

1 May 2009

AFTS Secretariat
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Sir,

**Submission to Australia's Future Tax System – Consultation Paper December 2008 –
“Implementation of Flow Through Shares (FTS) in Australia”**

Thank you for the opportunity of making a submission to “Australia’s future tax system Consultation Paper – December 2008” - (Henry Tax Review).

The Association of Mining and Exploration Companies (AMEC) is the peak national body representing the mid-sized and junior mining and mineral exploration companies throughout Australia.

Late last year AMEC facilitated the preparation of a joint industry submission dated 5th November 2008 to the Hon Martin Ferguson, Minister for Resources and Energy; and Tourism regarding the implementation of a Flow Through Shares (FTS) scheme in Australia.¹

At a meeting with Treasury officials on 24 February 2009 I was advised that the joint industry submission was being included in the general context of the above named “Henry Tax Review.”

AMEC is extremely concerned with this recent development, and is of the strong view that a FTS scheme, as detailed in the above submission, should commence urgently.

The joint industry submission was originally made in response to a personal request from Minister Ferguson, following the Rudd Government’s 2007 Election commitment to “Promote investment in exploration by allowing the selective use of flow through shares schemes for smaller operators in the gas, oil and mineral exploration industries.”

At an AMEC function on 10 December 2008, Minister Ferguson re-iterated the Government’s commitment to implement a FTS scheme in the current term of government.

To our knowledge there has been no change to that 2007 Election Policy commitment.

AMEC has therefore called upon the Government (through Treasurer Swan and Minister Ferguson) to honour that visionary policy commitment as a matter of urgency, and not bury it in a broad and complex “Tax Review process” that will also be considered in the context of a ‘global tax system’.

The FTS model developed by industry is based closely on Australia’s ‘franking system’ in order to create a simple and workable mechanism which encourages junior exploration companies to undertake exploration for mineral deposits in Australia, whilst minimizing:

- administrative costs for companies, regulators and investors;
- distortions between shareholders;
- tax compliance costs;
- risks for investors and regulators; and
- distortions for investment decisions by companies.

It is noted that the Australian Government is already urgently implementing the outcomes of the November 2008 G-20 Summit held in Washington in order to stimulate domestic demand, while maintaining long term fiscal sustainability.

¹ http://www.amec.org.au/media/docs/Letter_to_Minister_Ferguson_re_FTS_5_Nov_08.pdf
http://www.amec.org.au/media/docs/FTS_Submission_to_Min_Ferguson_5_Nov_2008_FINAL.pdf

In this regard, we note that the Rudd Government has already announced two economic stimulus packages totalling \$52.4billion, however disappointingly none of which has been directed towards the significant minerals exploration sector.

We also note the Prime Minister's strong public desire to implement economic strategies that will be of benefit to the Australian economy.

In this regard, the long term health, growth and performance of the Australian economy (and many key regional centres) is underpinned by a strong and vibrant mining and exploration sector.

Introduction of a FTS scheme, and an associated increase in exploration expenditure, will therefore unquestionably promote domestic investment and jobs, and significantly bring some long awaited confidence back into the capital markets and revitalize regional centres. It will also position Australia to be in a stronger financial position for when the current economic downturn changes, as an increased level of exploration investment will commensurately increase the probability of discovering new viable and productive mineral resources.

Exploration activity is essential if discoveries of a national significance are to be made.²

It is therefore crucial that the Government shows strong strategic and visionary leadership and "plans now for future generations"; and for future royalty / revenue earning streams that can be used for social and economic benefits (jobs, infrastructure and government services). Significant downstream "multiplier" benefits will also be enjoyed throughout the Australian economy.

In the absence of any effective fiscal policy stimulation, high risk mineral exploration activities will continue to be avoided by sensitive and uncertain investors. Implementation of a FTS scheme will provide some incentive to the many nervous investors, and play a major role in assisting most exploration companies survive the current economic turmoil.

Conversely, inaction by the Government will result in many more exploration companies entering "administration / receivership", or "amalgamation / structural adjustment" arrangements to the detriment of Australian jobs, the Australian community at-large, the Australian economy and the Australian taxpayer.

