Queensland Government

Contents **Page**

Public Ruling
Mineral Resources Act:
DETERMINATION OF ROYALTY FOR PRESCRIBED AND SPECIFIED MINERALS

A public ruling, when issued, is the published view of the Commissioner of State Revenue (the Commissioner) on the particular topic to which it relates. It therefore replaces and overrides any existing private rulings, memoranda, manuals and advice provided by the Commissioner in respect of the issue(s) it addresses. Where a change in legislation or case law (the law) affects the content of a public ruling, the change in the law overrides the public ruling—that is, the Commissioner will determine the tax liability or eligibility for a concession, grant or exemption, as the case may be, in accordance with the law.

What this ruling is about

1. The purpose of this public ruling is to provide guidance on the calculation of royalty for the types of minerals referred to in paragraph 3 of this ruling.

2. The *Mineral Resources Act 1989* (Mineral Resources Act) requires a person (a producer) to pay royalty as prescribed in respect of a mineral, if the person is:

   (a) the holder of a mining claim, mining lease or other authority (authority) who mines or allows to be mined mineral from the area of that authority[1] or

   (b) a person who mines mineral from land other than under an authority.[2]

3. The Mineral Resources Regulation 2013 (Mineral Resources Regulation) provides that royalty payable for certain types of mineral sold, disposed of or used in a return period is generally calculated by multiplying the royalty rate by the value of the mineral.[3] These types of minerals include:

   (a) cobalt, copper, gold, lead, nickel, silver and zinc (prescribed minerals)

   (b) iron ore, manganese, molybdenum, tantalum and tungsten (specified minerals).

---

[1] Section 320(1) of the Mineral Resources Act
[2] Section 320(7) of the Mineral Resources Act
[3] Section 46(1) and Schedule 3, ss.2, 8 and 12 of the Mineral Resources Regulation. See paragraph 13 for the royalty rate applicable to iron ore where the average price for each tonne of iron ore sold, disposed of or used in a return period is $100 or less.

Ruling and explanation

Definitions

4. In this ruling, for prescribed mineral sold in concentrate form:

(a) ‘contained quantity’ means the quantity of metal contained within the volume of mineral sold, as determined by assay

(b) ‘contractual metal difference’ means the quantitative difference, measured in units of metal, between the contained quantity and the payable quantity

(c) ‘payable quantity’ means the quantity of metal contained within the volume of mineral sold for which payment will be made by the buyer

(d) ‘standard metal difference’ means the quantitative difference, measured in units of metal, between the contained quantity and the standard quantity

(e) ‘standard quantity’, in respect of a particular prescribed mineral contained in particular concentrate, means the amount shown in the ‘Standard’ column in the following table, multiplied by the number of units of concentrate.

Concentrate	Prescribed mineral	Standard
Copper	Copper (*x*% contained)	The lower of: • *x* – 1% or • *x* × 0.965
	Silver (*x* grams per tonne)	(*x* – 30 grams) × 0.9
	Gold (*x* grams per tonne)	(*x* – 1 gram) × 0.9
Lead	Lead (*x*% contained)	The lower of: • *x* – 3% or • *x* × 0.95
	Silver (*x* grams per tonne)	(*x* – 100 grams) × 0.95
	Gold	No deduction
Zinc	Zinc (*x*% contained)	The lower of: • *x* – 8% or • *x* × 0.85
	Silver (*x* grams per tonne)	(*x* – 100 grams) × 0.6
Lead, zinc, silver (bulk concentrate)	Lead (*x*% contained)	The lower of: • *x* – 3% or • *x* × 0.95
	Zinc (*x*% contained)	The lower of: • *x* – 7% or • *x* × 0.8
	Silver (*x* grams per tonne)	(*x* – 100 grams) × 0.9

5. In this ruling:

   (a) 'refining charge' means the amount paid by a producer for refining the contained precious metals in the mineral sold by the producer to produce the metal for which the producer is paid

   (b) 'treatment charge' means the amount paid by a producer to have its mineral treated through a smelting to produce saleable metal.

Mineral subject to royalty

6. For minerals other than coal seam gas, the royalty payable in relation to a particular mining operation[4] for a return period is determined by reference to minerals sourced from that operation which are sold, disposed of or used in the return period.[5] This is the case irrespective of whether the minerals were:

   (a) extracted before or during the return period

   (b) extracted by the producer or by some other person

   (c) sold, disposed of or used by the producer or by some other person.

7. Royalty must be calculated separately for each mining operation for which the producer is liable to pay royalty.

8. For minerals other than coal seam gas, royalty is payable in relation to mineral sold during a return period, irrespective of when (or if) the producer receives full or partial payment for the sales.[6] That is, royalty is not calculated on a cash receipts basis.

