


TR 2017/1EC - Compendium

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Page status: **not legally binding**

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Public advice and guidance compendium – TR 2017/1

This is a compendium of responses to the issues raised by external parties to draft Taxation Ruling TR 2015/D4 *Income tax: deductions for mining and petroleum exploration expenditure*

This compendium of comments has been edited to maintain the anonymity of entities that have commented.

Summary of issues raised and responses

Issue No.	Issue raised	ATO Response/Action taken
1.	Consider including a reference to the principles in Taxation Ruling TR 95/36 <i>Income tax: characterisation of expenditure incurred in establishing and extending a mine</i> in paragraph 46 and 47 of TR 2015/D4 where expenditure is on an activity that may be directed towards ‘ <i>getting at</i> ’ or ‘ <i>getting out</i> ’ minerals in relation to an existing mine, and also ‘ <i>plays a part in the actual extractive process</i> ’ (see paragraph 6 of TR 95/36). In this case the expenditure will be treated on revenue account based on the guidance provided in TR 95/36. It would also be helpful if this principle was clarified in Example 14 in paragraphs 105 and 106 of TR 2015/D4.	<p>It is outside the scope of this Ruling to consider whether section 8-1 of the <i>Income Tax Assessment Act 1997</i> (ITAA 1997) applies to expenditure that is not immediately deductible under subsection 40-730(1) because it is for operations in the course of working a mining property.</p> <p>However, a sentence has been added to paragraph 251 of the Ruling to highlight that expenditure for these activities can still be immediately deductible where section 8-1 of the ITAA 1997 applies. A footnote has also been added to paragraph 251 referring readers to TR 95/36 for further information on characterising expenditure incurred in establishing and extending a mine.</p>
2.	Paragraph 32 of TR 2015/D4 which refers to ‘ <i>environmental or heritage protection studies</i> ’ should be expanded to include commentary on expenditure on activities connected with obtaining native title approvals (for example, consultants, studies etcetera.). This type of expenditure is considered to be of a similar character to heritage protection as it is also ‘ <i>undertaken in preparation for, or as part of, an exploration program</i> ’, and it would help clarify uncertainty in the industry on whether this type of expenditure should be included in the ordinary meaning of ‘ <i>exploration or prospecting</i> ’.	<p>Paragraph 32 of the Ruling has been amended to include native title approvals as follows:</p> <p>‘... For example, environmental or heritage protection studies or activities connected with obtaining native title approvals where they are undertaken in preparation for, or as part of, an exploration program. It also covers marking out an exploration area with posts (pegging) and rent paid to a government on claims.’ (emphasis added)</p>