

EXPLANATORY STATEMENT

Issued by authority of the Treasurer

Income Tax Assessment Act 1997

*Income Tax Assessment Amendment (Junior Minerals Exploration Incentive)
Regulations 2023*

Subsection 909-1(1) of the *Income Tax Assessment Act 1997* (the Act) provides that the Governor-General may make regulations for the purposes necessary or convenient to prescribe for carrying out or giving effect to the Act.

Paragraph 418-103(1)(g) of the Act provides for certain exploration credits to be allocated to small minerals exploration companies ('junior explorers') each income year, and for the amount unused in previous income years to be available for allocation in subsequent income years.

The purpose of these regulations is to prescribe the amount of tax credits that were allocated to junior explorers in income year 2021-22, but are unused and can be made available for allocation in the income year 2023-24. This aims to maximise the utilisation of exploration credits under the Junior Minerals Exploration Incentive.

The Junior Minerals Exploration Incentive provides an incentive for investment in junior explorers undertaking greenfields minerals exploration in Australia. The amount of exploration credits available under the Junior Minerals Exploration Incentive each income year is capped.

To be allocated exploration credits, junior explorers apply to the Commissioner of Taxation. Exploration credits are allocated on a first-come first-served basis. The application period opens in June each year ahead of the subsequent income year. In allocating exploration credits in an income year, the Commissioner cannot exceed the annual exploration cap specified in the Act for that year.

Once the junior explorers have been notified by the Commissioner that they have received an allocation of exploration credits, they will then seek to raise capital on market to fund exploration activities.

Where the junior explorers are not able to raise capital from investors or spend the capital they raised on eligible exploration expenditure, they are not able to utilise their allocation of exploration credits.

The Regulations provide that an additional \$2,150,000 is added to the annual exploration cap for the 2023-24 income year. This amount is equal to the total of the exploration credits allocated by the Commissioner but which were unused by junior explorers in the 2021-22 income year.

This measure represents a small administrative change and as such no public consultation was undertaken.

Details of the Regulations are set out in Attachment A.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

Regulation Impact Statement

The Office of Impact Analysis assessed a Regulation Impact Statement as unnecessary as the Regulations are machinery in nature. (OBPR Reference 22-03845). This means a Regulation Impact Statement is not required.

A Statement of Compatibility with Human Rights is at Attachment B.

Details of the *Income Tax Assessment Amendment (Junior Minerals Exploration Incentive) Regulations 2023*

Section 1 – Name of the Regulations

This section provides that the name of the Regulations is the *Income Tax Assessment Amendment (Junior Minerals Exploration Incentive) Regulations 2023* (the Regulations).

Section 2 – Commencement

Schedule 1 to the Regulations commences the day after the instrument is registered on the Federal Register of Legislation.

Section 3 – Authority

The Regulations are made under the *Income Tax Assessment Act 1997* (the Act).

Section 4 – Schedule

This section provides that each instrument that is specified in the Schedule to this instrument will be amended or repealed as set out in the applicable items in the Schedule, and any other item in the Schedule to this instrument has effect according to its terms.

Schedule 1 – Amendments

Income Tax Assessment (1997 Act) Regulations 2021

Clause 1 of Schedule 1

An additional \$2,150,000 is added to the annual exploration cap for the 2023-24 income year, pursuant to paragraph 418-103(1)(g) of the Act.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Income Tax Assessment Amendment (Junior Minerals Exploration Incentive) Regulations 2023

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The Regulations provide that an additional \$2,150,000 is added to the annual exploration cap for the 2023-24 income year. This amount is equal to the total of the exploration credits allocated by the Commissioner but which were unused by junior explorers in the 2021-22 income year.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.