9. For the purposes of calculating royalty, mineral that is transferred from one of the producer's mining operations to another will be deemed to have been sold or disposed of by the first operation (depending on whether the second operation pays for the mineral).[7]

Royalty rate—prescribed minerals

10. The royalty rate for a prescribed mineral for a return period depends on the *average market price* of the prescribed mineral for the return period.[8]

11. The average market price of a prescribed mineral for a return period is the average for the return period of the following price (converted to Australian dollars at the hedge settlement rate[9]) for each day of the return period:

   (a) for cobalt, copper, lead, nickel or zinc—the spot price quoted on the London Metal Exchange

   (b) for gold—the pm fix price quoted on the London Bullion Market

   (c) for silver—the fix price quoted on the London Bullion Market.[10]

---

4 See definition of 'mining operation' in Schedule 2 Dictionary of the Mineral Resources Act.
5 Section 46(1) of the Mineral Resources Regulation
6 See paragraphs 52 to 58 in relation to an alternative method for accounting for royalty in certain circumstances.
7 A gross value royalty decision will be required in these circumstances; see paragraph 29.
8 Schedule 3, part 1, s.2 of the Mineral Resources Regulation
9 Defined in Schedule 6 of the Mineral Resources Regulation as the WM/Reuters Australian Fix 10.00am rate for the particular day
10 Schedule 3, part 1, s.1 of the Mineral Resources Regulation

12. Depending on the average market price for the prescribed mineral for the return period, the royalty rate for the mineral will be between 2.5% and 5% of the value of the mineral.[11]

Royalty rate—specified minerals

Iron ore

13. The royalty rate for iron ore depends on the average price for each tonne of the iron ore sold, disposed of or used in the return period (average price, or AP) by a producer in relation to a particular mining operation, as follows:

    (a) If the average price is $100 or less, the rate is $1.25 per tonne.

    (b) If the average price is more than $100, the rate is the higher of the following percentage of the value of the iron ore:

        (i) 1.25%

        or

        (ii) the amount, expressed as a percentage, worked out using the following formula, rounded down to the nearest increment of 0.02%[12]:

$$1.25 + ((AP - 100) \div AP \times 1.25)$$

14. The royalty rate must be calculated separately for each mining operation for which the producer is liable to pay royalty.

15. The average price per tonne for iron ore:

    (a) sold in a return period is calculated by dividing the *net revenue billed* by the *total invoiced payable tonnes* for the period

    (b) disposed of or used in a return period is the gross value of the total iron ore disposed of or used, as determined under a gross value royalty decision[13], divided by the total tonnes disposed or used for the period.

16. Subject to paragraph 17, the *net revenue billed* for a return period is the sum of:

    (a) the total revenue billed during the return period for the iron ore (determined in accordance with paragraph 30)

    plus

    (b) any additional revenue received during the return period on account of partial or final settlement of a sale of iron ore in a prior return period, to the extent that such revenue has not previously been included in the calculation of net revenue billed in a prior return period

    less any freight or insurance costs payable by the producer and relating to the transport of the mineral by water to a port outside Queensland[14], with:

---

[11] Schedule 3, part 1, s.2 of the Mineral Resources Regulation

[12] Schedule 3, part 2, s.12 of the Mineral Resources Regulation

[13] Section 63A of the Mineral Resources Regulation. See paragraph 29 for the circumstances in which a gross value royalty decision is required.

[14] See paragraph 25 in relation to what freight and insurance costs may be deducted.

(c) any foreign currency amounts converted into Australian dollars at the prevailing exchange rate[15] for the bill of lading date (for iron ore sold on the export market) or the invoice date (for iron ore sold on the domestic market) (the relevant date) and

(d) no regard to the timing of receipt, or the recoverability from any given buyer, of any part of the total revenue billed (i.e. ignoring that some of the revenue billed may ultimately be written off by the producer as a bad debt).

17. Where iron ore sold during a return period is the subject of a gross value royalty decision[16], the total revenue billed for that iron ore must be calculated by reference to the gross value of the iron ore under that decision rather than any revenue actually billed.[17]

18. Any exchange rate variations between the relevant date and the date of receipt of funds are not taken into account when calculating net revenue billed, but are relevant for calculating the value of the iron ore to which the royalty rate is applied.[18]

19. Subject to paragraph 20, the *total invoiced payable tonnes* for a return period is the total number of tonnes sold during a period, after deducting any contractually agreed weight-based penalties incurred during that period.

20. Where a producer is paid for a particular sale on the basis of the number of dry metric tonnes sold (rather than the actual number of tonnes physically sold), the total invoiced payable tonnes should be calculated with reference to the number of dry metric tonnes sold in that transaction.

<u>Other specified minerals</u>

21. The royalty rate for all specified minerals other than iron ore is 2.7% of the value of the mineral.[19]

Value of minerals

<u>Calculation</u>

22. The value of a prescribed mineral or a specified mineral is calculated[20] by:

(a) determining the gross value of the mineral[21]

(b) subject to paragraph 23, adding any increase in value as a result of a change in the exchange rate from the time the mineral is sold to the time any payment for the sale is received[22]

and

(c) subtracting:

[15] See paragraph 26 in relation to what will be considered as an appropriate exchange rate.
[16] See paragraph 29 for the circumstances in which a gross value royalty decision is required.
[17] Section 63A of the Mineral Resources Regulation
[18] See paragraph 22.
[19] Schedule 3, part 2, s.8 of the Mineral Resources Regulation
[20] Section 54(1) of the Mineral Resources Regulation
[21] Section 54(1)(a) of the Mineral Resources Regulation. See also paragraphs 29 to 33.
[22] Section 54(3) of the Mineral Resources Regulation

(i) subject to paragraph 23, any decrease in value as a result of a change in the exchange rate from the time the mineral is sold to the time any payment for the sale is received[23]

(ii) a freight or insurance cost payable by the producer relating to the transport of the mineral by water to a port outside Queensland[24]

(iii) the amount the Commissioner has decided, on reasonable grounds, is the amount that should be subtracted to allow for the loss of metal content in the processing of the mineral[25]

(iv) any other cost payable by the producer the Commissioner has decided, on reasonable grounds, is a type of cost that should be subtracted from the gross value.[26]

23. Where mineral is the subject of a gross value royalty decision[27] the increase or decrease in value referred to in paragraph 22(b) or 22(c)(i) should be calculated by reference to the gross value of the mineral under that decision rather than any revenue actually billed.