The effect of the current economic downturn is already evidenced by the most recent statistics released by the Australian Bureau of Statistics (ABS) for the December 2008 quarter, which project a massive 37% fall in mineral exploration expenditure in the first half of 2009.³

The current situation is further worsened in the face of growing international competitiveness. The Canadian Government recently announced its Economic Action Plan, which included an extension of the Mineral Exploration Tax Credit by one year, to help mining companies raise capital for exploration.⁴ It is further noted that the Canadian Government has identified that the mining sector is currently an "industry in distress"⁵, although it has held the status as the "world's top region for mineral exploration investment" for the last four years.⁶

By virtue of daily articles that have appeared in the media over several months, public records, statistics and anecdotal evidence it is obvious that many Australian junior minerals exploration companies are also experiencing severe financial difficulties and hardship (such as significant problems in raising necessary capital, reducing cash flow balances, increasing exploration costs, reducing share prices), with the result that many companies are known to be downsizing their business; rationalizing exploration programmes; undertaking organisation restructures; implementing redundancy programmes; reducing salary/wages of remaining skeleton staff; and closely scrutinizing all discretionary expenditure.

ABS statistics⁷ confirm that unemployment throughout the Australian workforce has risen by a full one percentage point since June 2008. As the mining and minerals exploration sector is a major employer group it is correspondingly affected, and based on public announcements there have been over 10,000 jobs already lost in the mining sector during that same period.⁸

² The probability of finding an economic deposit is 1/100, whereas finding one that is of 'world class' is 1/1000 – Gold and Minerals Gazette, August 2008.

³ www.abs.gov.au – catalogue 8412.0

⁴ Department of Finance-Budget 2009, Canada's Economic Action Plan, Budget Speech.

⁵ Ibid.

⁶ Metals Economics Group, World Exploration Trends.

⁷ www.abs.gov.au – catalogue

⁸ Minerals Council of Australia

Actual recent job losses are confirmed by a survey undertaken in February/March 2009 by the Australian Institute of Geoscientists which highlights the fact that nearly 30% of their 2000 members throughout Australia are now either unemployed or working reduced hours, compared to effectively zero unemployment only five months ago.⁹

A survey conducted by the Association of Mines and Metals Association has recently found that 55% of 118 companies surveyed said they were likely to cut their staff numbers, with a further 21% indicating it was a possibility.¹⁰

In addition, the most recent Fraser Institute Survey¹¹ confirms that around 30% of the world's mining exploration companies are expected to be forced out of business in the current economic downturn.

Industry therefore holds grave fears that many more jobs will be lost without proactive strategies to protect and stimulate employment (such as a FTS scheme).

All of these factors clearly re-inforce the joint industry submission claims that immediate strategic policy action needs to be taken to stimulate the extremely important and vital minerals exploration sector; as well as remedy the structural impediments and distortions facing junior exploration companies in raising critical capital for new and increased levels of exploration investment.

AMEC also notes with extreme concern the references to 'Flow Through Shares' in the Consultation Paper – Australia's future tax system, December 2008¹², and that '*reforms to the treatment of losses incurred by exploration companies need to be considered in the context of any broader reforms to the treatment of losses and entities across the business tax system.*'

The initial outcomes and subsequent recommendations (if any) from the Henry Tax Review will probably not be known until late 2009 / early 2010. Further essential consultation, debate and agreement on the structure of Australia's future tax system that will allow it "*to deal with the demographic, social, economic and environmental challenges of the 21st century*" is in our view likely to take several years, and cross the next Federal election cycle. Significant delays are therefore expected before any meaningful structural decisions can be made on Australia's Future Tax System, and subsequent far reaching legislative, systemic and procedural changes implemented.

The Australian minerals exploration sector, the Australian community, Australian jobs and the overall well being of the Australian economy therefore cannot wait for the implementation of any recommendations that may emanate from the Henry Tax Review.

A FTS scheme needs to be implemented without further delay, and in conjunction with broader strategies to stimulate mineral exploration throughout Australia. It is therefore essential that the above mentioned FTS submission be excluded from the Henry Tax Review.

AMEC now looks forward to the Rudd Government honouring its 2007 Election commitment.

Yours faithfully,



Simon Bennison
Chief Executive

⁹ Australian Institute of Geoscientists – survey of members February 2009.

¹⁰ www.amma.org.au/home/news/Inthenews

¹¹ Fraser Institute Annual Survey of Mining Companies 2008-2009, page 5.

¹² Australia's future tax system – Consultation paper – December 2008, Page 150