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SUBMISSION ON THE EXPLORATION DEVELOPMENT INCENTIVE (EDI) DRAFT LEGISLATION

The South Australian Chamber of Mines and Energy (SACOME) represents over 330 members in the resources and energy sectors in South Australia. We welcome the opportunity to provide comments on the Exploration Development Incentive draft legislation package.

The South Australian exploration sector is one where approximately 90% of all companies that hold an Exploration Licence do not have a Mining operation. Recent trends in mineral exploration in South Australia have shown 53% drop in mineral exploration compared to the previous year. In perspective to historical trends, the 2013 exploration total is lower than the total mineral exploration expenditure at the height of the global financial crisis. Grant Thornton in their 2014 survey of junior mining and exploration companies (JUMEX, 2014) discovered that the top issue for this sector is the lack of availability of finance

The Exploration Development Incentive is critically needed to stimulate investment in the Exploration sector in South Australia.

The model and function of the EDI as it is laid out in the Explanatory Material, Bill, and Regulatory Impact Statement is generally accepted by SACOME and its members. The original concept of targeting junior explorers through provisions to focus the policy on Greenfields exploration, utilising a 'flow through' model to shareholders, utilising the existing Tax law, and minimal administrative costs are aligned with SACOME's original 2007 Mineral Exploration Tax Credit policy.

The following pages contain SACOME's comments on the *Tax and Superannuation Laws Amendment (2014 Measures No. 7) Bill 2014: Exploration development incentive*. It should be noted that SACOME also endorses and supports the Minerals Council of Australia's joint industry submission on this matter.

If you have any further questions or comments please contact in the first instance Dayne Eckermann on (08)8202 9999 or deckermann@sacome.org.au, or alternatively Jason Kuchel on (08)8202 9999 or jkuchel@sacome.org.au.

Yours Faithfully,

SIGNED

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Exploration Development Incentive (EDI) Comments

Subdivision 418-B and 418-C; Entitled entities

The measures contained within this section are consistent with previous submissions and discussions SACOME and its members have had with the Treasury and Department of Industry. The sections outlined in 418-15 and 25 relating to life insurance companies and trusts are appropriate for the distribution of EDI credits, and subdivision 418-C measure to pass on EDI credits as franking credits to corporate entities is appropriate.

Summary: This subdivision is appropriate for the overall implementation of the EDI policy.

Subdivision 418-D; Creating exploration credits

SACOME acknowledges that the intention of this policy, and this subdivision, is to limit the EDI to junior explorers and associated expenditure. The legislation defines these companies as greenfields minerals explorers under subdivision 418-75 with caveats that they undertake greenfields minerals expenditure (defined in 418-80), are a disclosing entity under s11AC of the *Corporations Act 2001*, a constitutional corporation, and the company or connected entities have not undertaken any mining operations as defined in s40-730(7)(a) in the *Income Tax Assessment Act 1997*. This definition is consistent with previous policy outlines and models to focus the incentive to exploration on new deposits.

The definition of what constitutes greenfields mineral expenditure under subdivision 418-80 of the EDI Bill is inconsistent with the accepted definition outlined in section 40-730(1) and further defined in s40-730(4)-(8). While there is consistency with existing definitions well understood in tax law for mining operations that have been adopted under this Bill, the limiting of exploration expenditure to what is redefined in subdivision 418-80 is inconsistent with accepted practices.

However, SACOME acknowledges that there are a limited amount of funds available for the EDI policy and hence the impetus to focus and redefine exploration in this context. The redefinition of exploration under this Bill into greenfields exploration utilising existing concepts and sections in the *Income Tax Assessment Act 1997* is acceptable and is in line with previous consultation on the EDI policy.

Summary: The definitions for greenfields minerals explorers and greenfields minerals expenditure are acceptable. In addition SACOME recommends upon the final financial year of the EDI policy these sections should be reviewed with scope to wholly align with section 40-730 of the ITAA 1997.

Subdivisions 418-85 and 418-90 outline the process to determine the maximum exploration credit amount and the modulation factors for the corresponding financial year. The formula to determine the maximum exploration credit is in line with previous policy proposals and consultation. The intended focus to be able to pass through exploration losses to shareholders is maintained.

Subdivision 418-D; Creating exploration credits (cont'd)

The modulation factor and subsequent reporting periods outlined in subdivision 418-E are a complexity borne from the cap on EDI credits for each respective financial year. SACOME understands the policy position the government has adopted in this part due to the cap and that previous consultation has determined that the method in the Bill is the most appropriate for the context.

The exploration credit cap as outlined in subdivision 418-90(2)(a)-(c) negates the possibility for the unused funds under the budgeted EDI limit to be carried forward to the following financial year. Announcement of \$100 million for the EDI policy should entail that the entirety of the funds are available for this important policy.

Allowing for unused funds to be carried forward will increase the incentive for the following year by potentially reducing the modulation factor if the following year's expenditure exceeds the cap.

Summary: The formula for determining exploration credit amounts is accepted, however subdivision 418-90(2) should be amended to allow unused cap amounts to be carried forward to the following years.

Subdivision 418-E; Issuing exploration credits

Previous consultation on the EDI has recognised the option of issuing credits to either new and existing shareholders or only new shareholders on an entities register. The option to flow through exploration credits to new shareholders would incentivise new entrants to invest in junior exploration companies and have a larger proportion of the credit be appropriated. While there have been positive and negative arguments for both methods the measures outlined in subdivisions 418-110 and 418-115 provide flexibility that is welcomed.

Summary: The measures for distribution between new and existing, proportionality, and expiration outlined in this subdivision are accepted.

Subdivision 418-F; Excess exploration credits

As this policy relies upon a mineral exploration company to estimate before September 30 of a respective financial year of the exploration expenditure and losses for that financial year there can exist scenarios where it is overestimated. The measures outlined these relevant parts have allowed for unintended overestimations and thus excess exploration credits. Example 1.7, page 22, outlined in the Explanatory Material for this Bill provides the certainty and intent of this subdivision.

Summary: This subdivision is appropriate for the overall implementation of the EDI policy.