24. For the purposes of paragraphs 16 and 22(c), an expense is 'payable' if there is a presently existing liability to pay it, even if payment is not due until a future date (e.g. the producer has received an invoice from a service provider, which is payable 30 days after the date of issue).

25. For the purposes of paragraphs 16 and 22(c)(ii), only freight and insurance costs attributable to activities occurring, or risks arising, after mineral is loaded on a vessel may be deducted. Accordingly, any other freight- or insurance-related costs incurred by the producer may not be deducted, including but not limited to costs associated with:

(a) transporting the mineral to the point of loading, or insuring the mineral before that point

(b) preparing the mineral for loading (e.g. containerisation) or loading the mineral onto a vessel.

26. All calculations involving the conversion of foreign currency into Australian dollars for a particular period should use an exchange rate for the appropriate date[28] obtained from a consistent, reasonable external source. Examples of an exchange rate that is considered reasonable include the hedge settlement rate, the WM/Reuters Australian Dollar Fix 4.00pm rate, or a rate published by a major Australian commercial bank or financial institution.

27. The value of a mineral must be calculated exclusive of the goods and services tax (GST)—that is, reflecting the net revenue or expense.

28. The value of a mineral must be calculated separately for each mining operation for which the producer is liable to pay royalty.

---

23 Section 54(3) of the Mineral Resources Regulation
24 Section 54(1)(b)(i) and (4) of the Mineral Resources Regulation
25 Section 54(1)(b)(ii) of the Mineral Resources Regulation. See also paragraphs 34 to 40.
26 Section 54(1)(b)(iii) of the Mineral Resources Regulation. There are currently no such costs determined by the Commissioner.
27 See paragraph 29 for the circumstances in which a gross value royalty decision is required.
28 The appropriate dates are the invoice date and the date of payment for the sale, irrespective of the date on which such amounts are actually converted into Australian dollars (if at all). Similar principles apply for expenses transacted in a foreign currency.

<u>Gross value</u>

29. Subject to the adjustments set out below, the gross value of a prescribed or specified mineral is the amount set out in the following table.

Scenario	Description	Gross value
1	• Mineral is sold or disposed of to, or used by, a relevant entity[29] of the producer. • The relevant entity is involved in the marketing or reselling of the mineral, or in the production of a commodity using the mineral. For example: • Company A mines and sells copper concentrate to Company B (a subsidiary of Company A), and Company B processes the concentrate to a near-pure metal. • Company A mines and sells gold to Company B (a subsidiary of Company A), and Company B sells the gold to another person in an arms-length transaction.	The sum of: • the amount decided by the Commissioner in a gross value royalty decision[30] and • any amount recovered from the buyer of the mineral in relation to the royalty payable for the mineral.[31]
2	• Mineral is sold or disposed of to, or used by, a person (whether or not that person is a relevant entity of the producer). • The producer receives a non-financial benefit from the sale, disposal or use (whether or not a financial benefit is also received). For example, Company A mines and sells copper to Company B (an arms-length third party) in exchange for a cash payment and a transfer of mining equipment from Company B.	The sum of: • the amount decided by the Commissioner in a gross value royalty decision[32] and • any amount recovered from the buyer of the mineral in relation to the royalty payable for the mineral.[33]

---

[29] 'Relevant entity' is defined in s.32 of the Mineral Resources Regulation as:
(a) for a company—an associated entity of the company (within the meaning of s.50AAA of the *Corporations Act 2001* (Cwlth)), a related entity of the company (within the meaning of s.9 of the Corporations Act) or a related party of the company (within the meaning of s.228 of the Corporations Act)
(b) for an individual—a related person of the individual within the meaning of s.61 of the *Duties Act 2001* (other than s.61(1)(d)).

[30] Sections 57(2)(a) and 59(a) of the Mineral Resources Regulation

[31] Section 59(b) of the Mineral Resources Regulation

[32] Sections 57(2)(b) and 59(a) of the Mineral Resources Regulation

[33] Section 59(b) of the Mineral Resources Regulation

Scenario	Description	Gross value

3	• Neither of the above scenarios applies.
	• Mineral is sold at:
	  o the price listed for the mineral in a recognised listing[34] (listed price) at the time of sale
	  or
	  o a price worked out by averaging the prices listed for the mineral in a recognised listing over a period of not longer than three months (average listed price).
		The sum of:
		• the amount obtained for selling the mineral at the listed price or average listed price, disregarding any processing cost for the mineral[35]
		and
		• any amount recovered from the buyer of the mineral in relation to the royalty payable for the mineral.[36]

4	• None of the above scenarios apply. • Mineral is disposed of or used. • A market value for the mineral may be established by reference to a listed price or an average listed price for the mineral.	The sum of: • the market value established for the mineral by reference to a listed price or average listed price for the mineral, disregarding any processing cost for the mineral[37] and • any amount recovered from the buyer of the mineral in relation to the royalty payable for the mineral.[38]
5	• None of the above scenarios apply. • Mineral is sold by the producer in an arms-length transaction to a person other than a relevant entity of the producer. • The producer has sold a mineral of the same kind in an arms-length transaction to a person other than a relevant entity of the producer in the previous two years.	The sum of: • the amount for which the mineral is sold, disregarding any processing cost for the mineral[39] and • any amount recovered from the buyer of the mineral in relation to the royalty payable for the mineral.[40]

[34] A list of quoted or published prices of minerals:
(a) on a recognised international mineral exchange or market (e.g. the London Metal Exchange or the London Bullion Market)
(b) in a publication recognised for quoting or publishing prices of minerals in an international market (e.g. *Metal Bulletin*); s.56 of the Mineral Resources Regulation.

