



Tax credits for junior minerals explorers

Investors in junior minerals explorers will benefit from a new tax credit system with Government legislation now under consideration in the Senate. The new rules replace the Exploration Development Incentive and allow junior explorers to sacrifice their carry forward tax losses and distribute a refundable tax credit to new investors.

This article will be of interest to mining professionals generally, leadership of junior minerals explorers and investors interested in that sector and that are seeking tax effective securities for their portfolio. You can use this information to keep up to date, monitor the progress of the legislation, optimise the management of your exploration company and fine tune the taxation characteristics of your investments.

Exploring for new mineral deposits is inherently risky and mining is one of Australia's most important industries. Having a "funnel" of new minerals deposits coming on line is very important. Accordingly, long existing tax rules provide generous deductions for exploration expenditure but those deductions benefit operating mining companies much more than junior explorers. These new rules attempt to assist junior explorers to attract investment whereas larger mining companies can generally fund their minerals exploration from corporate treasuries.

When the legislation goes through the Parliament, it will apply to exploration expenditure in the 2017/18 and following three financial years. The creation of the minerals exploration tax credits will occur in the year following the explorer's expenditure.

Unlike the previous Exploration Development Incentive, the tax credits will only be available to investors that are issued with new shares and it will be allocated to junior explorers on a first come, first served basis. The investors must be Australian tax residents.

The total, national allocation of minerals exploration tax credits cannot exceed:

- \$15 million for 2017/18
- \$25 million for 2018/19
- \$30 million for 2019/20, and
- \$30 million for 2020/21.

Any unallocated amounts from a previous year can be carried forward and be allocated subsequently.

For an individual or superannuation fund investor, the tax credit is a refundable tax offset. For a corporate investor, the tax credit takes the form of franking credits.

The tax credits can only be issued by a "greenfields mineral explorer" which means a listed company

undertaking Australian greenfields mineral exploration and incurring associated costs and that doesn't operate a mine and is not affiliated or connected with another entity that does operate a mine. Broadly, the basis for calculating the tax credit is the company's "greenfields mineral expenditure" which means the sum of all expenditures that are deductible under the mineral exploration provisions in the 97 Tax Act and where the mineral resource is, at least, inferred in a report compiled in accordance with the JORC code.

The maximum exploration credit amount available to the junior explorer is the smaller of:

- Its greenfields mineral expenditure multiplied by its corporate tax rate
- Its tax losses multiplied by its corporate tax rate, and
- The sum of its allocation of credits for that year plus any unused allocated credits from previous years.

Late in the year in which the exploration expenditure takes place, the junior explorer will make an electronic application to the Tax Office for an allocation of minerals exploration credits to be distributed in the following year. The application will be based on estimated annual expenditures and tax losses forecast for the approaching financial year end. There is a cap on the allocations to any particular junior minerals explorer of 5% of the total, national budget and the explorer allocations must be made in order in which the Tax Office receives the applications. First in – best dressed!

The credits can't exceed the corporate tax that the explorer might pay in future years and the explorer's tax losses are reduced by the exploration credits that it creates. Unused allocations can be carried over to the next year by the explorer. The tax credits may be made available to the investor in the year of their investment or the following year.

There are some new integrity rules including:

- Credits must be issued to investors in proportion to their respective investments
- Streaming of credits to particular investor groups is not allowed
- Distribution of credits is capped for any particular investor at the value of their specific investment multiplied by the corporate tax rate
- Credits expire if they are not issued by the end of the year following their allocation, and
- There is an "excess exploration credit tax" levied on the junior minerals explorer if they over-allocate or misallocate tax credits.

The legislation has been subject to Government amendment in the House of Representatives and is now also subject to a proposed opposition amendment in the Senate. The proposed amendments are small and, hopefully should not slow down the progress of the legislation too much.

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