

Tax Bill amendments for junior greenfields exploration companies receives Royal Assent

16 April 2018

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On 28 March 2018, the *Treasury Laws Amendment (Junior Minerals Exploration Incentive) Bill 2017* received Royal Assent. This incentive allows tax losses generated in greenfields mining exploration to be distributed as a credit to Australian resident shareholders.

We note that an exploration company will make a tax loss during the income year when they have little or no income in which to offset against their deductible exploration expenditure.

In [our previous article](#), we provided a high level overview of the proposed features of the new incentive. Given that the legislation has now received Royal Assent, we have summarised the key features of the incentive below:

- The amendments were announced on 2 September 2017, but apply from 1 July 2017.
- It is only available to investors in junior greenfields minerals explorer companies.
- An entity is a **greenfields minerals explorer** in an income year if:
 - the entity has greenfields minerals expenditure for the income year; and
 - during the income year, the entity is a disclosing entity (within the meaning of section 111AC of the *Corporations Act 2001*); and
 - during the income year, the entity is a constitutional corporation; and
 - during the income year, and during the immediately preceding income year, neither:
 - the entity; nor
 - any other entity that is connected with or is an affiliate of the entity; carried on any mining operations on a mining property for extracting minerals (except petroleum) from their natural site, for the purpose of producing assessable income.
- It only applies to investors that have purchased newly issued shares.
- The incentive applies to junior explorers who make a tax loss arising out of their greenfields exploration activities (e.g. deductible exploration expenditure exceeds income generated. Note that expenditure may be deductible even where the amount is capitalised in the accounts).
- Only Australian tax resident investors in the junior explorer will be entitled to the credits.
- The total value of the tax incentives available to taxpayers in respect of the acquisition of eligible shares in an income year on an Australia wide basis is capped at \$15 million for 2017-18, \$25 million for 2018-19, \$30 million for 2019-20 and \$30 million for 2020-21. If part of the cap is unallocated it is carried over to a subsequent income year for which allocations can be made.
- The incentive is allocated between eligible exploration companies on a first-come, first-served basis until the annual exploration cap for an income year is reached. Only 5% (maximum) of the annual exploration cap can be allocated to any one applicant for an income year.
- The incentive is not available for shares issued or expenditure incurred in income years after the 2020-21 income years.
- An exploration company must have an exploration credit allocation for an income year or an unused allocation of exploration credits from the immediately prior income year in order for the company to create exploration credits for an income year.
- An exploration company is liable to pay excess exploration credit tax for an income year if the sum of the exploration credits it issues for the income year exceeds the entity's complying exploration credit amount.

- The application period for an exploration credits allocation for the 2017-18 income year starts on the later of the commencement of the Bill, or the eleventh business day after the Bill receives the Royal Assent (i.e. 16 April 2018).

For more information or discussion in relation to the exploration development incentive, please contact HopgoodGanim's [Taxation](#) or [Resources & Energy](#) teams.

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