AMEC

30 April 2019

Nathania Nero
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The Treasury
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Dear Nathania

EMPLOYEE SHARE SCHEMES

Thank you for the opportunity to comment on the Consultation Paper on Employee Share Schemes dated April 2019.

As the peak national industry body for hundreds of mining and mineral exploration companies throughout Australia, the Association of Mining and Exploration Companies (AMEC) has had a long-standing interest in Employee Share Schemes (ESS) as a means by which industry attracts and retains employees.

Mineral exploration companies are the 'start-ups' of the Australian mining industry and play a pivotal role in economic growth and the development of the industry. These companies face a continuing challenge of securing sufficient capital to progress their projects and have therefore relied on ESS as a mechanism to remunerate their staff.

Development of an ESS regime that allows Australian based mineral exploration companies to remain competitive and provide the similar tax outcomes to our international competitors is critical in ensuring Australia's future mining prosperity continues.

AMEC therefore welcomes any initiative which aims to reduce the complexity, administrative cost and compliance burden in relation to ESS.

The Consultation Paper aims to meet those objectives for only 'unlisted companies' but does seek comment on simplifying and consolidating relief for listed companies in the Corporation Act[1].

In responding, we note that the Australian Taxation Office document - *Employee Share Schemes: start-up companies – Instructions for using the standard documentation*[2] indicates that the eligibility criteria for a start-up company includes:

- Must have an aggregated turnover of less than $50 million in the income year,
- Must not have any interests listed on an approved stock exchange in the income year prior to the ESS interest being offered,

[1] Consultation Paper – page 16
[2] Clause 4.1.1

Association of Mining and Exploration Companies
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- Must have been incorporated for less than 10 years,
- Must be an Australian resident company.

Mineral exploration companies would meet all of these criteria except that the major proportion of companies are 'listed' on a relevant Securities Exchange in order to raise equity capital to fund the proposed exploration activities, including employee costs.

In previous submissions to Government we have recommended that mineral exploration companies should be included in the conceptual definition of a 'start-up' company.

In response to a Treasury Discussion Paper on Employee Share Schemes dated August 2013, AMEC acknowledged that the Paper stated that the characteristics of a start-up company included:

- Inherently risky,
- Small number of employees,
- Low level of revenue or turnover,
- Recently formed and incorporated, and
- Involved in innovative activities.

We further stated that the mineral exploration industry would clearly fall within such a definition. We added that mineral exploration companies are no different to the technology, biotechnology and medical technology sectors where the path to market or commercialisation is costly, risky, uncertain and subject to potentially long lead items.

AMEC remains of the strong view that mineral exploration companies (listed and unlisted) should be eligible for all benefits available under the ESS.

In the event this eventuates AMEC members have noted that the proposal to increase the value limit of practical products that can be offered in a 12 months period from $5,000 per employee to $10,000 per employee would have limited practical benefit, and therefore should be significantly increased.

Members also noted that the mix of taxation rules (such as fringe benefits tax and capital gains tax) results in a level of complexity, cost, and financial and accounting burden which all need to be closely considered by employers and employees prior to entering into any form of ESS or share management plan. These issues need to be considered when re-designing the ESS regime to make it more attractive.

If you have any questions please do not hesitate to contact Graham Short, Deputy Chief Executive or myself. In the meantime, we look forward to further consultation on this issue.

Yours sincerely

Warren Pearce
Chief Executive Officer