


# ***MT 2012/2A4 - Addendum - Miscellaneous taxes: application of the income tax and GST laws to deferred transfer farm-out arrangements***

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# Addendum

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## Miscellaneous Taxation Ruling

### Miscellaneous taxes: application of the income tax and GST laws to deferred transfer farm-out arrangements

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Miscellaneous Taxation Ruling MT 2012/2 to clarify that, as a result of the decision in *Shell Energy Holdings Australia Limited v Commissioner of Taxation* [2021] FCA 496, where applicable legislation states that a farmee cannot carry out activities on the relevant mining tenement or have a right to become the legal owner of an interest in the relevant mining tenement until requisite approvals have been obtained, a farmee cannot begin to hold an interest in the mining tenement for the purposes of Division 40 of the *Income Tax Assessment Act 1997* until those approvals have been obtained .

MT 2012/2 is amended as follows:

**1. Paragraph 1**

Omit footnote 1.

**2. Paragraph 2**

- (a) Omit 'ITAA 1997'; substitute '*Income Tax Assessment Act 1997*'.
- (b) In footnote 2, omit 'ITAA 1997'; substitute '*Income Tax Assessment Act 1997*'.
- (c) In footnote 3, omit 'ITAA 1997'; substitute '*Income Tax Assessment Act 1997*'.

**3. Paragraph 3**

- (a) Omit the wording of the second dot point; substitute:
  - an immediate transfer farm-out arrangement. An immediate transfer farm-out arrangement is discussed in Miscellaneous Taxation Ruling MT 2012/1 *Miscellaneous taxes: application of the income tax and GST laws to immediate transfer farm-out arrangements*.
- (b) Omit footnote 4.
- (c) After the paragraph, insert new paragraph 3A:

<sup>3A</sup>. For the remainder of this Ruling, the *Income Tax Assessment Act 1997* is referred to as the ITAA 1997; the *Income Tax Assessment Act 1936* is referred to as the ITAA 1936. For the GST law, the *A New Tax System (Goods and Services Tax) Act 1999* is referred to as the GST Act.

**4. Paragraph 6**

- (a) Omit “the farmor giving up future economic benefits, in the form of reserves, in exchange for a reduction in future funding obligations”; substitute ‘the farmor giving up future economic benefits, in the form of reserves, in exchange for a reduction in future funding obligations’.
- (b) Omit footnote 6.

**5. Paragraph 13**

- (a) Omit the header row in Table 1; substitute:

Characteristics of the farmor	Characteristics of the farmee
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- (b) In Table 1, omit ‘amount(s)’; substitute ‘amount or amounts’.
- (c) In Table 1, omit ‘Payment(s)’; substitute ‘Payments’.

**6. Paragraph 30**

Omit ‘The Ruling’; substitute ‘This Ruling’.

**7. Paragraph 53**

In footnote 35, omit ‘The Ruling’; substitute ‘This Ruling’.

**8. Paragraph 61**

- (a) Omit the wording of the paragraph; substitute:

If the applicable legislation or agreement provides that the farmee does not have a right to become the legal owner of the interest in the mining tenement or the right to exercise immediately the rights in relation to the interest in the mining tenement until requisite approvals under any applicable legislation have been obtained, then the farmee will not begin to hold the interest in the mining tenement under item 5 of the table in section 40-40 of the ITAA 1997 at the time when the right to acquire the interest is exercised. This includes the application of any statutory provisions to the effect that the relevant transfer of title is of no force until it is approved and registered.<sup>40A</sup>

- (b) After the paragraph, insert new footnote 40A:

<sup>40A</sup> *Shell Energy Holdings Australia Limited v Commissioner of Taxation* [2021] FCA 496 at [105–118], per Colvin J. Although this decision was appealed, this particular issue was not subject to appeal.

**9. Paragraph 62**

Omit the paragraph.

**10. Paragraph 98**

In Table 2, omit both instances of ‘i.e.’; substitute ‘that is,’.

**11. Paragraph 108**

In Table 3, omit both instances of 'i.e.'; substitute 'that is,'.

