



Selected Jurisdictions: Royalty Rates for Hard Rock Minerals

Botswana • Ghana • Guatemala • Haiti
India • Liberia • Mexico • Mongolia • New Zealand
Papua New Guinea • Philippines • Zambia

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SELECTED JURISDICTIONS
ROYALTY RATES FOR HARD ROCK MINERALS

Executive Summary

This report, covering twelve jurisdictions, slightly updates information in the 2012 Price Waterhouse Coopers study Corporate Income Taxes, Mining Royalties and Other Mining Taxes (indicated by “update” in parentheses after the country heading) and provides information on a few selected jurisdictions not covered in that study.

BOTSWANA

As of 2008, Botswana’s mineral royal rates were “10% for precious stones; 5% for precious metals & 3% for other minerals, all calculated from the gross market value of mineral sales at the ‘Mine gate.’”¹ Those same rates are apparently still in effect; they are listed on the Ministry of Minerals, Energy and Water Resources website.²

GHANA (update)

There is apparently no change in the royalty rates, but there is draft legislation before the country’s Parliamentary Select Committee on Mines and Energy that would require mines to pay royalties monthly instead of quarterly. According to the Committee Chairman, the proposal is to become law by the end of the year.³

GUATEMALA

On January 26, 2012, the Government of Guatemala and the Guatemalan Chamber of Industry announced “an agreement to voluntarily increase the royalties paid on the production of precious metals in Guatemala” from 1% to 4%. More specifically,

¹ MINISTRY OF MINERALS, ENERGY AND WATER RESOURCES, BOTSWANA MINERAL INVESTMENT PROMOTION – 2008, <http://www.gov.bw/Global/MMWER/Botswana%20Mineral%20Investment%20Promotion.pdf>.

² *Mineral Revenue Collection (Royalties)*, MINISTRY OF MINERALS, ENERGY AND WATER RESOURCES, <http://www.gov.bw/en/Ministries--Authorities/Ministries/Ministry-of-Minerals-Energy-and-Water-Resources-MMWER/Tools--Services/Services--Forms/Mineral-Revenue-Collection-royalties/> (last visited July 10, 2012).

³ Ekow Dontoh, *Ghana to Make Mines Pay Royalties Every Month, Lawmaker Says*, BLOOMBERG (May 18, 2012), <http://www.bloomberg.com/news/2012-05-18/ghana-to-make-mines-pay-royalties-every-month-lawmaker-says.html>.

[u]nder the terms of the agreement, the royalty on precious metals will increase from 1% to 4% of gross revenue. These additional royalties will be calculated, paid, and distributed in the same manner as the royalty mandated by Guatemala's Mining Law. This includes the stipulation that 50% of the total royalty will be paid directly to the municipality in which the extraction of the mineral occurs. In addition, [Goldcorp's] Marlin [Mine] has agreed to pay an additional 1% voluntary royalty, with 80% of this additional royalty to be used to implement the economic development plans of the Municipalities of San Miguel Ixtahuacán and Sipacapa. The remaining 20% will be paid to the Ministry of Energy and Mines and Ministry of Environment Natural Resources, to be used to develop the institutional capacity of those ministries.⁴

HAITI

According to an industry press release, “the recently negotiated royalty rate for precious metals in Haiti is only 2.5%,” described in news reports as one of the lowest rates in the hemisphere.⁵

INDIA (update)

MiningWeekly.com reported on July 10, 2012, that “India’s plans to impose a new royalty regime for major minerals, barring coal and lignite, by August this year, have been delayed by differences over incorporating a ‘super profit tax’ or mineral resource rent tax (MRRT) based on the Australian model.”⁶ An interministerial group formed to formulate the revision of royalty rates for major minerals had not completed its report by June 13 as planned, and has now been granted an extension to complete the task by the end of July, “which would effectively mean that a new royalty regime would not be implemented next month,” the article states, citing an official in the Mines Ministry.⁷ According to the article, “[t]he last revision of royalty rates in India was implemented in 2009 Currently, there were [sic] 51 minerals included in the schedule of the 1957 Mining and Mineral Development Regulation Act with differing rates of royalty for each mineral.”⁸

⁴ Press Release, Goldcorp. Inc., New Voluntary Royalty Agreement to Benefit Stakeholders of Goldcorp's Marlin Mine (Jan. 27, 2012), <http://www.goldcorp.com/Investor-Resources/News/News-Details/2012/New-Voluntary-Royalty-Agreement-to-Benefit-Stakeholders-of-Goldcorps-Marlin-Mine1128070/default.aspx>.

