MINERAL ROYALTY ACT

Royalty Guideline

RG-MRA-002: Production Unit

Version	Issued	Dates of Effect	
1	29 August 2011	From: 29 August 2011	To: 30 June 2018

Purpose

1. Under the *Mineral Royalty Act 1982* (NT) (the MRA), royalty is payable on minerals obtained from a production unit. This Guideline explains the term ‘production unit’ which is used to establish the boundaries for determining the scope of the project for which royalty is payable.
2. This Guideline is issued by the Secretary under section 4E of the MRA.

Introduction

3. The Northern Territory’s profit-based mineral royalty regime applies on an individual mine or project basis, rather than a company, business or enterprise basis. Under the regime, royalty applies to profits derived from the production of a saleable mineral commodity within the boundaries of a production unit. The objective is that, generally, only those expenditures necessary to produce that commodity are allowable as deductions against gross revenue from the sale or value of the saleable mineral commodity.
4. The concept of a production unit is a key feature of the net value formula in section 10(2) of the MRA. A production unit includes a mining tenement or mining tenements that are mutually interdependent in the sense described in paragraphs 9 and 10 below, and facilities outside the mining tenement(s) that are essential to the production of saleable mineral commodities. The concept fixes the boundary, that is the geographical area, where the production of an identified saleable mineral commodity for any available market occurs and the precise time at which the gross value of that commodity is to be fixed. The boundary does not extend beyond the production stage to downstream activities.
5. As the MRA does not extend beyond the production stage to downstream activities or processes such as manufacturing, neither expenditure related to downstream processes, or value added to products through those processes, are taken into account for the purposes of calculating royalty.
6. Accordingly, identifying what mining tenement(s) and facilities constitute a production unit for the purposes of the MRA is important in determining consequent royalty implications.

What is a production unit

7. Subject to a contrary statutory intention (such as an Agreement Ratification Act), a production unit consists of:

   (1) one or more mining tenements that are used as part of an **integrated operation** (described below); and

   (2) any facilities in the Northern Territory that are essential (described below) for the production of a **saleable mineral commodity** obtained from the mining tenement(s).

Under the MRA all mineral commodities are saleable mineral commodities unless the Minister makes a declaration exempting the mineral commodity.

8. A mining tenement is defined as a right to obtain minerals from land but does not include an exploration licence or exploration retention licence.

Integrated operation

9. Two or more mining tenements may together form a production unit provided they meet certain criteria.
10. For two or more tenements to form a production unit, the royalty payer will need to establish that, together, the tenements are being operated as part of an integrated operation. To be an integrated operation, the tenements need to be **functionally** integrated. This means that the tenements must be interdependent for the production of a saleable mineral commodity. A relevant, but not conclusive, factor for consideration is whether the mining tenements are covered by a single Authorisation granted pursuant to Part 4 of the *Mining Management Act*.

Example

ABC Mining Pty Ltd carries on the extraction of a mineral commodity on a mining tenement located in the Northern Territory. The commodity is transported to a nearby mining tenement where it is further processed (through successive stages of separation and filtration) to produce a saleable mineral commodity. A single Authorisation has been granted in respect of the two mining tenements. As the functions performed at one mining tenement (recovery of a mineral commodity) are integrated and form part of the single complex process that is continued at another tenement by which the saleable mineral commodity is produced (in the sense described in paragraph 15 below), the two tenements are considered to be part of an integrated operation and, accordingly, constitute (or will be treated as) one production unit for the purposes of the MRA. This conclusion is strengthened or bolstered by the grant of the single Authorisation in relation to the tenements.

11. Tenements that are integrated from an organisational, administrative or economic perspective will not necessarily be considered to be integrated for the purposes of the MRA.

