Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates 2013

5 June 2013

Question: **BET 71**

Topic: **Exploration tax concessions**

Written

Senator BISHOP asked:

- Can you please explain the abuse of the exploration tax concession?
- Can you please describe the amount of claims through this loophole that the ATO has identified over the past 3 years?
- Can you give a sense of the biggest individual claim the ATO has identified – is it tens of millions, hundreds of millions or billions?
- How is the budget measure different from what the Business Tax Working Group was looking at?
- Would you agree that the budget package was necessary to protect the corporate tax base otherwise there would be pressure to increase other taxes or cut our spending as our corporate tax base was being eroded?
- My understanding is that the change to the exploration concession was made in early 2000s. Do you agree that the budgetary impact at the time was significantly smaller than what we've observed in practice since then?

Answer:

In May 2013 the Government released *Targeting the immediate deduction for mining rights and information first used for exploration* outlining the integrity concerns and proposed changes.

The exploration tax concession was extended in 2001 to provide an immediate deduction for the cost of acquiring mining, quarrying and prospecting rights and information first used for exploration.

It has since been observed, by the Australian Taxation Office (ATO), that significant deductions in relation to the cost of acquiring mining rights and information are being claimed in circumstances that go beyond the policy intent of supporting exploration activity or the discovery of new resources.

This is because, as the concession is currently legislated, it is arguable that it allows an immediate deduction for the cost of acquiring mining rights and information that more properly reflect the value of natural resources that have already been discovered and identified.

The ATO, through its compliance casework of the large business market, has identified approximately $16 billion of first use intangible asset depreciation claims made in the past 4 years.

To date there have been a small number of claims greater than $1 billion.

The Business Tax Working Group (BTWG) identified a number of options that would remove or otherwise limit immediate deductibility of expenditure on exploration and prospecting. These included removing or reducing the immediate deduction for all intangible assets (i.e. mining rights and information) – with the cost of the asset required to be written off over either five years or its effective life (assumed for the purpose of the costing to be 15 years). The BTWGs proposal was directed at raising revenue to fund a company tax rate reduction.

The 2013-14 Budget measure is more limited than the BTWG proposal because it is directed at protecting the integrity of the corporate tax base by preventing use of the deduction outside its intended purpose. Under the measure, mining rights and information that would currently benefit from the immediate deduction will instead be written off over 15 years, or their effective life, whichever is the shorter period.

The measure also carved out a range of intangibles (such as farm-out arrangements and rights and information acquired from the Government) that were not considered to present integrity concerns.

Given that large deductions have been claimed that are outside the policy intent, it is reasonable to conclude that the extension of the exploration tax concession to mining rights and information has had a greater budgetary impact than anticipated. This is supported by the revenue impact associated with the Government's announcement in the 2013-14 Budget (estimated to be in the order of $1.1 billion over the forward estimates period) in relation to targeting the deduction for exploration to genuine exploration activity (see Budget Paper No. 2, p36).