⁵ *In Haiti, We Must Make Mining Revenue Work for Us*, THE GUARDIAN POVERTY MATTERS BLOG (July 2, 2012), <http://www.guardian.co.uk/global-development/poverty-matters/2012/jul/02/haiti-mining-revenue-benefit-people>. The article quotes Claire Kumar, Christian Aid's economic justice expert for Latin America, as saying: “[a]nything under 5% is just really ludicrous for a country like Haiti” Kumar published a 2009 that looks at mineral taxation in Guatemala, Honduras, and Peru. Claire Kumar, UNDERMINING THE POOR: MINERAL TAXATION REFORMS IN LATIN AMERICA (Sept. 2009), <http://www.christianaid.org.uk/Images/undermining-the-poor.pdf>.

⁶ Ajoy K. Das, *India's Royalty Revision Delayed*, MINING WEEKLY.COM (July 10, 2012), <http://www.miningweekly.com/article/indias-royalty-revision-delayed-2012-07-10>.

⁷ *Id.*

⁸ *Id.*

LIBERIA

The Poverty Matters blog of *The Guardian* recently reported that the Liberian government has “negotiated a 30% profit tax for extracting iron ore, with royalties of between 3.25% and 4.5% depending on the quality of the ore and the size of the deposit.”⁹ However, “a complaint has been lodged with the Organisation for Economic Co-operation and Development alleging that companies have been breaking international laws on bribery and that promised corporate social responsibility initiatives are not benefiting the public.”¹⁰

MEXICO

The following is a brief summary of the main provisions on mining royalties under Mexico’s Mining Law:

[U]nder the Mining Law, holders of mining concessions that have been awarded pursuant to a public bid process must pay, during the life of the concession, a royalty (prima por descubrimiento) or an economic consideration (contraprestación económica) to the Mexican Geologic Service (Servicio Geológico Mexicano), a federal government agency in charge of conducting research and identifying the potential mineral resources of the country. This royalty or economic consideration is determined by the Ministry of Economy on a case by case basis at its discretion, and is calculated as a percentage of the invoice value of the minerals extracted and sold under the relevant mining concession.¹¹

MONGOLIA

According to article 47 of Mongolia’s Minerals Law, mining license holders “must pay a standard royalty calculated on the basis of the total sales value of the minerals extracted,” with the standard rate being 2.5% for coal sold in Mongolia and for commonly occurring minerals sold in the country.¹² For all other minerals, that is, “coal sold abroad, commonly occurring minerals sold abroad and minerals that are not commonly occurring, either sold in Mongolia or abroad,” the rate is 5%.¹³

An amendment to article 47, adopted on November 25, 2010, introduced a new surtax royalty to the standard regime, applicable starting January 1, 2011. However, the standard rates were not modified. The surtax “is imposed on the total sales value of 23 types of minerals in addition to the standard flat-rate royalty previously applicable.” It “replaces a previously

⁹ THE GUARDIAN POVERTY MATTERS BLOG, *supra* note 5.

¹⁰ *Id.*

¹¹ Ricardo Calderón & Asaf Jiménez Adorno, *Mining: Mexico* LATIN LAWYER, <http://www.latinlawyer.com/reference/topics/46/jurisdictions/16/mexico> (scroll to question 6; last visited July 10, 2012).

¹² *Mining Royalties*, MINING IN MONGOLIA (Mar. 26, 2012), <http://minesmn.blogspot.com/2012/03/mining-royalties.html>. The article includes a table on the rate structure for covered commodities.

¹³ *Id.*

applicable windfall profits tax” and has a variable rate, “depending on the type of minerals, their market prices and their degree of processing.”¹⁴

More specifically, the rates are significantly higher for copper than for other types of minerals; the rates increase as the market prices for the minerals go up; and the rates are lower for processed materials than for unprocessed minerals in order to encourage mining companies to engage in value-added activities.

The rates of the new surtax royalty vary from 1% to 5% for minerals other than copper. For copper, the surtax royalty rates range between 22% and 30% for ore, between 11% and 15% for concentrates, and between 1% and 5% for final products. Reference prices with their sources are announced from Government organizations on a quarterly basis.¹⁵

NEW ZEALAND

Phil Heatley, New Zealand’s Minister for Energy and Resources, reportedly stated in April 2012 that “minerals, for example, coal, gold, silver, all those – we think those royalties are the ones that need to be shifted upward, and we’re looking at that”¹⁶

