
From: Native Title
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To: Native Title
Subject: Submission to the tax treatment of native title benefits [SEC=UNCLASSIFIED]

Consultation

Tax treatment of native title benefits

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Are you submitting on behalf of your Company

No

Do you want your submission to be confidential

No

Accessibility Statement

Yes

Submission files

Support files

Submission text

Paragraph 1.16 of the Explanatory Note states that an "action affecting native title" is restricted only to those that "extinguish native rights and interests or is otherwise wholly or partly inconsistent with their continued existence".

I am concerned that such a definition does not take the "Non Extinguishment Principal" into account.

I have worked in the Native Title/Resource sector for some 15 years in Qld and in that time have worked extensively on many, many RTN negotiations. In every such Agreement, the Non Extinguishment Principal is used. In my experience in Qld, resource/infrastructure proponents deliberately avoid agreement making via the use of ILUA's due to cost and the voluntary nature of the process; preferring the cheaper and compulsory process represented by the RTN process.

Compensation of the type described in the Explanatory Note is commonly paid under an RTN Agreement for the "impact the proposed Future Act will have upon native title rights and interests".

It is the "impact of the future act" which triggers the right to compensation under the NTA. Extinguishment is merely one form of "impact" albeit the most extreme form.

As such, any such compensation for impact on native title rights and interests should be deemed NANE income.