Mining Infrastructure - New Ruling on Tax Deductibility of Mining Expenditure

Construction contractors now carry out a considerable amount of contract mining. This tax ruling that overburden removal is revenue, rather than capital, expenditure may give added incentive for their services.

The Taxation Office has recently published a draft Taxation Ruling (TR95/D17) dealing with the characterisation of certain expenditure associated with mining operations. The Ruling examines the three most common forms of mining operations - underground mining, strip mining and open pit or open cut mining. In examining these operations, the Ruling states that, generally, for taxation purposes, expenditure incurred in creating, making or extending a mine is capital expenditure, while expenditure incurred in working or extracting the ore body is revenue expenditure.

Capital expenditure is generally tax deductible over a period of 10 years or the life of the mine, whichever is the lesser. Revenue expenditure is deductible in full in the year in which it is incurred. Therefore, there is an obvious advantage to mining operators in being able to claim an outright tax deduction for expenditure in the year in which it is incurred, rather than having to spread the deduction over a period of years.

Perhaps the most important aspect of the Ruling is the Taxation Office's change in attitude towards the deductibility of expenditure involved in removing overburden above an ore body. In an earlier draft Taxation Determination (TD94/D7), the Taxation Office expressed the view that, in open cut mining, the cost of the initial removal of overburden to create an open pit was capital expenditure. However, the Taxation Office view now is that only expenditure in removing overburden to make initial contact with the ore body (such as in constructing a road) will be capital expenditure. The cost of removing overburden above the ore body which is part of the method of extraction will be a revenue expense. Hence, Taxation Determination TD94/D7 is to be withdrawn before Taxation Ruling TR95/D17 becomes final.

Apart from the changed approach to the cost of removing overburden, the Ruling clarifies Taxation Office views on other aspects of mining operations. For example:

- With open cut mines there is no fundamental rule that says that the cost of first accessing the ore is capital expenditure. Whether expenditure is capital or revenue will often depend on the individual mine configuration. Therefore, it has been held that the ongoing costs of acquiring land surrounding an open cut mine to maintain a proper slope for economic and safety reasons are revenue expenses.
- In underground mining, although the cost of constructing a decline tunnel to gain access to the ore body for extraction will generally be a capital expense, the cost of extending a decline tunnel that plays a part in the actual extractive process will be a revenue expense.

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