[35] Sections 57(1)(a) and 58(1)(a) of the Mineral Resources Regulation

[36] Section 58(3) of the Mineral Resources Regulation

[37] Sections 57(1)(b) and 58(1)(b) of the Mineral Resources Regulation

[38] Section 58(3) of the Mineral Resources Regulation

[39] Sections 57(1)(c) and 58(1)(c) of the Mineral Resources Regulation. See also paragraph 30.

[40] Section 58(3) of the Mineral Resources Regulation

Scenario	Description	Gross value
6	• None of the above scenarios apply. • The producer entered into an agreement (before or as soon as practicable after the mineral was mined) to sell the mineral in an arms-length transaction to a person other than a relevant entity of the producer.	The sum of: • the amount for which the mineral is sold, disregarding any processing cost for the mineral[41] and • any amount recovered from the buyer of the mineral in relation to the royalty payable for the mineral.[42]
7	None of the above scenarios apply.	The sum of: • the amount decided by the Commissioner in a gross value royalty decision[43] and • any amount recovered from the buyer of the mineral in relation to the royalty payable for the mineral.[44]

30. Subject to paragraph 31, the amount for which a mineral is sold includes all amounts paid or payable by the buyer in relation to the sale (including, but not limited to, production or other costs of the producer that are explicitly recovered from the buyer in addition to the stated sales price). This is the case even if the amounts are invoiced separately.

31. Amounts paid by a buyer to a producer on account of the following will not be included when determining the amount for which a mineral is sold:

(a) recovery of the producer's liability for GST on taxable supplies[45] made by the producer to the buyer

(b) an amount representing interest received where a mineral is sold on an extended credit basis.

32. Neither the gross value nor the value of a mineral is reduced by any amount:

(a) payable by the producer to the buyer of that mineral (including, but not limited to, refining charges or treatment charges), irrespective of whether the parties agree to offset the amounts against the amount payable to the producer for the mineral

(b) invoiced by the producer to a buyer but not recovered from the buyer (i.e. a bad debt).

---

41 Sections 57(1)(d) and 58(1)(c) of the Mineral Resources Regulation. See also paragraph 30.
42 Section 58(3) of the Mineral Resources Regulation
43 Section 59(a) of the Mineral Resources Regulation
44 Section 59(b) of the Mineral Resources Regulation
45 See s.9-5 *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth).

Example 1

> During a return period, XYZ Pty Ltd (XYZ) sells a total of 20 tonnes of tungsten ore to an unrelated party, ABC Pty Ltd (ABC), for $25,000 a tonne. A gross value royalty decision does not apply to these sales.
>
> During the period, XYZ and ABC settle an existing commercial dispute on the basis that XYZ will pay ABC $50,000.
>
> XYZ and ABC agree to offset the $50,000 settlement payment by XYZ against the $500,000 payable by ABC. Accordingly, ABC will only pay XYZ $450,000 for the tungsten purchased during the period.
>
> ABC ultimately only pays XYZ $150,000 before ABC is wound up.
>
> Despite the settlement agreement and the underpayment by ABC, the gross value of the tungsten for royalty purposes is $500,000.

33. Where a gross value royalty decision is required, s.62 of the Mineral Resources Regulation sets out a non-exhaustive list of matters that may be considered in making the decision.

<u>Deduction for loss of metal content</u>

34. The Mineral Resources Regulation[46] recognises that, where prescribed mineral or specified mineral is sold by the producer, royalty should not be assessed on reasonable losses occurring in the subsequent processing of mineral by the buyer or a third party for which the producer is not paid.

35. For the purposes of s.54(1)(b)(ii) of the Mineral Resources Regulation, the amount that may be deducted from the gross value of a prescribed mineral or a specified mineral to allow for the loss of metal content in the processing of a mineral (the *content loss deduction*) is:

    (a) for a specified mineral—the amount determined by the Commissioner on application by the producer[47]

    (b) for a prescribed mineral sold other than in concentrate form—the amount determined by the Commissioner on application by the producer[48]

    or

    (c) for a prescribed mineral sold in concentrate form—the amount set out in the following table.

[46] Section 54(1)(b)(ii) of the Mineral Resources Regulation
[47] See paragraphs 37 to 39.
[48] See paragraphs 37 to 39.

