

IT 111 - Petroleum mining companies: shareholder rebate scheme - short-term investments



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TAXATION RULING NO. IT 111

PETROELUM MINING COMPANIES : SHAREHOLDER REBATE SCHEME
- SHORT-TERM INVESTMENTS

F.O.I. EMBARGO: May be released

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PETROLEUM MINING
COMPANIES

160 ACA

SHAREHOLDER REBATE SCHEME
SHORT-TERM INVESTMENTS
AUSTRALIAN INDUSTRY
DEVELOPMENT CORPORATION

OTHER RULINGS ON TOPIC : IT 120

PREAMBLE

Approval was sought as to whether short-term investments with the Australian Industry Development Corporation would qualify for the purposes of the petroleum shareholder rebate scheme.

FACTS

2. Where a company lodges a declaration for purposes of the shareholder rebate scheme it is required to expend the moneys specified in an appropriate manner before the expiration of the period specified in the declaration.

3. In the interim the company is required by section 160ACA(24) to hold any such moneys that have not been so expended in "short-term investments" which are defined as investments -

- (a) by way of deposit with a bank being a trading bank as defined by sub-section 5(1) of the Banking Act 1959, or with another bank approved by the Commissioner;
- (b) by way of loan to, or deposit with, an authorised dealer in the short-term money market;
- (c) in securities of the Commonwealth; or
- (d) in any other manner approved by the Commissioner.

The definition also requires that these must all be investments the terms of which require the moneys invested to be repaid on demand or on the giving of a period of notice not exceeding three months.

4. Where a company does not hold unexpended declared moneys in short-term investments, or does not spend the declared

moneys appropriately within the period specified, the rebates to which the company's shareholders became entitled by virtue of the declaration may be reduced or withdrawn.

RULING

5. The restrictions on the investment of capital subscriptions specified in declarations that must be observed to avoid a breach of section 160ACA(24) are designed to ensure that the funds are held readily available in secure investments until they are expended on eligible outgoings. As a general rule, it is expected that these investments will take the form specified in paragraphs (a), (b) and (c) of the definition of "short-term investments" in section 160ACA(1).

6. The discretion conferred on the Commissioner for the acceptance of other forms of investment (paragraphs (a) and (d) of the definition) is not seen as intended to facilitate approval of a broad spectrum of investments but rather to approve particular adequately secured and readily realizable investments as "short-term investments" on a case by case basis for the purposes of the shareholder rebate scheme.

7. The Commissioner is, of course, precluded from approving for this purpose investments of any kind that are not repayable on demand or on the giving of no more than three months notice.

8. Where a company proposes to invest with the Australian Industry Development Corporation funds that have been declared for the purposes of the shareholder rebate scheme, the company should be advised to obtain the approval of the Commissioner for the proposed investment. In seeking that approval the company should advise such particulars as -

- (i) the amount and proposed terms of the investment (including whether repayable on demand or on three months notice); and
- (ii) the date on which the company received from its shareholders the moneys that are to be invested with the Corporation.

COMMISSIONER OF TAXATION