

## Energy & Resources Alert

### Retrospective duty on transfer of Queensland exploration tenements

September 2012

The Queensland Government has now confirmed that the imposition of duty on the direct and indirect transfer of Queensland exploration tenements reported by Thomsons Lawyers first announced in January 2012 will become law.

#### Duty on transfers of Queensland exploration tenements

From 13 January 2012, Queensland transfer duty will be payable on all agreements for transfer and transfers of Queensland exploration tenements.

Before 13 January 2012, these were generally not dutiable because prospecting or exploration permits and authorities were not considered to be a 'statutory licence' or 'land' under the *Duties Act 2001* (Qld) (**Duties Act**).

The Queensland Government has confirmed that the Duties Act will be amended to include in the definition of statutory licence and land:

- prospecting and exploration permits under the *Mineral Resources Act 1989* (Qld);

- authorities to prospect under the *Petroleum and Gas (Production and Safety) Act 2004* (Qld) (including those under the previous *Petroleum Act 1923* (Qld));
- geothermal exploration permits under the *Geothermal Exploration Act 2004* (Qld); and
- GHG exploration permits under the *Greenhouse Gas Storage Act 2009* (Qld).

#### Imposition of a duty to be retrospective

It has been confirmed by the OSR that the changes to the duty treatment of Queensland exploration tenements will have retrospective effect from 10:30am on 13 January 2012 (**Start Time**).

#### Lodging documents for assessment

Until the Duties Act is formally amended, parties may lodge documents with the OSR for stamping or self assess.

However, after the Act is amended, self assessment will not be permitted and relevant documents will have to be lodged with the OSR for assessment and payment of duty assessed. Failure to lodge a relevant document with the OSR for assessment and payment of the duty assessed may result in penalties.

## Implications

Parties may be liable to pay duty to the OSR if they have been a party to any of the following types of transactions after 10:30am on 13 January 2012:

- a transfer of:
  - a prospecting or exploration permit under the *Mineral Resources Act 1989* (Qld);
  - an authority to prospect under the *Petroleum and Gas (Production and Safety) Act 2004* (Qld) (including those under the previous *Petroleum Act 1923* (Qld));
  - a geothermal exploration permit under the *Geothermal Exploration Act 2004* (Qld); or
  - a GHG exploration permit under the *Greenhouse Gas Storage Act 2009* (Qld), (**Exploration Tenement**); or
- an acquisition of:
  - 50% or more of the shares in an unlisted corporation that has landholdings (including Exploration Tenements) in Queensland with an unencumbered value of \$2 million or more; or
  - 90% or more of the units in a listed unit trust or shares in a listed corporation that has landholdings (including Exploration Tenements) in Queensland with an unencumbered value of \$2 million or more.

For further information, please contact us.

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