Scenario	Description	Content loss deduction
1	• Mineral is sold in concentrate form to a person (whether or not that person is a relevant entity of the producer). • A standard quantity exists in relation to the mineral in the concentrate. • The payable quantity for the mineral is greater than or equal to the standard quantity for the mineral. • The payable quantity is not determined by reference to, or affected by, any amount payable by the producer to the buyer (including, but not limited to, refining charges or treatment charges).	An amount equal to the contractual metal difference multiplied by the gross value per unit of contained metal
2	• Mineral is sold in concentrate form to a relevant entity of the producer. • A standard quantity exists in relation to the mineral in the concentrate. • The payable quantity for the mineral is less than the standard quantity for the mineral. • The payable quantity is not determined by reference to, or affected by, any amount payable by the producer to the buyer (including, but not limited to, refining charges or treatment charges).	An amount equal to the standard metal difference multiplied by the gross value per unit of contained metal, or such other amount determined by the Commissioner on application by the producer
3	• Mineral is sold in concentrate form to a person other than a relevant entity of the producer. • A standard quantity exists in relation to the mineral in the concentrate. • The payable quantity for the mineral is less than 100%, but is at least 90%, of the standard quantity for the mineral. • The payable quantity is not determined by reference to, or affected by, any amount payable by the producer to the buyer (including, but not limited to, refining charges or treatment charges).	An amount equal to the contractual metal difference multiplied by the gross value per unit of contained metal

Scenario	Description	Content loss deduction
4	• Mineral is sold in concentrate form to a person other than a relevant entity of the producer. • A standard quantity exists in relation to the mineral in the concentrate. • The payable quantity for the mineral is less than 90% of the standard quantity for the mineral. • The payable quantity is not determined by reference to, or affected by, any amount payable by the producer to the buyer (including, but not limited to, refining charges or treatment charges).	An amount equal to the standard metal difference multiplied by the gross value per unit of contained metal, or such other amount determined by the Commissioner on application by the producer
5	None of the above scenarios apply.	The amount determined by the Commissioner on application by the producer

Example 2

On 1 December 2020, XYZ Pty Ltd (XYZ) sells 100 dry metric tonnes of copper concentrate containing 28% copper and 5 grams per tonne of gold to ABC Pty Ltd (ABC). ABC is not a relevant entity of XYZ. Under the sale contract, ABC agrees to pay XYZ for:

- 97% of the contained copper, on the basis of a London Metal Exchange price of US$5,600 per tonne
- 60% of the contained gold, on the basis of a London Bullion Market price of US$1,920 per troy ounce (US$61.73 per gram).

The exchange rate on 1 December 2020 and at the time of payment by ABC on 31 December 2020 is A$1.00 = US$0.80.

No gross value royalty decision applies in respect of the sale of the concentrate. The payable quantities for copper and gold under the contract are not adjusted on account of refining or treatment charges.

<u>Copper</u>

The contained quantity for copper in the concentrate is 28 tonnes (28% × 100 tonnes). The gross value for copper is therefore A$196,000 (28 tonnes × US$5,600 per tonne x (1 ÷ 0.8)), or A$7,000 per tonne.

The payable quantity for copper in the concentrate is 27.16 tonnes (28% × 100 tonnes × 97%).

The standard quantity for copper in the concentrate is 27 tonnes (27% (i.e. the lesser of 27% (28% – 1%) and 27.02% (28% × 0.965)) × 100 tonnes).

As the payable quantity is greater than the standard quantity, the content loss deduction is A$5,880 (the contractual metal difference of 0.84 tonnes (i.e. 28 tonnes – 27.16 tonnes) × gross value of A$7,000 per tonne of contained copper).

<u>Gold</u>

The contained quantity for gold in the concentrate is 500 grams (5 grams per tonne × 100 tonnes). The gross value for gold is therefore A$38,580 (500 grams × US$61.73 per gram × (1 ÷ 0.8)), or $77.16 per gram.

The payable quantity for gold in the concentrate is 300 grams (5 grams per tonne × 100 tonnes x 60%).

The standard quantity for gold in the concentrate is 360 grams (((5 grams – 1 gram) × 0.9) × 100 tonnes).

The payable quantity is 83.33% of the standard quantity (300 grams ÷ 360 grams).

Accordingly, the content loss deduction allowed is A$10,802.40 (the standard metal difference of 140 grams (i.e. 500 grams – 360 grams) × gross value of A$77.16 per gram of contained gold) unless, on application by XYZ, the Commissioner determines a different deduction.

Example 3

Same facts as example 2, except ABC agrees to pay XYZ for 80% of the contained gold.

The payable quantity for gold in the concentrate is 400 grams (5 grams per tonne × 100 tonnes × 80%).

As the payable quantity is greater than the standard quantity of 360 grams, the content loss deduction is A$7,716 (the contractual metal difference of 100 grams (i.e. 500 grams – 400 grams) × gross value of A$77.16 per gram of contained gold).

36. Where a producer is required, or wishes, to have the content loss deduction in relation to a sale of mineral determined by the Commissioner, the producer must lodge a written application with the Commissioner providing details of:

    (a) the transaction or class of transactions in respect of which the determination (the content loss determination) is sought

    (b) in relation to each such transaction:

        (i) the contained quantity for the mineral

        (ii) the payable quantity for the mineral

        (iii) the nature of the relationship between the producer and the buyer.

37. In the course of making the content loss determination, the Commissioner may request further information from the producer including, but not limited to, assay results.

38. The content loss determination may provide for any or all of the following:

    (a) a content loss deduction, or a method or formula for determining the deduction

    (b) different content loss deductions for the mineral for different periods within the period for which the decision applies

    (c) the application of the decision for an earlier return period for the mineral

    (d) the application of the decision for a particular transaction or class of transaction.

39. In making a content loss determination, the Commissioner will not determine a content loss deduction that is greater than the standard quantity unless satisfied that there are compelling circumstances for doing so.

