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SACAFMA COUNCIL

Mineral and Petroleum Resources Royalty Act – recent amendments

Agenda

Classification of coal

Section 6A

Section 8A

Feedback from SARS

Classification of Coal Schedule 2 of the MPRRA

“ The specification of coal was inconsistent with the minimum sale principles required in Schedule 2 for specified minerals.

“ Based on industry information received, the minimum condition for coal was amended to a minimum calorific value of 19.0MJ/kg.

Section 6A

Application of Schedule 2

“ The Mineral and Petroleum Resources Royalty Act specifies the condition (either at a precise point or at a minimum level) at which mineral resources should be transferred.

“ Schedule 1 specifies the condition for refined mineral resources, and Schedule 2 specifies the condition for unrefined mineral resources.

“ Some uncertainty appeared to have existed on how to apply the schedules.

“ The first set of issues related to how the minimum level test should be applied.

“ The second issue related to how by-products would be treated.

“ By-products are especially problematic due to the unknown nature of embedded minerals.

Section 6A

Application of Schedule 2

- “ In respect of the minimum level test, mineral resources transferred below the minimum level are notionally deemed to be transferred at the minimum level.
- “ However, if the mineral resource is extracted and transferred at a higher level, the royalty will be calculated on the higher of the condition at which the mineral was extracted or the minimum condition specified.
- “ The purpose of this rule is to ensure that higher grade ores are fully subject to the royalty while ensuring that the royalty does not become an implicit charge on beneficiation of otherwise lower grade ores.
- “ In respect of by-products, the rules will be simplified. If a mineral resource is sold with by-products, the specified condition of concern will only relate to the main mineral resource.
- “ No specified level of condition will be required for the by-products.

Section 8A

Exemption for domestic refining

“ While South African mineral resource extractors typically engage in refining activities, many smaller and medium-sized extractors do not have sufficient resources to undertake refining activities. These entities often sell to other mineral extractors, and the latter refine the mineral resources to a higher level or to completion.

“ However, this shift of refining activities comes at a price in respect of the royalty charge.

“ Failure to fully refine triggers a notional uplift. This higher charge disproportionately impacts smaller and medium-sized extractors due to their lack of refining facilities.

Section 8A

Exemption for domestic refining

Section 8A grants rollover relief to:

- “ the transferor and transferee who are both registered persons in terms of the Mineral and Petroleum Resources Royalty Act, and
- “ both agree to the rollover.
- “ In these circumstances, the royalty is waived in respect of the transfer with the transferee stepping into the shoes of the transferor. The net result is a royalty that is deferred until subsequent transfer.
- “ Hence, if a small extractor transfers a mineral resource to a larger extractor with refining facilities, the small extractor can escape the royalty with the larger extractor assuming the potential royalty after having refined the mineral resource.

Section 8A

Exemption for domestic refining

“ It should be noted that various persons may elect to be treated as extractors (i.e. registered persons). This election allows parties outside the royalty regime to elect into the regime solely to invoke rollover relief.

“ However, a person electing into the royalty will not be eligible for rollover relief when subsequently transferring mineral resources to other parties.

“ This caveat is designed to prevent an endless string of rollover agreements solely to defer the royalty.

Feedback from SARS

“ We have recently met with SARS in order to discuss the practical problems related to the coal industry in relation to the historic and current classification of coal.

“ SARS has indicated that they will be granting an opportunity to present practical problems and/or solutions related to the coal industry early in the new year.

“ We will be inviting suggestions/recommendations/practical and logistical issues that members would want us to raise on their behalf with SARS.

“ We will keep the SACAFMA members informed on any legislative changes and/or developments.