**12. Paragraph 124**

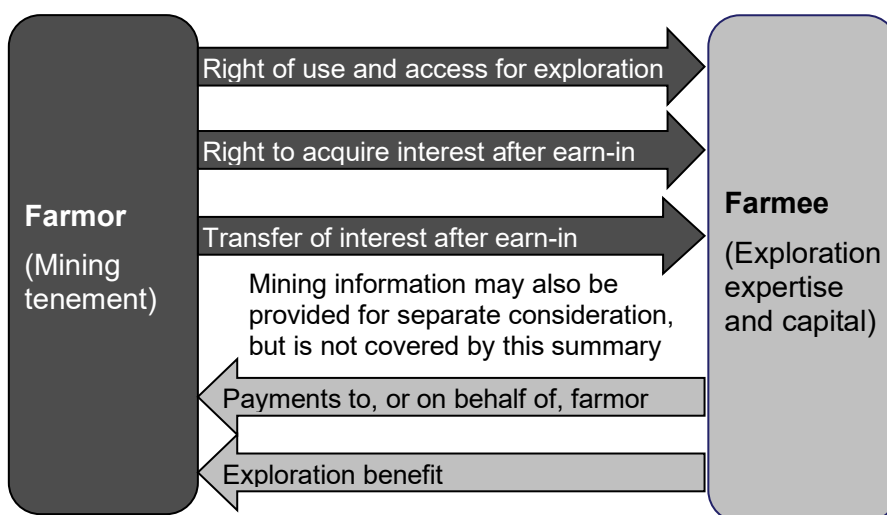
- (a) Omit 'IT 2378'; substitute 'IT 2378 *Income tax : capital gains : disposal of prospecting or mining right : disposal of right to receive income : farm-out arrangements*'.

- (b) Omit the wording of subparagraph (b); substitute:

Refer to the 'Deferred transfer farm-out arrangements' fact sheet for guidance (available through our [Publication Ordering Service](#)) on the treatment of a deferred transfer farm-out arrangement that satisfies subsection 40-1100(1) of the *Income Tax Assessment Act 1997* and is entered into after 7:30 pm, by legal time in the Australian Capital Territory, on 14 May 2013.

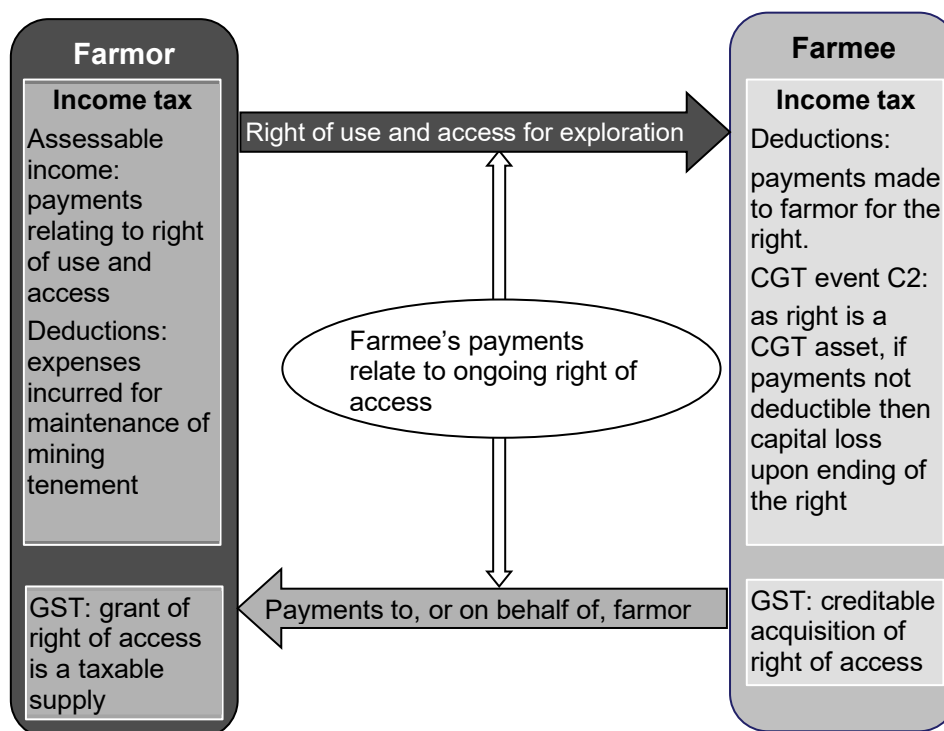
**13. Paragraph 126**

Omit Diagram 1; substitute:



**14. Paragraph 127**

Omit Diagram 2; substitute:

**15. Paragraph 132**

- (a) Omit '(Fourth Edition)'.
- (b) After '*Macquarie Dictionary*', insert new footnote 75A:

<sup>75A</sup> Pan Macmillan Publishers (2025), The Macquarie Dictionary online, [www.macquariedictionary.com.au](http://www.macquariedictionary.com.au), accessed 26 November 2025.

This Addendum applies on and from the date of publication.

**Commissioner of Taxation**  
10 December 2025

## ATO references

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