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Royalty Ruling
Mineral Resources Act:
DETERMINATION OF ROYALTY FOR
CERTAIN MINERALS

A Royalty Ruling, when issued, is the published view of the Commissioner, Office of State Revenue (the Commissioner) on the particular topic to which it relates. It therefore replaces and overrides any existing private rulings, guidelines, memoranda, manuals, advice or similar statements in respect of the issue(s) it addresses. Where a change in legislation or case law (the law) affects the content of a Royalty Ruling, the change in the law overrides the Royalty Ruling—that is, the Commissioner will determine the royalty liability in accordance with the changed law.

What this Ruling is about

1. The *Mineral Resources Act 1989* (the Act) requires a person (a producer) to pay royalty as prescribed in respect of that 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 authority¹ or
 - (b) a person who mines mineral from land other than under an authority.²
2. Under the *Mineral Resources Regulation 2013* (the Regulation), royalty is payable at the rate prescribed in the Regulation in respect of all minerals sold, disposed of or used in a return period.³
3. The Regulation prescribes different royalty rates for different minerals. Generally, the rate is either:
 - (a) a percentage of the value of mineral sold, disposed of or used in a return periodor
 - (b) a flat rate per tonne of mineral sold, disposed of or used in a return period.

¹ Section 320(1) of the Act

² Section 320(7) of the Act

³ Section 46 of the Regulation

4. The purpose of this Royalty Ruling is to provide guidance on the calculation of royalty for all minerals subject to royalty under the Act for a return period, other than:
- (a) coal⁴
 - (b) cobalt, copper, gold, lead, nickel, silver and zinc (prescribed minerals)⁵
 - (c) iron ore, manganese, molybdenum, tantalum and tungsten (specified minerals)⁶
 - (d) uranium
 - (e) coal seam gas.⁷

Ruling and explanation

Mineral subject to royalty

5. The royalty payable in relation to a particular mining operation⁸ for a return period is determined by reference to all minerals sourced from that operation that are sold, disposed of or used in the return period.⁹ 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.
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 mineral sold during a return period, irrespective of when (or if) the producer receives full or partial payment for the sales. That is, royalty is not calculated on a cash receipts basis.
8. 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).¹⁰

⁴ See Royalty Ruling MRA001—*Determination of coal royalty*.

⁵ See Royalty Ruling MRA002—*Determination of royalty for prescribed and specified minerals*.

⁶ See Royalty Ruling MRA002—*Determination of royalty for prescribed and specified minerals*.

⁷ Although royalty on coal seam gas extracted from an authority is payable under the Act, the royalty is calculated in the same way as petroleum royalty is calculated for the *Petroleum and Gas (Production and Safety) Act 2004*. See section 53 and Schedule 3, section 7 of the Regulation.

⁸ See definition of 'mining operation' in section 32 of the Regulation.

⁹ Section 46 of the Regulation

¹⁰ A gross value royalty decision will be required in these circumstances; see paragraph 21.

Royalty rate

9. Attachment 1 sets out the royalty rate prescribed by the Regulation for the minerals to which this Royalty Ruling applies, and whether the mineral is one for which royalty is imposed on the basis of:
 - (a) the value of the mineral sold, disposed of or used (a value-based mineral)
 - (b) the weight of the mineral sold, disposed of or used (a weight-based mineral).
10. The royalty payable for mineral sold, disposed of or used in a return period is calculated by multiplying the royalty rate by the value or the weight of such mineral, as applicable.¹¹
11. The royalty rate for bauxite must be calculated:
 - (a) separately for each mining operation for which the producer is liable to pay royalty
 - (b) separately for bauxite sold, disposed of or used inside Queensland (domestic bauxite) and bauxite sold, disposed of or used outside Queensland (export bauxite)¹² sourced from each mining operation
 - (c) where the producer is paid on the basis of the number of dry metric tonnes sold (rather than the actual number of tonnes physically sold)—with reference to the number of dry metric tonnes sold.
12. The royalty rate for phosphate rock must be calculated:
 - (a) separately for each mining operation for which the producer is liable to pay royalty
 - (b) with reference to the average phosphorus pentoxide (P_2O_5) content of the rock sold, disposed of or used during the return period¹³, calculated by dividing the *total P_2O_5 tonnes* by the *total phosphate rock tonnes* for the period where (subject to paragraph 12(c)):
 - (i) the *total P_2O_5 tonnes* is the total number of tonnes of phosphorus pentoxide contained in the phosphate rock sold, disposed of or used during the period
 - (ii) the *total phosphate rock tonnes* is the total number of tonnes of phosphate rock sold, disposed of or used during the period

and

 - (c) where the producer is paid on the basis of the number of dry metric tonnes sold (rather than the actual number of tonnes physically sold)—with reference to the number of dry metric tonnes sold.

