



4 June 2020

Mr Adrian Flego  
Board of Taxation Secretariat  
C/-The Treasury  
Langton Crescent  
PARKES ACT 2600  
Via email [cgtrollover@taxboard.gov.au](mailto:cgtrollover@taxboard.gov.au)

Dear Mr Flego

I write in response to the Board of Taxation's request for submissions into the review of capital gains tax (CGT) roll-over rules.

Broadly, the MCA support and agree with the comments outlined by The Australian Petroleum Production & Exploration Association (APPEA) in their submission, which has been shared with us.

While the introduction of CGT and Division 40 rollover provisions for interest realignment arrangements have likely been beneficial in facilitating the combining of development projects in the resource industry, the provisions have been limited given they do not extend beyond the exchange of mining rights.

The MCA recommends that amendments be made to recognise valuable asset contributions to joint mining operations such as land and mine infrastructure assets. It is common for mining joint venture parties to hold valuable infrastructure assets (such as rail and port infrastructure) that could be utilised by potential joint venture (JV) parties that hold mining rights nearby. Given existing rollover provisions do not apply to infrastructure assets integral to the mining operation, the upfront tax costs often prohibit projects/JVs from progressing.

In addition to the extension of the interest realignment rollover provisions, further valuable resources could be unlocked if a new replacement asset rollover provision is introduced to enable taxpayers to swap mining tenements and land interests, which would unlock stranded resources or resources that have not been developed to their full potential. The existing interest realignment rollover provisions only apply to transactions within the same mining project, such as JV participants in a mining operation. However, an asset swap rollover could facilitate the swap of mining tenements between parties that have interests in different, unrelated mining operations.

It is noted that such transactions as those contemplated by APPEA and in the examples provided below may still be prohibitive because of duty costs. The MCA recommends that relevant state and territory revenue authorities consider matching duty rollover relief to ensure that duty costs do not stifle further development opportunities.

The examples in APPEA's submission and the additional examples provided below do illustrate the types of transactions that could be facilitated with the proposed amendment to recognise valuable asset contributions to join mining operations

#### **Example 1 – Expansion of Existing Arrangements**

- Miner A holds mineral processing and rail infrastructure from its existing mining operations and the remaining proven ore resources under its mining tenements are depleted.

- Miner B holds a mining tenement (close to Miner A's existing infrastructure) with untapped resources and requires mineral processing and rail infrastructure.
- Miner A and Miner B propose to enter into a JV to combine the valuable mining infrastructure assets and untapped mining resources and carry on a joint mining operation as JV participants.

#### **Example 2 – Asset Merge**

- Miner X owns a 40 per cent interest in an unincorporated (UJV) joint venture that owns Mine A, as well as the associated mineral processing and rail infrastructure. The resource in Mine A's mining tenement is depleted. Miner Y owns 60 per cent of the UJV.
- Miner X also owns a mining operation on Mining Tenement B (close to Mine A's infrastructure) which has a large valuable untapped resource which requires mineral processing and rail infrastructure.
- Miner X would consider exchanging an interest in Mine B with Miner Y, for an additional interest in Mine A in order to access the mineral processing and rail infrastructure. The percentage interests agreed would be based on interpretation of reserve data and valuations of infrastructure.

#### **Example 3 - Like for Like Asset Swap**

- Miner A holds a Mining Tenement A that is stranded geographically from its existing mining operations. However, this stranded tenement is adjacent to Miner B's existing mining operations.
- Miner B holds a Mining Tenement B that is adjacent to Miner A's existing mining operations.
- Miner A and Miner B wish to undertake a cashless tenement swap transaction. Miner A and Miner B are unrelated 3rd parties and each party has undertaken separate valuations and Tenement A and Tenement B have equal market value.

#### **Example 4 - Asset Swap (Different Asset)**

- Miner A and Miner B own shares in a large mining company, their ownership percentages are 70 per cent and 30 per cent respectively. The large mining company assets include a wholly owned Mine A (100 per cent) which has been neglected due to financial constraints and two JV interests in Mine B (80 per cent) and Mine C (50 per cent).
- Due to changes in strategic direction, Miner A would like to reduce its interest in Mine A, and Miner B no longer wants to have an interest in Mine B or Mine C (via large mining company), but wishes to own a greater direct interest in Mine A and unlock the value of that resource.
- Accordingly, Miner B effectively swaps its 30 per cent indirect interest in all large mining company assets for a direct interest in Mine A only (the percentage interest in Mine A would be based on interpretation of valuations of the shares).

The proposed recognition of valuable asset contributions to joint mining operations would help ensure that projects that may otherwise not proceed, become viable with obvious benefits to the community through employment and government revenue.

Indeed, the relaxation of the restrictions on business reorganisations is akin to removal of regulation that currently inhibits efficiency and effectiveness. In addition, relaxation of these restrictions will lead to increased investment and jobs.

I can be reached via email [ross.lyons@minerals.org.au](mailto:ross.lyons@minerals.org.au) or 0436 618 593 if you would like to discuss this submission further.

Yours sincerely



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