

13 April 2007

Committee Secretary
Senate Economics Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Committee Secretary

Inquiry into the provisions of the Tax Laws Amendment (2007 Measures No. 2) Bill 2007

The Minerals Council of Australia's primary interest with the Tax Laws Amendment (2007 Measures No. 2) Bill 2007 is with *Schedule 1 – Effective Life Provisions* (the depreciation treatment of mining rights).

These provisions will amend the provisions of the *Income Tax Assessment Act 1997* relating to depreciating assets under the uniform capital allowance (UCA) system, and specifically, (more) 'closely align the decline in value deductions for mining, quarrying and prospecting rights with that for other depreciating assets' (Explanatory Memorandum, 2007, pg 3).

Mining, quarrying or prospecting rights acquired from 1 July 2001 are treated as depreciating assets (via Division 40 of *A New Tax System (Capital Allowances) Act 2001*). The MCA strongly supported this change and industry began depreciating these rights as per the legislation. However, a level of uncertainty continued in relation to the determination of the period over which those rights would be depreciated. Further anomalies and uncertainty were introduced as a consequence of amendments to Division 40 in 2003.

In 2006, the Australian Taxation Office (ATO) released Draft Ruling TR 2006/D2 (Income tax: ascertaining the effective life of a mining, quarrying or prospecting right mentioned in item 11 of the table in subsection 40-95(7) of the *Income Tax Assessment Act 1997*) to outline the ATO's interpretation of the application of Division 40 to mining, quarrying and prospecting rights.

The MCA subsequently wrote to the ATO and Government expressing a number of serious concerns with the draft ruling.

On 9 May 2006, the Treasurer announced that the Australian Government would provide legislative amendments to restore Parliament's intent in light of the (poor) draft ruling (Press Release, 9 May 2006). The MCA welcomed the Treasurer's announcement. The MCA subsequently worked closely with Treasury in developing the draft legislation and EM.

The MCA fully supports without amendment the legislation and EM as contained in the provisions of the Tax Laws Amendment (2007 Measures No. 2) Bill 2007 as it:

- clarifies in statute the policy intent in relation to how mining rights should be depreciated under the UCA regime;
- is consistent with Government's intent (notably, the Treasurer's announcement of 9 May 2006) and current industry practice;
- is highly consistent with broader UCA principles and approaches;

- is a 'point in time' calculation which promotes certainty and clarity (in terms of likely tax benefits) so as to encourage investment in new mines;
- has been exhaustively debated by all key stakeholders over an extended six year time period; and
- is administratively simple and equitable in terms of taxation treatment.

If you have any queries in relation, please do not hesitate to contact David Rynne, Assistant Director – Economics, MCA, (02) 6233 0649 (david.ryrne@minerals.org.au).

Yours sincerely

A handwritten signature in black ink, consisting of a large, stylized 'D' followed by a cursive 'R' and a long horizontal flourish extending to the right.

David Rynne
Assistant Director – Economics