

Contents	Page
What this ruling is about	1
Ruling and explanation	2
Date of effect	12
References	12

Public Ruling
Mineral Resources Act:
DETERMINATION OF COAL ROYALTY

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 coal.
2. In particular, this ruling details the costs that can be deducted when calculating the value of coal.¹
3. 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 authority²or
 - (b) a person who mines mineral from land other than under an authority.³
4. Under the *Mineral Resources Regulation 2013* (Mineral Resources Regulation), royalty is:
 - (a) payable for coal sold, disposed of or used in a return period
 - (b) calculated by multiplying the royalty rate by the value of the coal.⁴

¹ Section 54(1)(b)(iii) of the Mineral Resources Regulation

² Section 320(1) of the Mineral Resources Act

³ Section 320(7) of the Mineral Resources Act

⁴ Section 46(1) and Schedule 3, part 2, s.5 of the Mineral Resources Regulation

Ruling and explanation

Coal subject to royalty

5. For minerals other than coal seam gas, the royalty payable in relation to a particular mining operation⁵ for a return period is determined by reference to minerals sourced from that operation that are sold, disposed of or used in the return period.⁶ This is the case irrespective of whether the minerals were:
 - (a) extracted before or during the return period
 - (b) extracted by the holder or by some other person
 - (c) sold, disposed of or used by the holder or by some other person.
6. Royalty must be calculated separately for each mining operation for which the producer is liable to pay royalty.
7. Royalty is payable in relation to all coal sold during a return period, irrespective of when (or if) the producer receives full or partial payment for such sales. That is, royalty is not calculated on a cash receipts basis.
8. For the purposes of calculating royalty, coal 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 coal).⁷

Calculation of royalty rate

9. The royalty rate for coal for a return period is calculated by reference to the average price per tonne of the coal sold, disposed of or used in that 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 7% of the value of the coal.
 - (b) If the average price is more than \$100 but not more than \$150, the rate is worked out using the following formula (rounded down to 2 decimal places and expressed as a percentage).

$$7 + ((AP - 100) \div AP \times 5.5)$$

- (c) If the average price is more than \$150, the rate is worked out using the following formula (rounded down to two decimal places and expressed as a percentage).

$$7 + ((AP - 100) \div AP \times 5.5) + ((AP - 150) \div AP \times 2.5)$$

⁵ See definition of 'mining operation' in Schedule 2 Dictionary of the Mineral Resources Act.

⁶ Section 46(1) of the Mineral Resources Regulation

⁷ A gross value royalty decision will be required in these circumstances—see paragraph 26.

10. Expressed differently, the rate to be applied to the value of the coal sold, disposed of or used in a period is as follows.

Average price per tonne for period	Rate
Up to and including \$100	7%
Over \$100 and up to and including \$150	First \$100: 7% Balance: 12.5%
More than \$150	First \$100: 7% Next \$50: 12.5% Balance: 15%

11. The royalty rate must be calculated separately:
- for each mining operation for which the producer is liable to pay royalty
 - for coal sold or disposed of for consumption, or used, inside Queensland (domestic coal) and coal sold or disposed of for consumption, or used, outside Queensland (export coal)⁸.
12. For the purposes of calculating royalty (including the royalty rate), export coal includes coal where title passes from the producer at the port of loading (or another location within Queensland) and the coal is ultimately being sent for consumption to a destination outside of Queensland. This includes situations where coal is sold free-on-board, and title to the coal is passed once the coal passes the ship's rail. Export coal includes coal that is used by the producer outside Queensland.
13. The average price per tonne for coal:
- sold in a return period is calculated by dividing the *net revenue billed* by the *total invoiced payable tonnes* for the period
 - disposed of or used in a return period is calculated by dividing the gross value of the total coal disposed of or used, as determined under a gross value royalty decision⁹, by the total tonnes disposed of or used for the period.
14. Subject to paragraph 15, the *net revenue billed* for a return period is:
- in respect of export coal—the total revenue billed for the export coal during the return period (determined in accordance with paragraph 27) less any freight or insurance costs payable by the producer and relating to the transport of the coal by water to a port outside Queensland¹⁰
 - in respect of domestic coal—the total revenue billed for the domestic coal during the return period determined in accordance with paragraph 27

with:

⁸ Schedule 3, part 2, s.5(2) of the Mineral Resources Regulation

⁹ Section 63A of the Mineral Resources Regulation. See paragraph 26 for the circumstances in which a gross value royalty decision is required.

