



24th August 2012

Chris Lyon
Manager
Corporate Tax Unit
Business Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

Email nativetitle@treasury.gov.au

Dear Chris

Tax treatment of native title benefits

Thank you for the opportunity to comment on the Exposure Draft legislation and explanatory material on the tax treatment of native title benefits.

The Association of Mining and Exploration Companies (AMEC) is the peak national industry representative body for mineral exploration and mining companies within Australia.

AMEC's strategic objective is to secure an environment that fosters mineral exploration and mining in Australia in a commercially, politically, socially and environmentally responsible manner.

Over the past few years, an increasing number of AMEC members have developed strong working relationships with a variety of Aboriginal representative bodies and Traditional Owners alike, and have accordingly entered into confidential negotiated settlements with those parties in recognition and protection of native title rights. Such settlements have included direct and indirect payments for the beneficiaries.

In 2010, and in response to the Government Paper: *'Leading practice agreements: maximising outcomes from native title benefits'*, AMEC indicated support for *'efficient and effective governance structures and transparency protocols in relation to native title payments, particularly if they result in the funds being applied for the purpose for which they were provided; and ensure that the final recipient is the intended beneficiary'*.

At that same time, AMEC also responded to the government's consultation process concerning the tax treatment of native title payments by stating that:

- *'The issue has not created any major concerns for industry, other than the ongoing need for clarity and certainty surrounding such payments'*,
- *'Native title payments (and related legal costs) were on revenue account and deductible'*,

Association of Mining and Exploration Companies (Inc)

6 Ord Street, West Perth WA 6005 PO Box 948, West Perth WA 6872
Ph: 1300 738 184 Fax: 1300 738 185 info@amec.org.au www.amec.org.au

- *'Any reforms to the income tax system for native title payments must retain this deductibility feature, and*
- *'Full deductibility of native title payments should also be included under the Minerals Resource Rent Tax legislation'*

Although these views remain valid today, AMEC members are particularly concerned that there does not appear to be any government issued guidelines on governance framework / mechanism options (such as an independent trustee through a charitable trust or a direct benefits trust) into which these native title payments could be made to protect the funds in perpetuity.

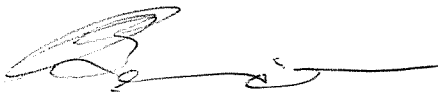
AMEC understands from anecdotal evidence that negotiated settlements currently represent tens of millions of dollars per annum, and an expectation that mining production levels will increase significantly in the coming decade with the resultant native title payments being raised incrementally.

It is therefore crucial that appropriate and robust governance, management and decision making frameworks are established to protect these payments, to ensure that investments in education, training, housing, health and employment are made to the ultimate benefit of relevant Aboriginal community groups, and reduce the impact on taxpayers funds.

Thank you for the opportunity to comment on the tax treatment of native title benefits.

I would be pleased to meet if you considered it necessary.

Yours sincerely,



Simon Bennison
Chief Executive Officer