40. Where the producer sells mineral after processing to the final form has occurred (e.g. copper cathode and gold in gold bullion), no content loss deduction is available.

Royalty-free threshold and processing discount

<u>Royalty-free threshold</u>

41. Subject to paragraph 42, no royalty is payable on the first $100,000 of the combined value of the following minerals (threshold minerals), mined under a mining operation, that are sold, disposed of or used in a financial year[49]:

    (a) a prescribed mineral

    (b) a specified mineral (other than iron ore)

    (c) corundum

    (d) a gemstone

    (e) a precious stone

    (f) a rare earth

---

[49] A period of one year beginning on 1 July; definition of 'financial year', Schedule 1 *Acts Interpretation Act 1954* (Qld)

(g) uranium

(h) a mineral mentioned in Schedule 3, Part 2, s.14 of the Regulation.[50]

42. Where, in a particular financial year, a producer sells, disposes of or uses:

(a) only one type of threshold mineral:

(i) no royalty is payable on the first $100,000 of the total value of that mineral sold, disposed or used during the financial year[51]

(ii) the producer must claim the exemption in the relevant royalty returns

or

(b) two or more types of threshold mineral:

(i) the producer must nominate one of the threshold minerals (the nominated mineral) to which the exemption will apply[52]

(ii) no royalty is payable on the first $100,000 of the total value of the nominated mineral sold, disposed of or used during the financial year[53]

(iii) where less than $100,000 value of the nominated mineral is sold, disposed of or used during a financial year, the process in paragraphs 42(b)(i) and 42(b)(ii) may be repeated until the combined value of threshold minerals nominated by the producer reaches $100,000[54]

(iv) the producer must claim the exemption in the relevant royalty returns.[55]

43. The exemption is for the first $100,000 of *combined value* for a financial year, not the first $100,000 of *royalty* on threshold minerals.

44. Producers who lodge royalty returns on a quarterly basis must claim the exemption in the return periods in which the cumulative total value of the relevant threshold minerals for the financial year is less than or equal to $100,000, not on a pro-rated basis (i.e. not $25,000 per quarter for instance).

45. Where a mineral is sold in one financial year but finalisation of the sale does not occur until the next financial year (as is the case in the worked example in Attachment 1), the finalisation adjustment does not attract the benefit of a fresh exemption in that next financial year. This is on the basis that the adjustment relates to a sale that occurred in the previous financial year.

<u>Processing discount</u>

46. The royalty payable is reduced[56] where a prescribed mineral (other than gold or silver) or a specified mineral is:

(a) processed in Queensland

---

[50] Section 50(1) and (5) of the Mineral Resources Regulation
[51] Section 50(1) of the Mineral Resources Regulation
[52] Section 50(2)(a) of the Mineral Resources Regulation
[53] Section 50(2)(b) of the Mineral Resources Regulation
[54] Section 50(3) of the Mineral Resources Regulation
[55] Section 50(4) of the Mineral Resources Regulation
[56] Section 51(1) and (3) of the Mineral Resources Regulation

and

(b) after such processing, the mineral has a metal content of at least a specified amount.

47. The royalty otherwise payable for the minerals listed in the following table will be reduced by the stated percentage where the mineral has been processed in Queensland to the relevant minimum metal content.

Mineral	Minimum metal content	Royalty reduction percentage
Cobalt	50%	20%
Copper	95%	20%
Iron ore	95%	20%
Lead	95%	25%
Manganese	75%	35%
Molybdenum	56%	20%
Nickel	70%	20%
Tantalum	95%	35%
Tungsten	89%	20%
Zinc	95%	35%

48. A mineral is *processed* if it is changed to another substance by a process (including, for example, leaching, refining, smelting or solvent extraction electro winning).[57]

49. The processing discount may be claimed where the mineral is processed in Queensland to the relevant minimum metal content by:

(a) the producer or a third party prior to sale, disposal or use by the producer

(b) the buyer or a third party after the sale of the mineral by the producer.

50. In claiming the processing discount where processing occurs in the circumstances contemplated in paragraph 49(b), the onus is on the producer to ensure that its claim for the discount is valid (i.e. that the mineral has been so processed by the buyer or third party). Unpaid tax interest and penalty tax will be automatically imposed under the *Taxation Administration Act 2001* (Taxation Administration Act) where the producer is found to have inappropriately claimed the processing discount (subject to remission).

51. The processing discount is applied after the royalty has been calculated (i.e. it is a reduction in the royalty payable, not a deduction from the gross value of the mineral).

Accounting for royalty

52. The Mineral Resources Regulation recognises the particular contractual arrangements under which prescribed and specified minerals may be sold, and in certain cases allows royalty to be paid on an adjustment basis.