¹⁰ See paragraph 22 in relation to what freight and insurance costs may be deducted.

- (c) any foreign currency amounts converted into Australian dollars at the prevailing exchange rate¹¹ for the bill of lading date (for export coal) or the invoice date (for domestic coal) (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).
15. Where the coal sold during a return period is the subject of a gross value royalty decision¹², the total revenue billed for that coal must be calculated by reference to the gross value of the coal under that decision rather than any revenue actually billed.¹³
16. 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 coal to which the royalty rate is applied.¹⁴
17. Subject to paragraph 18, the *total invoiced payable tonnes* for a return period is the total number of tonnes sold during the period, after deducting any contractually agreed weight-based penalties incurred during that period.
18. 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.

Example 1

XYZ Pty Ltd conducts 2 separate coal mining operations—ABC Mine and DEF Mine.

During a return period, XYZ Pty Ltd enters into the following transactions in relation to coal mined from its operations.

Operation	Domestic/ Export sale	Quantity (dry metric tonnes)	Total amount billed to third parties	Freight and insurance	Exchange rate (A\$1.00)
ABC Mine	Export	80,000	US\$14,000,000	US\$320,000	US\$0.90
DEF Mine	Export	20,000	US\$3,200,000	US\$100,000	US\$0.85
DEF Mine	Domestic	10,000	A\$1,100,000	n/a	n/a

A gross value royalty decision applies to the export coal sold from the DEF Mine. Under that decision, the Commissioner has determined that the gross value per tonne is US\$175.

The royalty rates applying to the coal from each operation for the return period are calculated as follows.

ABC Mine

The net revenue billed for the return period is A\$15,200,000 (i.e. US\$14,000,000 – US\$320,000 = US\$13,680,000, converted into Australian dollars as at the bill of lading date).

The total invoiced payable tonnes for the return period is 80,000.

The average price per tonne for the return period is therefore A\$190 (i.e. A\$15,200,000 ÷ 80,000).

¹¹ See paragraph 23 in relation to what will be considered as an appropriate exchange rate.

¹² See paragraph 26 for the circumstances in which a gross value royalty decision is required.

¹³ Section 63A of the Mineral Resources Regulation

¹⁴ See paragraph 19.

The royalty rate for export coal for the return period is calculated as follows:

$$= 7 + ((190 - 100) \div 190 \times 5.5) + ((190 - 150) \div 190 \times 2.5)$$

$$= 7 + (90 \div 190 \times 5.5) + (40 \div 190 \times 2.5)$$

$$= 7 + 2.6053 + 0.5263$$

$$= 10.13\% \text{ (i.e. 10.1316 rounded down to 2 decimal places and expressed as a percentage)}$$

DEF Mine

The royalty rate must be worked out separately for export and domestic coal.

For export coal:

- The net revenue billed for the return period is A\$4,000,000 (i.e. (20,000 tonnes \times US\$175 per tonne, per the gross value royalty decision) – US\$100,000 = US\$3,400,000, converted into Australian dollars as at the bill of lading date).
- The total invoiced payable tonnes for the return period is 20,000.
- The average price per tonne for the return period is therefore A\$200 (i.e. A\$4,000,000 \div 20,000).
- The royalty rate for export coal for the return period is calculated as follows:
$$= 7 + ((200 - 100) \div 200 \times 5.5) + ((200 - 150) \div 200 \times 2.5)$$
$$= 7 + (100 \div 200 \times 5.5) + (50 \div 200 \times 2.5)$$
$$= 7 + 2.75 + 0.625$$
$$= 10.37\% \text{ (i.e. 10.375 rounded down to 2 decimal places and expressed as a percentage)}$$

For domestic coal:

- The net revenue billed for the return period is A\$1,100,000.
- The total invoiced payable tonnes for the return period is 10,000.
- The average price per tonne for the return period is therefore A\$110 (i.e. A\$1,100,000 \div 10,000).
- The royalty rate for domestic coal for the return period is calculated as follows:
$$= 7 + ((110 - 100) \div 110 \times 5.5)$$
$$= 7 + (10 \div 110 \times 5.5)$$
$$= 7 + 0.5$$
$$= 7.5\%$$

