



General Taxation Arrangements.

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GENERAL TAXATION ARRANGEMENTS
A GUIDE FOR INVESTORS

The information in this brochure outlines the pertinent features of Australia's taxation system, as it currently applies to minerals and petroleum exploration and development.

Company Taxation Arrangements

The company tax rate (also known as the corporate tax rate) 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, including mining or prospecting rights and information, if first used in such activities.
 - expenditure on rehabilitating mine sites upon which the taxpayer conducted mining, exploration or prospecting activities (for minerals including petroleum), 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, an immediate deduction is available for expenditure incurred for the sole or dominant purpose of carrying on environmental protection activities (EPA). EPAs prevent, fight or remedy pollution, or treat, clean up, remove or store waste from your earning activity. Your earning activity is one you 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 a depreciating asset, it is not deductible as expenditure on EPA. Expenditure on an environmental impact assessment of your project is also not deductible as expenditure on EPA. Instead, it could be deductible over the life of the project using a pool.

Matters of relevance to companies generally

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 Innovation Australia, undertake qualifying 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 in relation to expenditure on 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.

For information on Australia's minerals and petroleum R&D organisations please see Leaflet 16.

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.

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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 is disregarded where a deduction for the decline in the value of an asset is available under the capital allowances provisions.

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 current FBT rates refer to www.ato.gov.au/business.

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. 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 withholding 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 international tax agreements with a number of countries. The agreements aim to:

- › reduce or eliminate double taxation caused by overlapping tax jurisdictions
- › provide a level of security about the tax rules that will apply to particular international transactions by allocating taxing rights between the countries over different categories of income; and
- › prevent avoidance and evasion of taxes on various forms of income flows between the treaty partners by providing for exchanges of information between the respective taxation authorities.

In the context of activities involving the exploitation of natural resources in Australia, where 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.

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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, petrol and other taxable fuel in their operations to check their eligibility for fuel tax credits.

Fuel tax credits were introduced on 1 July 2006 and provide a credit for the fuel tax (excise or customs duty) included in the price of fuel used in business activities, machinery, plant, equipment and heavy vehicles.

The fuel tax credit rate varies depending on how the fuel is used. It is important that businesses are registered for GST and fuel tax credits before making a claim.

To assist in determining whether the fuel used in businesses may be eligible for fuel tax credits visit www.ato.gov.au/fuelschemes and use the fuel tax credit eligibility tool.

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

Eligible mining activities

If you are undertaking mining operations, you can claim for taxable fuel (for example, diesel or petrol) you use for any of the following activities:

- › exploring and prospecting for minerals
- › removing overburden or preparing a site for mining
- › recovering minerals
- › beneficiation of minerals or ores (for example, production of bauxite into alumina)
- › rehabilitation of a place affected by a mining operation
- › removing mining waste from a mine site.

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

- › searching for ground water solely for use in a mining operation
- › pumping or supply of water solely for use in a mining operation (note that this activity may also be eligible if the water is sourced from a place adjacent to the place where the mining operation occurs)
- › certain construction activities (for example, constructing private access roads, buildings, tailing dams and other dams for use in a mining activity)
- › disposal of waste from a mining activity
- › servicing, maintenance or repair of vehicles, plant and equipment used in a mining transport operation
- › using a vehicle with a GVM of 3.5 tonne or less providing the vehicle has been extensively modified for use underground and is used underground
- › sundry mining activities, as specified in the public ruling FTR 2006/2 available at www.ato.gov.au/fuelschemes.

Fuel tax credits may also 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 38.143 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 between mine sites
- › large service trucks resupplying mine sites with consumables brought in from other centres.

The fuel tax credit rate for heavy road vehicles is the full rate reduced by the road user charge which is subject to change. To check the current rate for heavy road vehicles visit www.ato.gov.au/fuelschemes.

Businesses claiming fuel for heavy diesel motor vehicles with a GVM greater than 4.5 tonne and travelling on a public road 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.

All other business activities

Eligibility for fuel tax credits was expanded on 1 July 2008, as part of a gradual implementation, up to 1 July 2012, to cover all other activities – that is, fuel you use in other business activities, machinery, plant and equipment. For example, you can claim for mining a material that is not considered a mineral, such as soil, slate, granite or gravel.

This only applies to fuel you acquired from 1 July 2008 and does not apply to fuel you use in light vehicles of 4.5 tonne GVM or less travelling on a public road.

The fuel tax credit rate for all these other activities is 19.0715 cents per litre. The rate of 19.0715 cents per litre is 50% of the full rate of 38.143 cents per litre.

Biodiesel and biodiesel blends

Special rules apply to the treatment of biodiesel or biodiesel blends. Businesses may be entitled to fuel tax credits and/or a fuel grant under the energy grants credits scheme. More information about biodiesel and biodiesel blends is available at www.ato.gov.au/fuelschemes.

Alternative fuels

Alternative fuels such as liquefied petroleum gas, compressed natural gas, liquefied natural gas and ethanol are not eligible for fuel tax credits. However, you may be eligible for a fuel grant under the energy grants credits scheme if you are using one of these fuels in a registered vehicle with a GVM of 4.5 tonne or more travelling on a road. For more information, refer to *Energy grants credits scheme – alternative fuels* (NAT 15227) available at www.ato.gov.au/fuelschemes.

How to register and for more information

Businesses already registered for GST can register for fuel tax credits by calling the Tax Office's automated service **13 72 26** at any time.

Businesses needing to register for both GST and fuel tax credits can call the Tax Office on **13 28 66** between 8am and 6pm weekdays.

For more information on fuel tax credits, eligibility and fuels you can claim, visit the Tax Office website www.ato.gov.au/fuelschemes or call the Tax Office on **13 28 66**.

Contact

The taxation information in this leaflet is general in nature. Further details on tax obligations can be found on the Tax Office website www.ato.gov.au or by calling **13 28 66**.



Australian Government

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These fact sheets have been produced as a collaborative project between the Australian Trade Commission, Department of Resources, Energy and Tourism and Geoscience Australia.