53. In particular, if:

(a) a prescribed or specified mineral is sold during a return period (the sale period)

[57] Section 51(2) of the Mineral Resources Regulation

and

(b) under the terms of the contract of sale, the gross value of the mineral (the actual gross value) cannot be finally worked out before the royalty return for the sale period is required to be lodged[58]

then, subject to paragraph 54, royalty on the mineral must be accounted for as follows (the adjustment method):

(c) in the royalty return for the sale period—the royalty payable (the provisional royalty) must be calculated based on:

(i) the gross value of the mineral, determined by reference to the information available to the producer at the time the return is lodged

and

(ii) the applicable royalty rate for the mineral for the sale period

and

(d) in the royalty return for the period in which the actual gross value is determined (the reconciliation period):

(i) the royalty payable (the actual royalty) must be calculated based on:

- the actual gross value of the mineral

and

- the applicable royalty rate for the mineral for the sale period

and

(ii) the difference between the actual royalty and the provisional royalty must be stated.[59]

54. Where the actual royalty is:

(a) greater than the provisional royalty—the shortfall must be paid by the due date of the royalty return for the reconciliation period[60]

(b) less than the provisional royalty—the excess must be offset against any other royalty payable by the producer for the reconciliation period, unless otherwise determined by the Commissioner.[61]

55. In calculating the provisional royalty and the actual royalty:

(a) any applicable content loss deduction and processing discount must be taken into account (determined by reference to the information available to the producer at the time of calculation)

---

[58] Section 47(1) of the Mineral Resources Regulation
[59] Section 47(2) of the Mineral Resources Regulation
[60] Section 47(3) of the Mineral Resources Regulation
[61] Section 47(4) of the Mineral Resources Regulation and Part 4, Division 2 of the Taxation Administration Act

(b) consistent with paragraph 8, the payment terms for any provisional or final invoice (e.g. payment of a provisional invoice as to 90%) are irrelevant. That is, royalty is not calculated on a cash receipts basis.

56. For the avoidance of doubt, the adjustment method will not apply where the actual gross value can be determined by the time that the royalty return for the sale period is lodged. This is the case irrespective of whether any part of the sale price is received by the producer in a subsequent return period.

57. The Commissioner may give notice to a producer that the adjustment method does not apply for a particular sale of mineral by the producer, or for the producer generally.[62]

58. Attachment 1 contains a comprehensive worked example of how the adjustment method applies.

Date of effect

59. This public ruling reflects the Commissioner's existing interpretation and practices as at the date of issue.

Mark Jackson
Commissioner of State Revenue
Date of issue: 1 October 2020

References

Public Ruling	Issued	Dates of effect	
		From	To
MRA002.1	1 October 2020	1 October 2020	28 January 2025

[62] Section 47(5) of the Mineral Resources Regulation

Attachment 1

Adjustment method example

On 1 December 2020, XYZ Pty Ltd (XYZ) sells 100 dry metric tonnes of copper concentrate containing 28% copper and 5 grams per tonne of gold to ABC Pty Ltd (ABC). ABC is not a relevant entity of XYZ. Under the sale contract, ABC agrees to pay XYZ for 97% of the contained copper and 80% of the contained gold.

No gross value royalty decision applies in respect of the sale of the concentrate, and XYZ does not incur any marine costs in relation to the sale. XYZ has previously exhausted the royalty-free threshold for 2020–21 in relation to sales of copper in the September 2020 quarter. The payable quantities for copper and gold under the contract are not adjusted on account of refining or treatment charges.

A provisional invoice is raised on 1 December 2020, reflecting:

- a copper price (on the basis of the London Metal Exchange price) of US$5,600 per tonne
- a gold price (on the basis of the London Bullion Market price) of US$1,920 per troy ounce (US$61.73 per gram).

The exchange rate on 1 December 2020 is A$1.00 = US$0.80.

Payment of the provisional invoice of 90% is made by ABC on 28 December 2020. The exchange rate on that date is A$1.00 = US$0.78.

The final invoice is paid on 16 February 2021, reflecting:

- a copper price (on the basis of the London Metal Exchange price) of US$5,900 per tonne
- a gold price (on the basis of the London Bullion Market price) of US$1,800 per troy ounce (US$57.87 per gram).

The exchange rate on 16 February 2021 is A$1.00 = US$0.82.

The royalty rates for the December 2020 quarter are:

Commodity	December 2020 rate
Copper	3.38%
Gold	5%

Subsequent to sale of the concentrate by XYZ, the copper is processed in Queensland to a minimum metal content of 96%.

Copper

As the actual gross value of the copper cannot be worked out before 29 January 2021 (i.e. the day that the return for the December 2020 quarter is required to be lodged), the royalty for the December 2020 return period must be calculated using the assumed gross value (as reflected in the provisional invoice). In doing so, the fact that only 90% of the provisional invoice has been paid when the return is lodged is disregarded (other than in relation to determining a change in the assumed gross value due to exchange rate differences).

The royalty payable for copper for the December 2020 quarter is therefore calculated as follows.

Assumed gross value at invoice date (1 December 2020), based on US$5,600/tonne[63]	196,000.00
Add change in assumed gross value due to exchange rate difference between 1 December 2020 and 28 December 2020[64]	4,523.08
Assumed gross value	200,523.08
Less assumed content loss deduction (based on assumed gross value)[65]	5,880.00
Value	194,643.08
Royalty rate for December 2020 quarter	3.38%
Royalty before processing discount	6,578.94
Less processing discount (20% of royalty)	1,315.79
Provisional royalty (payable in December 2020 quarter return)	$5,263.15

63 US$156,800 (i.e. 100 tonnes of concentrate × 28% contained copper × US$5,600 per tonne of contained copper), converted to Australian dollars at the 1 December 2020 exchange rate of A$1.00 = US$0.80

64 As changes in gross value on account of exchange rate differences arise only to the extent of any payment received, the payment of 90% on 28 December 2020 means that only 90% of the provisional invoice amount (i.e. US$141,120) will be adjusted. Put differently, unless and until the balance 10% (US$15,680) is paid, no exchange rate gain or loss will occur in relation to the balance 10% of the provisional invoice amount. Accordingly, the change in assumed gross value on account of the payment on 28 December 2020 is $4,523.08, being the A$ equivalent of US$141,120 on 28 December 2020 ($180,923.08) less the A$ equivalent of the same US$ amount on 1 December 2020 ($176,400).