Value of coal

Calculation

19. The value of coal is calculated¹⁵ by:
- (a) determining the gross value of the coal¹⁶
 - (b) adding:
 - (i) any amount received by the producer for early despatch of the coal from a port¹⁷
 - (ii) subject to paragraph 20, any increase in value as a result of a change in the exchange rate from the time the coal is sold to the time any payment for the sale is received¹⁸
- and
- (c) subtracting:
 - (i) subject to paragraph 20, any decrease in value as a result of a change in the exchange rate from the time the coal is sold to the time any payment for the sale is received¹⁹
 - (ii) any costs payable by the producer relating to a late despatch of the coal from a port (i.e. demurrage charges)²⁰
 - (iii) a freight or insurance cost payable by the producer relating to the transport of the coal by water to a port outside Queensland²¹
 - (iv) any other cost payable by the producer that the Commissioner has decided, on reasonable grounds, is a type of cost that should be subtracted from the gross value.²²
20. Where coal is the subject of a gross value royalty decision²³, the increase or decrease in value referred to in paragraph 19(b)(ii) or 19(c)(i) should be calculated by reference to the gross value of the coal under that decision rather than any revenue actually billed.
21. For the purposes of paragraphs 14(a) and 19(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).
22. For the purposes of paragraphs 14(a) and 19(c)(iii), only freight and insurance costs attributable to activities occurring, or risks arising, after coal is loaded on a vessel may be

¹⁵ Section 54(1) of the Mineral Resources Regulation

¹⁶ Section 54(1)(a) of the Mineral Resources Regulation. See also paragraphs 26 to 31.

¹⁷ Section 54(2) of the Mineral Resources Regulation

¹⁸ Section 54(3) of the Mineral Resources Regulation

¹⁹ Section 54(3) of the Mineral Resources Regulation

²⁰ Section 54(1)(b)(i) and (4) of the Mineral Resources Regulation

²¹ Section 54(1)(b)(i) and (4) of the Mineral Resources Regulation

²² Section 54(1)(b)(iii) of the Mineral Resources Regulation. See also paragraphs 32 to 37.

²³ See paragraph 26 for the circumstances in which a gross value royalty decision is required.

deducted. Accordingly, any other freight- or insurance-related costs payable by the producer may not be deducted in this category²⁴, including but not limited to costs associated with:

- (a) transporting the coal to the point of loading, or insuring the coal before that point
- (b) preparing the coal for loading, or loading the coal, onto a vessel.

23. All calculations involving the conversion of foreign currency into Australian dollars for a particular period should use an exchange rate for the appropriate date²⁵ obtained from a consistent, reasonable external source. Examples of an exchange rate that is considered reasonable include the hedge settlement rate²⁶, the WM/Reuters Australian Dollar Fix 4.00pm rate, or a rate published by a major Australian commercial bank or financial institution.
24. The value of coal must be calculated exclusive of the goods and services tax (GST)—that is, reflecting the net revenue or expense.
25. The value of coal must be calculated separately:
- (a) for each mining operation for which the producer is liable to pay royalty
 - (b) for domestic coal and export coal sourced from each mining operation.

²⁴ See paragraph 34 in relation to port operating costs.

²⁵ The appropriate dates are the relevant date as set out in paragraph 14(c) 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.

²⁶ The WM/Reuters Australia Fix 10.00am rate for the particular day; Schedule 6 of the Mineral Resources Regulation, definition of 'hedge settlement rate'

Gross value

26. Subject to the adjustments noted below, the gross value of coal is the amount set out in the following table.

Scenario	Description	Gross value
1	<ul style="list-style-type: none"> Coal is sold or disposed of to, or used by, a relevant entity²⁷ of the producer. The relevant entity is involved in the marketing or reselling of the coal, or in the production of a commodity using the coal. <p>For example:</p> <ul style="list-style-type: none"> Company A mines coal and the coal is used by Company B (a subsidiary of Company A) to produce electricity in a power station. Company A mines and sells coal to Company B (a subsidiary of Company A), and Company B sells the coal to another person in an arms-length transaction. 	<p>The sum of:</p> <ul style="list-style-type: none"> the amount decided by the Commissioner in a gross value royalty decision²⁸ and any amount recovered from the buyer of the coal in relation to the royalty payable for the coal.²⁹
2	<ul style="list-style-type: none"> Coal 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). <p>For example, Company A mines and sells coal to Company B (an arms-length third party) in exchange for a cash payment and a transfer of some of Company B's port entitlements to Company A.</p>	<p>The sum of:</p> <ul style="list-style-type: none"> the amount decided by the Commissioner in a gross value royalty decision³⁰ and any amount recovered from the buyer of the coal in relation to the royalty payable for the coal.³¹

²⁷ '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 *Corporations Act 2001* (Cwth)), 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)).

