COMMISSIONER’S GUIDELINE

CG-SD-016: Farm-in agreements

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Purpose

1. From 1 July 2008, the *Stamp Duty Act* (‘the SDA’) has provided a stamp duty concession for farm‑in agreements (‘the farm-in concession’). This Guideline explains how the farm-in concession operates and outlines the Territory Revenue Office’s (TRO’s) position on what comprises ‘exploration work’ for the purposes of the concession.

Farm-in concession

1. A ‘farm-in agreement’ is a written agreement under which a person is entitled to acquire an interest in (but not full ownership of) a mining tenement by carrying out exploration work, or contributing a proportionate part of the cost of exploration work to be carried out, on the area of that mining tenement after the date of the agreement.[[1]](#footnote-1)
2. The farm-in concession operates when all of the following conditions are satisfied:[[2]](#footnote-2)
	1. dutiable property consists of an interest in an ‘exploration mineral title’, which are the following forms of mineral titles under the *Mineral Titles Act* (‘the MTA’):
		1. a mineral exploration licence;
		2. a mineral exploration licence in retention; or
		3. an extractive mineral exploration licence;[[3]](#footnote-3) and
	2. the conveyance of the interest arises out of the operation of a farm-in agreement; and
	3. the exploration work, or the contribution to the cost of exploration work, in respect of which the right to the interest arises under the farm-in agreement has actually been carried out or made.
3. The farm-in concession does not apply to mineral titles that are not exploration mineral titles. For example, it does not apply to a mineral lease or an extractive mineral lease.
4. When the farm-in concession applies to a conveyance of an interest in an ‘exploration mineral title’, then for the purpose of assessing the dutiable value of the interest:
	1. its unencumbered value will be determined as at the date of the farm-in agreement; and
	2. the consideration will be taken to be the amount by which the consideration given for the interest exceeds the reasonable cost of the exploration work or (where the consideration consists of a contribution to the cost of exploration work) the relevant proportion of that reasonable cost.

Meaning of ‘exploration work’

1. In determining whether particular work or costs are for ‘exploration work’, TRO has regard to the types of activities that are permitted to be conducted on exploration mineral titles under the MTA.
2. The MTA provides that the holders of mineral exploration licences and mineral exploration licences in retention are authorised to conduct activities in connection with the exploration for minerals, including:
	1. digging pits, trenches and holes, and sinking bores and tunnels, in the title area;
	2. activities for ascertaining the quality, quantity or extent of ore or other material in the title area by drilling or other methods; and
	3. the extraction and removal of samples of ore and other substances from the title area in amounts reasonably necessary for the evaluation of the potential for mining in the area.[[4]](#footnote-4)
3. Additionally, the MTA requires the holder of a mineral exploration licence to undertake a ‘technical work program’ in relation to that title.[[5]](#footnote-5) A ‘technical work program’ may include geological, geochemical or geophysical surveys, as well as the assessment of a mineral resource or extractive mineral resource.[[6]](#footnote-6)
4. Finally, the MTA authorises the holder of an extractive mineral exploration licence to conduct activities in connection with exploration for extractive minerals that are reasonably necessary for that exploration.[[7]](#footnote-7)
5. Accordingly, for the purposes of the farm-in concession, ‘exploration work’ is limited to activities that are directly attributable to the exploration for, or determining the existence, location, extent or quality of, a mineral occurrence on the land comprised in the exploration mineral title. This includes the following:
	1. digging pits, trenches and holes, and sinking bores and tunnels in, on or under an exploration mineral title to ascertain the quality, quantity or extent of ore or other material;
	2. drilling or other methods undertaken to ascertain the quality, quantity or extent of the ore body;
	3. extraction and removal of ore, material or other substances for sampling and testing;
	4. geological, geochemical or geophysical surveys and reports;
	5. pegging and surveying;
	6. the assessment of a mineral resource or extractive mineral resource, including through assaying and geochemical analysis;
	7. production of exploration data, including maps, photos and remote imagery;
	8. rehabilitation required as a consequence of exploration work;
	9. travel to and from exploration mineral titles to the extent that the travel relates to the conduct of exploration work; and
	10. establishing work camps to the extent they are used to conduct other exploration work.
6. If the work is only partly performed on, or in relation to, an exploration mineral title (such as where some of the exploration work is performed on, or in relation to, a mineral lease), then only an appropriate proportion of the cost of the work may be claimed as ‘exploration work’ for the purposes of the farm-in concession.
7. Acceptable apportionment methods include, but are not limited to, the following:
	1. timesheet method – requires an apportionment of the actual time spent by employees and contractors conducting exploration work on the exploration mineral titles and on other mining tenements (time sheets will be required for substantiation); or
	2. proportion of direct operating costs – based on the proportion of direct expenditure for exploration work that has been spent on the exploration mineral titles divided by the total costs of the exploration work conducted on all mining tenements. The farminee must maintain adequate records to establish and verify total cost of the exploration work and the proportion of this which relates to the specific exploration mineral titles.
8. As a general rule, any non-effort based allocation methods will not be considered acceptable (eg, an allocation method that is based on the number of exploration mineral titles or their geographical area).
9. The types of work and expenditure which are not generally considered to comprise ‘exploration work’ includes:
	1. a profit, margin or other loading charged on top of the direct costs incurred by the person earning an interest in the exploration mineral titles;
	2. rents, bonds, securities and other payments relating to exploration mineral titles;
	3. general office and administrative work, including associated overheads;
	4. work relating to the development of a mine that goes beyond exploration;
	5. purchase costs of capital items;
	6. surveying that is not geological, geochemical or geophysical in nature, such as for roads, water and sacred site/native title purposes;
	7. payments, whether for access or compensation, to access land covered by exploration mineral titles; and
	8. payments by way of compensation made to traditional Aboriginal owners or representatives of traditional Aboriginal owners, including under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth).