65 The payable quantity for copper in the concentrate is 27.16 tonnes (100 tonnes of concentrate × 28% contained copper × 97% payable). The standard quantity for copper in the concentrate is 27 tonnes (100 tonnes of concentrate × 27% (i.e. the lesser of 27% (28% – 1%) and 27.02% (28% × 0.965))). As the payable quantity is greater than the standard quantity, the content loss deduction is $5,880.00 (the contractual metal difference of 0.84 tonnes (i.e. 28 tonnes – 27.16 tonnes) × gross value of US$5,600 per tonne of contained copper, converted to Australian dollars at the 1 December 2020 exchange rate of A$1.00 = US$0.80).

The royalty payable for copper for the March 2021 quarter is calculated as follows.

Actual gross value, based on US$5,900/tonne[66]	206,500.00
Add change in gross value due to exchange rate difference between 1 December 2020 and 16 February 2021[67]	(5,036.59)
Actual gross value	201,463.41
Less content loss deduction (based on actual gross value)[68]	6,043.90
Value	195,419.51
Royalty rate for December 2020 quarter	3.38%
Royalty before processing discount	6,605.18
Less processing discount (20% of royalty)	1,321.04
	5,284.14
Less provisional royalty	5,263.15
Additional royalty (payable in March 2021 quarter return)	$20.99

66 US$165,200 (i.e. 100 tonnes of concentrate × 28% contained copper x US$5,900 per tonne of contained copper), converted to Australian dollars at the 1 December 2020 exchange rate of A$1.00 = US$0.80

67 US$165,200 converted to Australian dollars at the 16 February 2021 exchange rate of A$1.00 = US$0.82, less $206,500 gross value as at 1 December 2020

68 Contractual metal difference of 0.84 tonnes × gross value of US$5,900 per tonne of contained copper, converted to Australian dollars at the 16 February 2021 exchange rate of A$1.00 = US$0.82

Gold

Similarly, as the actual gross value of the gold cannot be worked out before 29 January 2021, the royalty for the December 2020 return period must be calculated using the assumed gross value as reflected in the provisional invoice. In doing so, the fact that only 90% of the provisional invoice has been paid when the return is lodged is disregarded (other than in relation to determining a change in the assumed gross value due to exchange rate differences).

The royalty payable for gold for the December 2020 quarter is therefore calculated as follows.

Assumed gross value at invoice date (1 December 2020), based on US$1,920/troy ounce[69]	38,581.25
Add change in assumed gross value due to exchange rate difference between 1 December 2020 and 28 December 2020[70]	890.33
Assumed gross value	39,471.58
Less assumed content loss deduction (based on assumed gross value)[71]	7,716.25
Value	31,755.33
Royalty rate for December 2020 quarter	5.00%
Provisional royalty (payable in December 2020 quarter return)	$1,587.77

[69] US$30,865 (i.e. 100 tonnes of concentrate × 5 grams of gold per tonne × US$61.73 per gram of contained gold), converted to Australian dollars at the 1 December 2020 exchange rate of A$1.00 = US$0.80

[70] The A$ equivalent of US$27,778.50 (i.e. US$30,865 × 90%) on 28 December ($35,613.46), less the A$ equivalent of the same US$ amount on 1 December 2020 ($34,723.13). See footnote 64 for further explanation.

[71] The payable quantity for gold in the concentrate is 400 grams (100 tonnes of concentrate × 5 grams of gold per tonne × 80% payable). The standard quantity for gold in the concentrate is 360 grams (100 tonnes of concentrate × 3.6 grams per tonne (i.e. (5 grams – 1 gram) × 0.9)). As the payable quantity is greater than the standard quantity, the content loss deduction is $7,716.25 (the contractual metal difference of 100 grams (i.e. 500 grams – 400 grams) × gross value of US$61.73 per gram of contained gold, converted to Australian dollars at the 1 December 2020 exchange rate of A$1.00 = US$0.80).

The royalty payable for gold for the March 2021 quarter is calculated as follows.

Actual gross value, based on US$1,800/troy ounce[72]	36,168.75
Add change in gross value due to exchange rate difference between 1 December 2020 and 16 February 2021[73]	(882.16)
Actual gross value	35,286.59
Less content loss deduction (based on actual gross value)[74]	7,057.32
Value	28,229.27
Royalty rate for December 2020 quarter	5.00%
Royalty	1,411.46
Less provisional royalty	1,587.77
Reduction in royalty (offset against other royalty payable in March 2021 quarter return)	($176.31)

72 US$28,935 (i.e. 100 tonnes of concentrate × 5 grams of gold per tonne × US$57.87 per gram of contained gold), converted to Australian dollars at the 1 December 2020 exchange rate of A$1.00 = US$0.80

73 US$28,935 converted to Australian dollars at the 16 February 2021 exchange rate of A$1.00 = US$0.82, less $36,168.75 gross value as at 1 December 2020

74 Contractual metal difference of 100 grams × gross value of US$57.87 per gram of contained gold, converted to Australian dollars at the 16 February 2021 exchange rate of A$1.00 = US$0.82