²⁸ Sections 57(1)(c), (1)(d) and 59(a) of the Mineral Resources Regulation

²⁹ Section 59(b) of the Mineral Resources Regulation

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

³¹ Section 59(b) of the Mineral Resources Regulation

Scenario	Description	Gross value
3	<ul style="list-style-type: none"> The above scenarios do not apply. Coal 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 coal in an arms-length transaction to a person other than a relevant entity of the producer in the previous two years. 	<p>The sum of:</p> <ul style="list-style-type: none"> the amount for which the coal is sold³² and any amount recovered from the buyer of the coal in relation to the royalty payable for the coal.³³
4	<ul style="list-style-type: none"> The above scenarios do not apply. The producer entered into an agreement (before or as soon as practicable after the coal was mined) to sell the coal in an arms-length transaction to a person other than a relevant entity of the producer. 	<p>The sum of:</p> <ul style="list-style-type: none"> the amount for which the coal is sold³⁴ and any amount recovered from the buyer of the coal in relation to the royalty payable for the coal.³⁵
5	None of the above scenarios apply.	<p>The sum of:</p> <ul style="list-style-type: none"> the amount decided by the Commissioner in a gross value royalty decision³⁶ and any amount recovered from the buyer of the coal in relation to the royalty payable for the coal.³⁷

27. Subject to paragraph 28, the amount for which the coal 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 such amounts are invoiced separately.

³² Sections 57(1)(c) and 58(2)(a) of the Mineral Resources Regulation. See also paragraphs 27 to 29.

³³ Section 58(3) of the Mineral Resources Regulation

³⁴ Sections 57(1)(d) and 58(2)(a) of the Mineral Resources Regulation. See also paragraphs 27 to 29.

³⁵ Section 58(3) of the Mineral Resources Regulation

³⁶ Section 59(a) of the Mineral Resources Regulation

³⁷ Section 59(b) of the Mineral Resources Regulation

28. Amounts paid by a buyer to a producer on account of the following will not be included when determining the amount for which coal is sold:
- (a) recovery of the producer's liability for GST on taxable supplies³⁸ made by the producer to the buyer
 - (b) an amount representing interest received where coal is sold on an extended credit basis.
29. It is not uncommon for producers to sell coal to one another for the purpose of blending or fulfilling a particular contract. For example, Producer A sells coal to an unrelated entity, Producer B, at the port; and Producer B exports the coal to its customer overseas. In such a case, subject to any contractual term to the contrary, the amount for which Producer B ultimately sells the coal is not relevant for working out the value of the coal sold by Producer A (i.e. Producer A's sale price for royalty purposes is not adjusted to reflect any gain or loss made by Producer B in relation to the on-sale of the coal).³⁹
30. Neither the gross value nor the value of coal is reduced by any amount:
- (a) payable by the producer to the buyer, irrespective of whether the parties agree to offset such amounts against the amount payable to the producer for the coal
 - (b) invoiced by the producer to a buyer but not recovered from the buyer (i.e. a bad debt).

Example 2

During a return period, XYZ sells a total of 5,000 tonnes of coal to an unrelated party, GHI Pty Ltd (GHI), for A\$110 a tonne. A gross value royalty decision does not apply to these sales.

During the period, XYZ and GHI settle an existing commercial dispute on the basis that XYZ will pay GHI \$50,000.

XYZ and GHI agree to offset the \$50,000 settlement payment by XYZ against the \$550,000 payable by GHI. Accordingly, GHI only pays XYZ \$500,000 for the coal purchased during the period.

GHI ultimately only pays XYZ \$400,000 before GHI is wound up.

Despite the settlement agreement and the underpayment by GHI, the gross value of the coal for royalty purposes is \$550,000.

31. 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.

Other costs deductible from gross value

32. For the purposes of s.54(1)(b)(iii) of the Mineral Resources Regulation, the following costs (each a deductible cost) payable by a producer may be deducted from the gross value of export or domestic coal when calculating the value of the coal:
- (a) assay costs payable directly in relation to the sale of the coal (e.g. train sampling and port stockpile sampling)

³⁸ See s.9-5 *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth).