¹¹ Section 46 of the Regulation

¹² Schedule 3, section 4 of the Regulation

¹³ Schedule 3, section 10(1)(b) of the Regulation

Weight-based minerals

13. Where a producer sells a weight-based mineral and is paid on the basis of the number of dry metric tonnes sold (rather than the actual number of tonnes physically sold), the royalty payable in respect of that sale should be calculated with reference to the number of dry metric tonnes sold.

Value-based minerals

Calculation

14. The value of a value-based mineral is calculated¹⁴ by:
- (a) determining the gross value of the mineral¹⁵
 - (b) subject to paragraph 15, 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 received¹⁶ and
 - (c) subtracting:
 - (i) subject to paragraph 15, 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 received¹⁷
 - (ii) a freight or insurance cost payable by the producer relating to the transport of the mineral (or oil processed from oil shale, in the case of processed oil shale) by water to a port outside Queensland¹⁸
 - (iii) any other cost payable by the producer that the Minister has decided, on reasonable grounds, is a type of cost that should be subtracted from the gross value.¹⁹
15. Where mineral is the subject of a gross value royalty decision²⁰ the increase or decrease in value referred to in paragraph 14(b) or 14(c)(i) should be calculated by reference to the gross value of the mineral under that decision rather than any revenue actually billed.
16. For the purposes of paragraph 14(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).

¹⁴ Section 54(1) of the Regulation

¹⁵ Section 54(1)(a) of the Regulation. See also paragraphs 21 to 25.

¹⁶ Section 54(3) of the Regulation

¹⁷ Section 54(3) of the Regulation

¹⁸ Section 54(1)(b)(i) and (4) of the Regulation

¹⁹ Section 54(1)(b)(iii) of the Regulation. There are currently no such costs determined by the Minister.

²⁰ See paragraph 21 for the circumstances in which a gross value royalty decision is required.

17. For the purposes of paragraph 14(c)(ii), only freight or 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 payable 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.
18. All calculations involving the conversion of foreign currency into Australian dollars for a particular period should use an exchange rate for the appropriate date²¹ obtained from a consistent, reasonable external source. Examples of an exchange rate that is considered reasonable include the hedge settlement rate²², the WM/Reuters Australian Dollar Fix 4.00pm rate, or a rate published by a major Australian commercial bank or financial institution.
19. The value of a mineral must be calculated exclusive of the goods and services tax (GST)—that is, reflecting the net revenue or expense.
20. The value of a mineral must be calculated separately:
 - (a) for each mining operation for which the producer is liable to pay royalty
 - (b) in the case of bauxite—for domestic bauxite and export bauxite sourced from each mining operation.

Gross value

21. Subject to the adjustments set out below, the gross value of a value-based mineral is the amount set out in the following table.

²¹ 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.

²² The WM/Reuters Australia Fix 10.00am rate for the particular day; Schedule 6 of the Regulation, definition of 'hedge settlement rate'.

Scenario	Description	Gross value
1	<ul style="list-style-type: none"> Mineral is sold or disposed of to, or used by, a relevant entity²³ 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. <p>For example:</p> <ul style="list-style-type: none"> Company A mines and sells corundum to Company B (a subsidiary of Company A), and Company B uses the corundum in manufacturing sandpaper. Company A mines and sells gemstones to Company B (a subsidiary of Company A), and Company B sells the gemstones to another person in an arms-length transaction. 	<p>The sum of:</p> <ul style="list-style-type: none"> the amount decided by the Minister in a gross value royalty decision²⁴ and any amount recovered from the buyer of the mineral in relation to the royalty payable for the mineral.²⁵
2	<ul style="list-style-type: none"> 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). <p>For example, Company A mines and sells rutile to Company B (an arms-length third party) in exchange for a cash payment and a transfer of mining equipment from Company B.</p>	<p>The sum of:</p> <ul style="list-style-type: none"> the amount decided by the Minister in a gross value royalty decision²⁶ and any amount recovered from the buyer of the mineral in relation to the royalty payable for the mineral.²⁷

²³ 'Relevant entity' is defined in section 56 of the Regulation as:

(a) for a company—an associated entity of the company (within the meaning of section 50AAA of the *Corporations Act 2001* (Cwlth)), a related entity of the company (within the meaning of section 9 of the *Corporations Act*) or a related party of the company (within the meaning of section 228 of the *Corporations Act*)

(b) for an individual—a related person of the individual within the meaning of section 61 of the *Duties Act 2001* (other than section 61(1)(d)).

²⁴ Sections 57(2)(a) and 59(a) of the Regulation. Section 60 of the Regulation sets out a producer's obligation to apply for a gross value royalty decision if a mineral is not a market value mineral under section 57.

