



TD 93/127 - Income tax: trading stock of gold miners: what is the application of section 70-50 of the Income Tax Assessment Act 1997 to the low grade ore stocks where the notional market selling value is below cost?

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 This document has changed over time. This is a consolidated version of the ruling which was published on 17 November 2010

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, this Determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

[*Note: This is a consolidated version of this document. Refer to the ATO Legal Database (<http://law.ato.gov.au>) to check its currency and to view the details of all changes.*]

Taxation Determination

Income tax: trading stock of gold miners: what is the application of section 70-50 of the *Income Tax Assessment Act 1997* to the low grade ore stocks where the notional market selling value is below cost?

1. Some gold producers have on hand at balance date stocks of gold bearing ore, with gold content below the cut off grade for processing, which have been stockpiled for processing at a later date if the price of gold rises and/or costs fall.
2. Section 70-45 of the *Income Tax Assessment Act 1997* (ITAA 1997) gives the taxpayer the option to value an item of trading stock at its cost, its market selling value or its replacement value. As indicated by Taxation Ruling TR 93/3, a notional market selling value of gold ore may be calculated where no actual market sales are readily comparable. This may be applied to low grade ore even though it is rarely sold on the market. The notional market selling value may be calculated by taking the spot price of gold, less a reasonable estimate of future costs of the hypothetical purchaser, less a reasonable profit margin of the hypothetical purchaser (not the hypothetical vendor). A reasonable estimate of the cost to the taxpayer of producing refined gold from the low grade ore may be an acceptable estimate of a hypothetical purchaser's costs.
3. Section 70-50 of the ITAA 1997 allows a taxpayer to elect to value an item of trading stock below all the values in section 70-45 because of obsolescence or any other special circumstances, provided that the value is reasonable. This section is intended to apply particularly where taxpayers would be disadvantaged in valuing stock under the existing bases provided in section 70-45, for example in the case of articles of trading stock such as discontinued lines, obsolete items and spare parts for which there may only be a sporadic market.
4. The lowest value that could be applied under section 70-45 for low grade gold ore may be the notional market selling value. Fluctuations in gold prices cause the notional market selling values of low grade ore to vary. These values may fall below cost, and may even be zero in some cases, although no lower value than zero can be given. These price fluctuations are a normal occurrence with all metals, and do not alone constitute special circumstances for the purpose of section 70-50. Instead, they are taken into account by the use of a notional market selling value under section 70-45, where it is capable of reasonable estimation.

Example

Low grade ore is mined at a grade of .9 gm/tonne, when the cut off that year was 1.1 gm/tonne higher grade primary ore. Costs and profit margin are assumed to be fixed for this example.

Costs incurred in mining and stockpiling \$190/oz gold

Spot price of gold = \$500/oz

Further costs estimated at \$250/oz gold

Purchaser's profit margin is \$75/oz

- a) *Market selling value = 500 - 250 - 75 = \$175*
MSV has fallen below cost

If spot price of gold falls to \$325 or below

- b) *MSV = 0*

5. The very nature of a notional market selling value of low grade ore stocks would normally make a section 70-50 election unnecessary as the value is derived from quantifiable data (costs, spot price, profit margin, and ounces of gold/tonne), rather than being determined by actual market forces. The isolation of gold mines and their different cost structures are taken into account by these values which are not uniform across the industry.

6. There may be circumstances other than price fluctuations where taxpayers could be disadvantaged by the application of section 70-45. The following circumstances may constitute special circumstances in which a taxpayer may elect under section 70-50 to use a lower or nil value, as appropriate, for low grade ore stocks on hand at the end of the income year:

- continual stockpiling of large quantities of low grade ore;
- minimal amounts previously processed;
- processing costs are unlikely to fall substantially;
- stocks are being used for rehabilitation.

This list is not meant to be exhaustive and each case must be decided on its merits.

Commissioner of Taxation

1/7/93

FOI INDEX DETAIL: Reference No. I 1215432

Previously issued as Draft TD 93/D92

Related Determinations:

Related Rulings: TR 93/3

Subject Ref: Gold mining, trading stock

Legislative Ref: ITAA 1997 70-45; ITAA 1997 70-50

Case Ref:

ATO Ref: CHM/TD/012

ISSN 1038 - 8982