

PRODUCT RULING - BR Prd 13/10

This is a product ruling made under section 91F of the Tax Administration Act 1994.

Name of the Person who applied for the Ruling

This Ruling has been applied for by Newmont Mining NZ Companies (Consolidated Group) ("Newmont").

Taxation Laws

All legislative references are to the Income Tax Act 2007 unless otherwise stated.

This Ruling applies in respect of sections CA 1(2), CB 1, CC 1(1), CD 1 and CE 1 of the Income Tax Act 2007.

The Arrangement to which this Ruling applies

The Arrangement is the payment to persons pursuant to the Amenity Effect Programme ("AEP").

Newmont is required to comply with the Resource Management Act 1991 ("the RMA"), which includes the obligation to minimise any adverse effect of its operations on the environment and its neighbours. Consequently, Newmont endeavours to use industry-leading methods to manage, monitor and record the effect of its operations on the environment and on others living in the vicinity of its operations. However, based on the results of monitoring and modelling, Newmont has identified properties within the area of the Martha, Favona and Trio mines whose amenity may be measurably affected by mining activity specifically by noise, dust and blast-induced vibration effects ("the affected area"). Newmont modifies the affected area on the basis of monitoring and modelling results.

In response to this, Newmont has developed the AEP the full details of which have been provided to Inland Revenue in a letter dated 7 June 2013. The details are not repeated here, save to note that the AEP is not compensation for non-compliance with any of the conditions imposed under the RMA.

Occupiers of residential property within the affected area are offered an opportunity to participate in the AEP. However, any Waihi resident may request to be included in the AEP. Their inclusion or exclusion will be based on the results of monitoring and modelling at their property over the six-month payment period or a period sufficient to confirm potential effects on amenity.

Inclusion in the AEP is voluntary and an application to participate in the AEP can be made at any time.

Residents who apply to participate and are accepted into the AEP ("enrolled residents") will receive an initial one-off "enrolment payment". The enrolment payment is currently \$500.

Enrolled residents are eligible for six monthly retrospective effect based payments for both noise and vibration effects based on its routine environmental monitoring results.

Where the enrolled resident is a tenant they must reside in the property for six months before being eligible for any AEP payment.

The quantum of the effect based payments will vary with the actual loss of amenity experienced. If there is no effect, or the effect is to a greater or lesser extent, the payment will be varied.

Payments are carefully targeted to compensate for adverse amenity effects that residents have suffered.

Assumptions made by the Commissioner

This Ruling is not subject to any assumptions.

Conditions stipulated by the Commissioner

There are no conditions stipulated by the Commissioner.

How the Taxation Laws apply to the Arrangement

The Taxation Laws apply to the Arrangement as follows:

The payments received by persons under the AEP are not income under sections CA 1(2), CB 1(1), CC 1(1), CD 1 and CE 1 of the Income Tax Act 2007.

The period or income year for which this Ruling applies

This Ruling will apply for the period from 1 April 2013 to 31 March 2016.

This Ruling is signed by me on 23 August 2013.

Gary Welsh
Investigations Manager, Investigations and Advice