³⁹ The amount for which Producer B sells the coal may be a relevant factor in determining gross value where a gross value royalty decision applies to the sale of coal from Producer A to Producer B (e.g. Producer B is a relevant entity for Producer A). Irrespective, Producer B should not include in its royalty return any revenue in relation to the on-sale of that coal or any expenses in relation to the acquisition of the coal from Producer A.

- (b) coal research levy payable for the Australian Coal Association Research Program
 - (c) COAL21 levy payable to LET Australia Ltd
 - (d) the levy payable under the *Coal Mining Industry (Long Service Leave) Payroll Levy Act 1992* (Cwlth) and/or associated legislation in respect of employees directly employed by the producer.
33. Where a cost referred to in paragraph 32 relates to both export and domestic coal, the cost must be apportioned on a reasonable basis when calculating the gross value of each type of coal. What constitutes a reasonable basis will depend on, among other things, the nature of the particular cost and the manner in which it is incurred.
34. In addition, for the purposes of s.54(1)(b)(iii) of the Mineral Resources Regulation, the following costs (each a deductible cost) payable by a producer may be deducted from the gross value when calculating the value of export coal:
- (a) port operating costs payable by the producer directly to an operator of a port facility (e.g. port access charges under take-or-pay contracts, harbour dues and coal loading charges)
 - (b) amounts payable to another entity as reimbursement for costs actually paid by the other entity to the operator of a port facility (i.e. amounts paid to the other entity as a 'premium' or as a service or administrative fee may not be deducted)
 - (c) non-refundable capital contributions for the building of port infrastructure, on the basis that a deduction equal to 3.679088% of the producer's contribution to the cost may be claimed in each quarterly return period for a period of 10 years from the time at which the contribution was made
 - (d) expenditure on capital items at a port (other than expenditure referred to in paragraph 34(c)), as follows:
 - (i) where the total cost of the relevant item is less than or equal to \$50,000—the expenditure may be fully claimed as a deduction in the return period in which it was incurred
 - (ii) where the total cost of the relevant item is more than \$50,000—a deduction equal to 3.679088% of the expenditure may be claimed in each quarterly return period for a period of 10 years from the time at which the expenditure was incurred
 - (e) commission payable to an agent to sell products received by the producer as part of a countertrade arrangement (an arrangement where the producer is required to acquire products from a particular country as a condition of selling coal into that country)
 - (f) bank commissions payable in relation to the issuing of letters of credit for export shipments.
35. A deductible cost may be deducted from the gross value only to the extent that it is a reasonable amount. What constitutes a reasonable amount will depend on, among other things, the nature of the particular cost, the manner in which it is incurred and whether the cost is payable to a relevant entity⁴⁰ for the producer.

⁴⁰ See footnote 27.

36. A deductible cost may be deducted from the gross value only to the extent that the producer does not receive reimbursement for the deductible cost from another person, whether reimbursement occurs during the return period, or at a later or earlier time. A reimbursement is a repayment of an expense or loss incurred by a producer and includes where a direct repayment of the cost is made by a person to the producer or by other means, for example, the payment of compensation.
37. Where a producer incurs a cost referred to in paragraph 19(c) or a deductible cost that relates to multiple operations of the producer, the cost should be apportioned between the operations on a fair and reasonable basis. What constitutes a fair and reasonable basis will depend on, among other things, the nature of the particular cost and the manner in which it is incurred.
38. To avoid any doubt, any cost that is not referred to in paragraphs 19(c), 32 or 34 cannot be deducted from the gross value of coal when calculating the value of the coal, even if that cost is necessarily incurred by the producer in connection with producing or selling the coal.
39. Without limiting paragraph 38, the following costs cannot be deducted when calculating the value of coal:
- (a) costs associated with the transportation of coal by road or by rail (including capital contributions for the building of road or rail infrastructure)
 - (b) marketing costs and sales commissions (other than a commission referred to in paragraph 34(e))
 - (c) coal royalty
 - (d) amounts relating to the sale of coal that are deemed to be irrecoverable (i.e. bad and doubtful debts)
 - (e) losses arising from currency hedging activities.

Date of effect

40. This public ruling reflects the Commissioner's existing interpretation and practices as at 1 January 2021.

Mark Jackson
 Commissioner of State Revenue
 Date of issue: 21 December 2020

References

Public Ruling	Issued	Dates of effect	
		From	To
MRA001.2	21 December 2020	1 January 2021	30 June 2022
MRA001.1	1 October 2020	1 October 2020	31 December 2020