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Page status: **not legally binding**

Page 1 of 1

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.	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. 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.
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> ’.	Paragraph 32 of the Ruling has been amended to include native title approvals as follows: ‘... For example, environmental or heritage protection studies <i>or activities connected with obtaining native title approvals</i> 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)