Evidence required to support an application for farm-in concession

1. In order to support a claim that the farm-in concession applies to the conveyance of an interest in an exploration mineral title, the person acquiring the interest is required to provide:
	1. the total amount of consideration given for the interest;
	2. a breakdown of the cost of the exploration work undertaken under the farm-in agreement (or where the consideration consists of a contribution to the cost of exploration work the relevant proportion of that cost), including where necessary an apportionment of the cost of the exploration work between exploration mineral titles and other titles; and
	3. evidence of the title’s value as at the date the relevant farm-in agreement was executed. See [I-SD-001](http://www.treasury.nt.gov.au/PMS/Publications/TaxesRoyaltiesGrants/StampDuty/I-SD-001.pdf): *Stamp Duty Lodgement Guide* for details of the information and documents required to be lodged in relation to the conveyance of mining titles generally and Commissioner’s Guideline [CG-SD-010](http://www.treasury.nt.gov.au/PMS/Publications/TaxesRoyaltiesGrants/StampDuty/CG-SD-010.pdf): *Tax assessments requiring evidence of value* for more information on what constitutes acceptable evidence of value for mining property.

Commissioner’s Guidelines

1. Commissioner’s Guideline [CG-GEN-001](http://www.treasury.nt.gov.au/PMS/Publications/TaxesRoyaltiesGrants/GeneralAdmin/CG-GEN-001.pdf), which sets out information on the revenue publication system, is incorporated into and is to be read as one with this Guideline. All Circulars and Guidelines are available from the TRO website.

Date of effect

This version of the Guideline takes effect from 1 July 2008.



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**COMMISSIONER OF TERRITORY REVENUE**

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1. Section 4(1) of the SDA. [↑](#footnote-ref-1)
2. Section 4AB(4) of the SDA. [↑](#footnote-ref-2)
3. Section 4AB(5) of the SDA. [↑](#footnote-ref-3)
4. Section 31(1) of the MTA. [↑](#footnote-ref-4)
5. Section 32(2) of the MTA. [↑](#footnote-ref-5)
6. Section 13(3) of the MTA. [↑](#footnote-ref-6)
7. Section 48 of the MTA. [↑](#footnote-ref-7)