

Legal firm reignites call for flowthrough shares

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WHILE the new Minerals Resource Rent Tax has been acknowledged as a step forward in removing investor uncertainty by a professional services firm and a legal group, the removal of additional incentives for juniors has reignited the debate for the introduction of a flowthrough shares scheme.

Lavan Legal partner Tony Chong said the concept of flowthrough shares needed to remain on the government's agenda, particularly as accumulated losses, by virtue of exploration-related deductions, may not provide the necessary incentive for investments in the junior sector.

While cautiously welcoming the MRRT, Chong said it should be seen for what it is – a new tax.

It said the MRRT did not simplify the tax system, but imposed another layer of compliance.

"Any incentives to assist junior explorers should take into account the fact that many junior companies in the exploration phase do not have any income," Chong said.

He said two disappointing features of the MRRT were the removal of the exploration rebate and, given that exploration is the life-blood for future resource development in Australia, the lack of additional incentives for junior miners.

"Details of the MRRT still need to be clarified," he said.

"For example, when working out the assessable profit at the mine gate, can financing costs incurred for costs acquired up to that point be deducted?"

"What about infrastructure costs and how does the MRRT work for a company that mines multiple types of ore from the same deposit?"

Chong also questioned whether the removal of the 28% company tax rate proposal would signal any changes to the infrastructure fund that was proposed for Western Australia and Queensland.

"It will also be interesting to see in time whether the MRRT could withstand a constitutional challenge, given that it is clear from the Federal Government's announcement that the MRRT is designed to tax the value of resources," Chong added.

"There will no doubt be losers as there are projects that are currently exempted which would be taxed under the new announcements, such as the North West Shelf project.

"However, depending on the final tax design, the use of market value as a starting base could potentially have the effect of deferring the starting time for when tax would be ultimately payable for a project."

In terms of the PRRT, he said serious consideration should be given as to whether the overall PRRT system be modified to reduce the disincentives to develop the oil and gas sectors further, and to provide greater international competitiveness against key market players in Qatar.

Deloitte has also welcomed the Federal Government's revamp of the resource super-profits tax, but cautioned that junior miners and explorers, and also those with marginal projects, would no longer benefit from any royalty refunds or underwriting of losses, signalling a revaluation of their models for the coming year.

Mining tax partner Gordon Thring said while there is a lot of detail still to be worked out, the new proposal will likely remove the uncertainty for investment decisions and exploration.

"M&A activity should now be more viable, as this move by the government should alleviate some of the concerns about the longer-term impact on investment by overseas interests," he said.

"There are particular groups that will be looking for more clarification, including the onshore oil and gas sector caught under the petroleum resource rent tax, which differs significantly to the proposed MRRT."

The government is expecting that more than 85% of mining companies previously caught under the resources super-profits tax will now be excluded from the new regime.

"This will be particularly beneficial for industries such as nickel and alumina, where significant processing and refining caused difficulties with the taxing point," Thring said.

"There will still be a lot of complexity in the MRRT but with the removal of industries such as nickel, copper and alumina, which have extensive refining involved, lessens issues with the taxing point, it will still be an area of debate."