Example

ABC Mining Pty Ltd (ABC) carries on world-wide mining operations, including four mining tenements in the Northern Territory. ABC regards its mining tenements in the Northern Territory as a single operation and they are administered as such. However, each of the four tenements produces a saleable mineral commodity within its own boundary. Also, the four tenements are covered by four separate Authorisations granted pursuant to the *Mining Management Act*. The four tenements would be treated as four separate production units. Although they are integrated from an administrative and organisational perspective, they are not functionally integrated as they each produce a saleable mineral commodity in their own right, without depending on any of the other tenements.

Facilities essential to the production of a saleable mineral commodity

12. A facility only forms part of the production unit if two requirements are satisfied:
    (1) the facility is situated within the Northern Territory; and
    (2) the facility is absolutely necessary for the production of a saleable mineral commodity from minerals obtained from that production unit.
13. In most cases, facilities used for stockpiling, transportation or sale and marketing of a saleable mineral commodity outside the geographical area of the mining tenement(s) are not considered to be absolutely necessary for the production of a saleable mineral commodity because they relate to processes or activities subsequent to the production of a saleable mineral commodity. On this basis, these facilities are not considered to be part of the production unit.

14. As it is difficult to give an exhaustive and technical definition of mineral commodities likely to be marketed from a production unit, the MRA defines the point at which mineral commodities become saleable or marketable in general terms recognising that the point varies from production unit to production unit and, over time, even within the same production unit. The outer boundaries of the production unit are wherever the mineral commodity is sold from a production unit, or has reached a point in processing where the commodity is first commercially saleable and removed from the production unit.

15. Generally, a saleable mineral commodity is considered to arise at the first point of production where a mineral commodity is capable of being sold into any available market (whether or not the miner chooses to sell into that market), rather than a market of the royalty payer's choosing. The existence of a market is generally evidenced by an ongoing demand for the commodity rather than a one-off sale.

Example

ABC Mining Pty Ltd recovers hematite (a type of iron ore) from a mining tenement. The hematite is processed in situ to remove impurities prior to being removed from the tenement. Following this process, the hematite contains a sufficient percentage of iron for it to be sold on the open market. The hematite is then transported to a facility owned by the miner outside the tenement but within the Northern Territory, where it is further refined and manufactured into pig iron that is suitable for steel production. The pig iron is then sold to a steel manufacturer.

In this example, the facility outside the tenement is used solely for manufacturing hematite into pig iron and does not form part of the production unit. This is because the hematite which is removed from the mining tenement is already a saleable mineral commodity, as it is capable of being sold on the open market. Given that a saleable mineral commodity (hematite) has already been produced, the facility outside the tenement is not absolutely necessary in the production of the saleable mineral commodity. The additional value of the pig iron is not taken into account for royalty calculation purposes.

Requirement to identify the production unit

16. The responsible person is required, within 30 days after the decision is made to commence production of a commercial quantity of a saleable mineral commodity, to identify and describe the production unit and the mining activities carried on. For this purpose the responsible person must provide the Secretary with the following information in writing (see RF-MRA-002):
    (1) the location of the mining tenements;
    (2) the location of facilities within the Northern Territory that are absolutely necessary for the production of a saleable mineral commodity;
    (3) a description of the nature of the operations and processes carried on at the production unit;
    (4) the minerals being recovered from the production unit; and
    (5) the work program and mining schedule related to the production unit.

17. If the production unit or the mining operations change, the responsible person is required to notify the Secretary in writing within 30 days (see RF-MRA-002). Such changes include the sale of the production unit, the substitution of old mining tenements or facilities for new mining tenements or facilities, the addition or reduction of mining tenements or facilities.

18. Changes to production units may affect the royalty calculations. Guidelines RG-MRA-003*: Negative Net Value*, RG-MRA-004*: Gross Realization* and RG-MRA-006*: Capital Recognition Deduction* provide further information.

MRA publications

19. Guideline RG-MRA-001*: Guidelines and Advance Opinions*, which sets out information on the Guideline system, is incorporated into and read as one with this Guideline.

Anne Tan
Secretary

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