activities involving the exploitation of natural resources in Australia. If income is derived by a foreign resident from resources produced and/or recovered in Australia, it will be deemed to be attributable to sources in Australia or derived from a source in Australia. The agreements also restrict the Australian tax payable on dividends (usually to 15% of the gross amount of dividends), interest and royalties (generally to 10% of the gross amount of interest and royalties) paid to residents of the other countries.

With some exceptions, Australia taxes its residents on their worldwide income giving credit for foreign taxes paid on that income. This includes the attribution to Australian shareholders of certain income derived by controlled foreign companies.

## **Thin Capitalisation**

The Australian Thin Capitalisation regime applies to foreign entities investing in Australia and foreign controlled Australian entities, as well as to Australian multinational enterprises with controlled foreign investments.

The Thin Capitalisation regime is principally about the extent to which an investment is financed by way of debt compared to equity.

The regime seeks to ensure that multinational entities do not allocate an excessive amount of debt to their Australian operations. Where a benchmark level of debt funding is exceeded, deductions for debt financing may be limited.

## **Indirect Taxation**

A broad based goods and services tax (GST) at a rate of 10% applies in Australia.

Business is able to claim a tax credit for GST paid on business inputs. The GST is only applicable to taxable supplies with a number of items being GST free.

Exported goods and services are GST-free, while goods imported into Australia are generally subject to GST.

Excise duties become payable on petroleum products, including gasoline and diesel fuel, produced for the Australian market while exported goods are excise exempt.

## **Fuel Tax Credits**

The Tax Office is urging businesses within the mining industry that use diesel and some other fuels in their operations to check their eligibility for fuel tax credits.

Fuel tax credits, introduced by the Australian Government on 1 July 2006, help cut fuel costs by providing a credit for the fuel tax (excise duty) included in the price of fuel.

Fuel tax credits replaced the energy grants credits scheme (EGCS). Mining activities that were previously eligible under EGCS are still eligible under fuel tax credits.

Credits are worth around 18 or 38 cents per litre to eligible businesses, depending on its use. It is important that businesses are registered for GST and fuel tax credits before making a claim.

Businesses that previously claimed EGCS and who were registered for GST have automatically been registered for fuel tax credits. Other businesses need only contact the Tax Office to register.

After businesses register for fuel tax credits, their business activity statements will include labels to claim fuel tax credits.

## **Eligible mining activities**

Businesses can claim fuel tax credits for diesel and fuel oil but not petrol used in vehicles and equipment to conduct eligible mining activities. These activities include:

- exploring and prospecting for minerals;
- removing overburden or preparing a site for mining;
- preparation of a site to enable mining to commence;
- recovering minerals; and
- rehabilitation of a place affected by a mining operation.

The following activities are also eligible if they occur at a place where a mining operation is carried out:

- searching for ground water, pumping and supply of water solely for use in a mining operation;
- certain construction activities;
- disposal of waste from a mining activity;
- servicing, maintenance or repair of vehicles, plant and equipment used in a mining operation;
- servicing, maintenance or repair of transport network used solely in a mining operation; and
- various sundry mining activities.

Mining is a complex activity. For more detailed information about making a claim for a mining activity, phone the Australian Tax Office on 13 28 66 between 8.00am and 6.00pm, Monday to Friday.

Under EGCS there were restrictions on when fuel used for electricity generation was eligible. These restrictions have now been removed and fuel tax credits may be claimed for petrol, diesel, kerosene, heating oil and fuel oil used to generate electricity for any business use whilst conducting a mining enterprise.

Fuel tax credits for all these activities are worth around 38 cents per litre.

## **Heavy road vehicles**

Businesses are entitled to claim fuel tax credits for petrol or diesel used in vehicles greater than 4.5 tonne GVM travelling on public roads (diesel vehicles acquired before 1 July 2006 can equal 4.5 tonne). This may include vehicles such as:

- buses transporting workers between a town and mine site;
- prime movers transporting mining equipment on flat top trays between mine sites; and
- large service trucks resupplying mine sites with consumables brought in from regional centres.

Fuel tax credits for heavy road vehicles are worth around 18 cents per litre.

Businesses claiming fuel for diesel heavy road vehicles with a GVM greater than 4.5 tonne need to ensure that their vehicles meet one of four environmental criteria:

- manufactured on or after 1 January 1996, or
- registered in an audited maintenance program that is accredited by the Transport Secretary, or
- meet Rule 147A of the Australian Vehicle Standards Rules 1999 (the 'DT80' test), or
- comply with a maintenance schedule endorsed by the Transport Secretary.

More information about the environmental criteria is available from the Department of Infrastructure, Transport, Regional Development and Local Government website ([www.infrastructure.gov.au](http://www.infrastructure.gov.au)).