²⁵ Section 59(b) of the Regulation

²⁶ Sections 57(2)(b) and 59(a) of the Regulation

²⁷ Section 59(b) of the Regulation

Scenario	Description	Gross value
3	<ul style="list-style-type: none"> • Neither of the above scenarios apply. • Mineral is sold at: <ul style="list-style-type: none"> ○ the price listed for the mineral in a recognised listing²⁸ (listed price) at the time of sale or ○ 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). 	<p>The sum of:</p> <ul style="list-style-type: none"> • the amount for which the mineral is sold²⁹ and • any amount recovered from the buyer of the mineral in relation to the royalty payable for the mineral.³⁰
4	<ul style="list-style-type: none"> • 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. 	<p>The sum of:</p> <ul style="list-style-type: none"> • the market value established for the mineral by reference to a listed price or average listed price for the mineral³¹ and • any amount recovered from the buyer of the mineral in relation to the royalty payable for the mineral.³²
5	<ul style="list-style-type: none"> • 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. 	<p>The sum of: the amount for which the mineral is sold³³ and any amount recovered from the buyer of the mineral in relation to the royalty payable for the mineral.³⁴</p>

²⁸ 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*); section 56 of the Regulation.

²⁹ Sections 57(1)(a) and 58(2)(a) of the Regulation. See also paragraph 22.

³⁰ Section 58(3) of the Regulation

³¹ Sections 57(1)(b) and 58(2)(b) of the Regulation

³² Section 58(3) of the Regulation

³³ Sections 57(1)(c) and 58(2)(a) of the Regulation. See also paragraph 22.

³⁴ Section 58(3) of the Regulation

Scenario	Description	Gross value
6	<ul style="list-style-type: none"> • None of the above scenarios applies. • 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: <ul style="list-style-type: none"> • the amount for which the mineral is sold³⁵ and • any amount recovered from the buyer of the mineral in relation to the royalty payable for the mineral.³⁶
7	<ul style="list-style-type: none"> • None of the above scenarios apply. 	The sum of: <ul style="list-style-type: none"> • the amount decided by the Minister in a gross value royalty decision³⁷ and • any amount recovered from the buyer of the mineral in relation to the royalty payable for the mineral.³⁸

22. Subject to paragraph 23, 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 such amounts are invoiced separately.
23. 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 supplies³⁹ made by the producer to the buyer
 - (b) an amount representing interest received where a mineral is sold on an extended credit basis.
24. Neither the gross value nor the value of a mineral are reduced by any amount:
- (a) payable by the producer to the buyer of that mineral, irrespective of whether the parties agree to offset such 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).

Example 1

³⁵ Sections 57(1)(d) and 58(2)(a) of the Regulation. See also paragraph 22.

³⁶ Section 58(3) of the Regulation

³⁷ Section 59 of the Regulation

³⁸ Section 59(b) of the Regulation

³⁹ See section 9-5 *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth).

During a return period, XYZ Pty Ltd (XYZ) sells a total of 300 tonnes of corundum to an unrelated party, ABC Pty Ltd (ABC), for \$900 a tonne (i.e. \$270,000). 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 \$270,000 payable by ABC—that is, ABC will only pay XYZ \$220,000 for the corundum 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 corundum for royalty purposes is \$270,000.

25. Where a gross value royalty decision is required, section 62 of the Regulation sets out a non-exhaustive list of matters which may be considered in making the decision.

Royalty-free threshold

26. Subject to paragraph 27, 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 year⁴⁰:

- (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
- (g) uranium
- (h) a mineral mentioned in Schedule 3, Part 2, section 14 of the Regulation.⁴¹

27. 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 year⁴²
 - (ii) the producer must claim the exemption in the relevant royalty returns
- (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 apply⁴³
 - (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 year⁴⁴

⁴⁰ A period of 1 year beginning on 1 July; definition of 'financial year', Schedule 1 *Acts Interpretation Act 1954* (Qld).

⁴¹ Section 50(1) and (5) of the Regulation

⁴² Section 50(1) of the Regulation

⁴³ Section 50(2)(a) of the Regulation

(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 27(b)(i) and 27(b)(ii) may be repeated until the combined value of threshold minerals nominated by the producer reaches \$100,000⁴⁵

(iv) the producer must claim the exemption in the relevant royalty returns.⁴⁶

28. 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.

29. 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. \$25,000 per quarter).

