national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

MEDIA STATEMENT

Mineral and Petroleum Resources Royalty Bills (Money Bill and Administration Bill),
4th and Final Draft: 3 June 2008

The National Treasury today releases the 4th and final Mineral and Petroleum Resources Royalty Bills, for comment. The Bills give effect to the objectives of the Mineral and Petroleum Resources Development Act, 2002 (MPRDA). Public comments should be restricted to **technical comments** only as the policy framework has been finalised after extensive public consultation and deliberations by Parliament's Portfolio Committees on Finance and Minerals and Energy.

The National Treasury provided a written response to the Portfolio Committee on Finance on 13 May 2008 to the comments on the 3rd draft of the Bill released for public comment on 6 December 2007. This written response that provides the policy framework for the final draft Bill has been widely circulated and is attached for information.

Tax base

Based on comments received on the 3rd draft of the Bill, the 4th and final draft of the Money Bill defines the tax base as gross sales excluding the transportation and handling costs of the final product. The final product can be either the **refined** or **unrefined** mineral depending of the nature of the mineral in question. The refined and unrefined minerals will be included in separate schedules to the Bill. These schedules will be released for public comment on Monday 9 June 2008. The draft document entitled "Definitions of refined and unrefined minerals" that was submitted to the Portfolio Committee on Finance of 13 May 2008 and also widely distributed will form the basis for these two schedules. This document is again attached for information.

Royalty rates

There has been general consensus that a formula derived mineral royalty rate regime is more equitable and provides the necessary relief for mines during times of difficulties, e.g. low commodity prices and mines that become marginal due to low grades. The formula-based mineral royalty rate regime also ensures that the fiscus shares in the benefits of higher commodity prices. The fiscus will thus share in the downside risks, when mines become marginal, and in the upside benefits during times of high commodity prices.

Based on the comments received the formulae were adjusted to take into account the capital intensive nature of certain mining operations, especially Gold mining and Oil and Gas. The final formulae will thus use EBIT (with 100 percent capital expensing) instead of EBITDA as the numerators, as was the case in the 3rd draft of the Bill.

Given that a distinction will be drawn between refined and unrefined minerals, it follows that two royalty percentage rate formulae will be required.

The mineral royalty percentage rates (Y%) will be based on a the following formulae:

A. For **<u>refined</u>** minerals and for **<u>Oil and Gas.</u>**

$$Y(\%) = 0.5 + \frac{EBIT}{(\text{Gross Sales } \underline{\text{multiplied by}} \ 12.5)} \times 100$$

This rate will capped at a maximum of 5.0%.

B. For **<u>unrefined</u>** minerals:

$$Y(\%) = 0.5 + \frac{EBIT}{(\text{Gross Sales } \underline{\text{multiplied by}} \ 9.0)} \times 100$$

This rate will be capped at a maximum of 7.0%.

For the purpose of calculating the royalty percentage rates a negative EBIT will be set equal to zero.

For illustrative purposes, based on the latest available Quarterly Financial Statistics for the mining sector published by Statistics South Africa the average estimated royalty percentage rate for **<u>refined</u>** minerals would have been only **<u>1.56 per cent</u>** in 2006. Due to higher commodity prices this rate would have increased to **<u>2.55 per cent</u>** in 2007. For **<u>unrefined</u>** minerals, the average estimated royalty rates would have been **<u>1.97 and 3.4 per cent</u>** for 2006 ad 2007 respectively, see **Annexure 1**. On average EBIT (with 100 per cent capital exposing) is expected to vary between 0 and 30 per cent. **Annexure 2** provides an illustration on how the estimated mineral royalty percentage rates will vary.

The revised royalty regime is investor friendly, and should be relatively easy to comply with and easy to administer, whilst it would also ensure that the fiscus receives its fair share of tax revenue.

D-date for comments

The deadline for public comment (on the technical aspects of the Bills only) is **<u>Wednesday 11 June 2008</u>**. No late comments will be considered. The Bills will be formally tabled in Parliament on 24 June 2008. The Bills are available on www.treasury.gov.za and comments can be sent to sharon.payne@treasury.gov.za and mmule.majola@treasury.gov.za

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Annexure 1

	Financial Statistics: 28 March 2008				
	StatsSA, P0044 – Mining	**2006**		**2007**	
		R million		R million	
1	Turnover received	203,467		291,737	
2	Interest paid	5,398		6,794	
3	Depreciation	15,358		19,667	
4	**Net profit or loss before taxation**	**42,271**		**82,161**	
5	Total capital expenditure	36,090		33,777	
6	Book value of assets	192,607		216,116	
	% Gross revenue:				
7	Net profit before taxation	20.8%		28.2%	
8	EBIT (Depreciation)	23.4%		30.5%	
9	EBIT (Capital expensing)	**13.2%**		**25.7%**	
10	EBITDA	31.0%		37.2%	
		2006	**2006**	**2007**	**2007**
	Estimated Mineral Royalty Rates	**EBIT**	**Royalty Rate**	**EBIT**	**Royalty Rate**
	Refined: Y = 0.5 +X/12.5				
11	EBIT (Normal Depreciation)	23.43	2.37	30.5	2.94
12	EBIT (100% capital expensing)	13.24	**1.56**	25.7	**2.55**
	Unrefined: Y = 0.5 = X/9.0				
13	EBIT (Normal Depreciation)	23.43	3.10	30.5	3.9
14	EBIT (100% capital expensing)	13.24	**1.97**	25.7	**3.4**

Annexure 2:

Royalty percentage rates for a range of EBITs (with 100% capital expensing)

EBIT	Refined Minerals	Unrefined Minerals
%	%	%
0	**0.5**	**0.5**
10	**1.3**	**1.6**
15	**1.7**	**2.2**
20	**2.1**	**2.7**
25	**2.5**	**3.3**
30	**2.9**	**3.8**
40	3.7	4.9
50	4.5	6.1
56	**5.0**	6.7
58.5	5.2	**7.0**