The Ministry of Economic Development of New Zealand is conducting a review of the Crown Minerals Act regime.¹⁷ A summary of the proposed changes is on its website.¹⁸ The proposal regarding royalty rates reads: “[t]he royalty rates for Tier 1 minerals would be reviewed. Definitions would be tightened in some areas. Inland Revenue would audit some/all of the administration for royalties.”¹⁹ Tier 1 minerals are those “that have higher risks associated with exploration and mining as well as higher potential profits – such as large commercial operations for gold, silver, coal, irons and, phosphate and sulphide.”²⁰ However, this does not necessarily mean that there are new proposed rates at present; the current rates may just be undergoing a process of review.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Alex Tarrant, *Govt to Hike Mining Royalties; Eyes 50% Oil and Gas Exploration Increase; ‘Won’t Hurt Clean, Green Image,’ Resources Minister Heatley Says*, INTEREST.CO.NZ (Apr. 16, 2012), <http://www.interest.co.nz/rural-news/58851/govt-hike-mining-royalties-eyes-50-oil-and-gas-exploration-increase-wont-hurt-clean>.

¹⁷ *Review of the Crown Minerals Act Regime*, NEW ZEALAND MINISTRY OF ECONOMIC DEVELOPMENT (May 18, 2012), <http://www.med.govt.nz/sectors-industries/natural-resources/oil-and-gas/review-of-the-crown-minerals-act-regime/>.

¹⁸ *Proposed Changes to the Minerals Regime*, NEW ZEALAND MINISTRY OF ECONOMIC DEVELOPMENT (Mar. 7, 2012), <http://www.med.govt.nz/sectors-industries/natural-resources/oil-and-gas/review-of-the-crown-minerals-act-regime/summary-of-proposed-changes/proposed-changes-to-the-minerals-regime>.

¹⁹ *Id.*

²⁰ *Id.*

PAPUA NEW GUINEA

According to a 2006 report published by the Centre for Energy, Petroleum and Mineral Law and Policy, Papua New Guinea at that time had a royalty rate of 1.25% on gross revenue, “free on board,” without consideration of the ability to pay.²¹

PHILIPPINES (update)

The Philippines has an excise tax at a rate of 2% on gold, chromite, and copper, which is applied to the actual market value of gross output at the time of extraction, and a “royalty payment of 1% of the gross output for the indigenous community (if any).”²² In addition, royalties are applicable as follows: “royalties on minerals extracted from mineral reservations previously explored by the government – 5% of the market value of the gross output extracted or produced.”²³

A recent news report confirmed that “[a]t present, the government collects a royalty of 5 percent of gross revenue from 11 of the 33 operating mines which are within the so-called mineral reservation sites.”²⁴ However, it stated, “Manila wants all 33 mines and future projects to be covered by a royalty of 5–7 percent” on top of the existing excise tax.”²⁵ This conflicts with a recommendation by the International Monetary Fund that the Philippines merge the 2% excise tax and the 5% royalty tax into one 7% royalty rate.²⁶

ZAMBIA

According to a November 2011 news report, Zambia’s royalty rate is to increase by 6% from 3% and 5% for base and precious metals, respectively, “to compensate for the bulk of the revenue loss arising from the [2012 budgetary] measures, which will come into effect on April, 1, 2012”²⁷ Income arising from hedging activities will also be separated from core mining activities for income tax purposes.

²¹ Emmanuel O. Aideloje, *Fiscal Regime for Mineral Exploration and Development in Papua New Guinea: Any Reinvestment Lessons from Canada?*, at 15 & 13 (chart), 10 CAR (Centre for Energy, Petroleum & Mineral Law & Policy Annual Review) (2005/2006), http://www.dundee.ac.uk/cepmlp/car/html/CAR10_ARTICLE17.PDF.

²² Daljit Kaur et al., *Philippines– Corporate Taxation* ¶¶ 12.4.2 & 14.5, INTERNATIONAL BUREAU OF FISCAL DOCUMENTATION [IBFD]: COUNTRY ANALYSES (PHILIPPINES) (as of Apr. 1, 2012), <http://online.ibfd.org/kbase/> (by subscription).

²³ *Id.*

²⁴ *Philippine Mining Move Fails to Quell Policy Uncertainty*, REUTERS (July 10, 2012), <http://www.abs-cbnnews.com/-depth/07/10/12/philippine-mining-move-fails-quell-policy-uncertainty>.

²⁵ *Id.*

²⁶ *Id.*

²⁷ Lorys Charalambous, *Zambia’s 2012 Budget Raises Mineral Royalty Rates*, TAX-NEWS.COM (Nov. 16, 2011), http://www.tax-news.com/news/Zambias_2012_Budget_Raises_Mineral_Royalty_Rates____52525.html.

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