Date of effect

30. This Royalty Ruling reflects the Commissioner's existing interpretation and practices as at 14 October 2015.

Anthony Kulpa
Acting Commissioner, Office of State Revenue
Date of issue: 14 October 2015

References

Royalty Ruling	Issued	Dates of effect	
		From	To
Royalty Ruling MRA003.1	14 October 2015	14 October 2015	31 March 2019

⁴⁴ Section 50(2)(b) of the Regulation

⁴⁵ Section 50(3) of the Regulation

⁴⁶ Section 50(4) of the Regulation

Attachment 1

Royalty rates

The following table summarises the royalty rate applicable to various minerals, and indicates for each mineral:

- whether royalty is imposed on the basis of the value or the weight of the mineral sold, disposed of or used
- whether the mineral attracts the royalty-free threshold (see paragraphs 26 to 29)
- the relevant section of Schedule 3 of the Regulation.

The information in this table is by way of summary only, and producers should read the table in conjunction with the Regulation to determine their royalty liability.

Mineral	Royalty rate	Value-based	Weight-based	Royalty-free threshold	Legislative reference (Regulation, Schedule 3)
Anatase	5% of value	✓			Section 9
Bauxite	<p>Export⁴⁷</p> <p>The higher of:</p> <ul style="list-style-type: none"> • 10% of value <p>or</p> <ul style="list-style-type: none"> • \$2.00 per tonne <p>Domestic⁴⁸</p> <ul style="list-style-type: none"> • Where bauxite has also been sold, disposed of or used outside Queensland during the period, the higher of: <ul style="list-style-type: none"> ○ 75% of the rate per tonne for export bauxite or <ul style="list-style-type: none"> ○ \$1.50 per tonne. • Otherwise, \$1.50 per tonne 	✓	✓		Section 4
Bentonite	\$1.80 per tonne		✓		Section 3
Calcite	\$1.00 per tonne		✓		Section 3

⁴⁷ See paragraph 11.

⁴⁸ See paragraph 11.

Mineral	Royalty rate	Value-based	Weight-based	Royalty-free threshold	Legislative reference (Regulation, Schedule 3)
Clay shale	\$0.50 per tonne		✓		Section 3
Clay used for fired clay products	\$0.50 per tonne		✓		Section 3
Corundum	2.5% of value	✓		✓	Section 6
Diatomite	\$1.50 per tonne		✓		Section 3
Dolomite	\$1.00 per tonne		✓		Section 3
Feldspar	\$0.75 per tonne		✓		Section 3
Gemstones	2.5% of value	✓		✓	Section 6
Gypsum	\$0.50 per tonne		✓		Section 3
Ilmenite	5% of value	✓			Section 9
Kaolin	\$1.00 per tonne		✓		Section 3
Leucoxene	5% of value	✓			Section 9
Lime, earth	\$0.50 per tonne		✓		Section 3
Limestone	\$0.75 per tonne		✓		Section 3
Magnesite	\$1.50 per tonne		✓		Section 3
Marble	\$1.00 per tonne		✓		Section 3
Mica	\$1.50 per tonne		✓		Section 3
Mineral sand (other than anatase, ilmenite, leucoxene, monazite, rutile or zircon)	5% of value	✓			Section 9
Monazite	5% of value	✓			Section 9
Perlite	\$1.00 per tonne		✓		Section 3

Mineral	Royalty rate	Value-based	Weight-based	Royalty-free threshold	Legislative reference (Regulation, Schedule 3)
Phosphate rock	The higher of: <ul style="list-style-type: none"> \$0.80 per tonne or <ul style="list-style-type: none"> the rate per tonne calculated in accordance with the formula in Schedule 3, section 10 of the Regulation 		✓		Section 10
Precious stones (other than corundum and gemstones)	2.5% of value	✓		✓	Section 6
Processed oil shale	The lesser of: <ul style="list-style-type: none"> 10% of the value of the oil processed from the oil shale or <ul style="list-style-type: none"> the percentage of value calculated in accordance with the formula in Schedule 3, section 11 of the Regulation 	✓			Section 11
Rare earths	2.7% of value	✓		✓	Section 8
Rock mined in block or slab form for building or monumental purposes	\$1.00 per tonne		✓		Section 3
Rutile	5% of value	✓			Section 9
Salt	\$1.50 per tonne		✓		Section 3
Sand, gravel and rock (other than rock mined in block or slab form for building or monumental purposes)	\$0.50 per tonne		✓		Section 3
Silica	\$0.90 per tonne		✓		Section 3

Mineral	Royalty rate	Value-based	Weight-based	Royalty-free threshold	Legislative reference (Regulation, Schedule 3)
Wollastonite	\$0.75 per tonne		✓		Section 3
Zircon	5% of value	✓			Section 9
Other mineral not listed in this table, apart from: <ul style="list-style-type: none"> • coal • coal seam gas • cobalt • copper • gold • iron ore • lead • manganese • molybdenum • nickel • silver • tantalum • tungsten • uranium • zinc 	2.5% of value	✓		✓	Section 14