

IT 2085 - Income from gold mining : commodity futures contracts

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TAXATION RULING NO.IT 2085

INCOME FROM GOLD MINING : COMMODITY FUTURES CONTRACTS

F.O.I. EMBARGO: May be released

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REFERENCE NO: SUBJECT REFS: LEGISLAT. REFS:
I 1078704 INCOME FROM
GOLD MINING 23(o)

FACTS Where certain requirements are met paragraph 23(o) of the Income Tax Assessment Act exempts from income tax income derived from the working of a mining property in Australia for the purposes of obtaining gold. Advice has been sought from this office whether and, if so, the extent to which profits and losses realised from gold futures contracts entered into for hedging purposes may be taken into account in calculating the income derived from the working of a mining property for the purposes of paragraph 23(o).

RULING 2. Whether profits or losses arising from gold futures transactions represent income derived from the working of a mining property is a matter for individual decision in each case in the light of all the relevant facts. As a general rule, however, a gold futures contract entered into for hedging purposes would be regarded as an integral part of a gold mining business where the quantity of gold specified in the contract corresponds to the estimated production for the year and where there is a subsequent sale of gold in the physical marketplace. Where, as is in a normal hedging operation, the gold futures contract is closed out before sale of the gold, the resulting profit or loss would be taken into account in determining the income derived from the working of the mining property.

3. If a gold miner were to enter into futures contracts in respect of quantities of gold significantly in excess of the estimated production for the year any profit or loss arising from the closing out of the futures contracts would be regarded as having arisen from an activity outside the business of gold mining and would not be taken into account in determining the income derived from the working of the mining property.

COMMISSIONER OF TAXATION
13 JUNE 1984