

## Client Alert

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## Potential Changes to Australia's Mining Tax Regime

The Australian federal government is considering introducing a comprehensive set of reforms to its tax system. The reforms are likely to be based on the findings of a report to the government made by Treasury Secretary Ken Henry in late 2009 (commonly referred to as the "Henry Report"). While the official report has not yet been made public, details of some of the recommended changes have been reported in the Australian press. One of the recommendations includes replacing the existing state-based royalty regimes that apply to mining projects with a uniform national resource rent tax similar to that used for offshore petroleum projects.

### Application to Mining Projects

Currently, state governments collect mining royalties on extracted resources. In states such as Western Australia, royalties are calculated based on a flat rate, as a percentage of value (e.g. 7.5% for bulk material, 5% for mineral concentrates, and 2.5% for minerals in metallic form), or as a percentage of profit. Mineral royalties constitute a significant revenue source for state governments, particularly those of Western Australia and Queensland. In 2009-10, total royalty income from over 50 different types of commodities produced in Western Australia amounted to more than \$AUD 2.5 billion.

One of the principal recommendations of the Henry Report is that the current state-based royalty system be replaced with a uniform national resource rent tax. If approved, the tax would place levies of up to 40 percent on minerals mined in Australia each year. Modeled on the petroleum resource rent tax levied on offshore oil and natural gas projects, the new tax would be levied only after exploration and development costs for a project are paid off and the project begins making a profit.

The recommendations in the Henry Report are currently being considered by the federal government. The government has said it will consider the report and release it to the public in early 2010. Initial reactions to the recommendations thus far from state governments and the Australian mining industry have generally been negative. Given the significant revenue earned by state governments from mining royalties, any proposed changes to the current state-based system are sure to be vigorously debated at the federal-state level.

## Implications for Foreign Investors

As more details emerge about the recommendations contained in the Henry Report, foreign companies will need to carefully consider the effects the changes may have on the profitability of their existing or potential investments in the Australian mining industry.