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6 May 2003

The Directors
Gold Corporation
310 Hay Street
East Perth
Western Australia 6000

By courier

Dear Sirs

This advice of Australian tax implications has been prepared in respect of a Product Disclosure Statement dated on or about 5 May 2003 to be issued by Gold Corporation in relation to the proposed offer of Perth Minted Gold Quoted Product ("PMG").

The discussion is a general guide to the key Australian tax implications arising for an Australian resident individual taxpayer who acquires PMGs and holds them on capital account. The sub-part headed "**Eligible investment business**" below is also relevant for Australian resident trustees of unit trusts. This summary is not relevant for Holders who hold a PMG on revenue account or as trading stock. Accordingly, this discussion does not apply to Holders who acquire a PMG in carrying on a business of trading or dealing in securities or gold.

This discussion is necessarily general in nature and does not take into account the specific taxation circumstances of each individual Holder. Potential Holders should not rely on this summary and should seek their own independent advice on the taxation implications relevant to their own circumstances before making any investment decision.

This discussion is based on the law in force, and administrative practice, as of 6 May 2003 and each Holder should be aware that the ultimate interpretation of the taxation law rests with the Courts and that the law, and the way the Commissioner of Taxation administers the law, may change at any time.

In this discussion, the "1936 Tax Act" means the *Income Tax Assessment Act 1936*, "CGT" refers to the capital gains tax provisions contained in the *Income Tax Assessment Act 1997* ("1997 Tax Act") and "Division 16E" refers to Division 16E of Part III of the 1936 Act.

Capitalised terms used in this summary that are not defined in this summary have the same meaning as in the Product Disclosure Statement.

Summary of Tax Implications

1. Characterisation of PMG for income tax purposes

Division 16E applies to tax the holder of "*qualifying securities*" on an accruals basis. It is considered that a PMG is not a security as defined for the purposes of Division 16E. Consequently, Division 16E does not apply to a PMG. Please refer to the sub-part headed "**Qualifying security**" below.

Broadly, sections 26BB and 70B of the 1936 Tax Act treat any gains or losses on the redemption or disposal of a traditional security as income or allowable losses. As a PMG is an option to acquire gold bullion, it is not a security as defined and so sections 26BB and 70B will not apply on the disposal or redemption of a PMG. Please refer to the sub-part headed "**Traditional security**" below.

2. Unit Trusts

Broadly speaking, Division 6C of Part III of the 1936 Tax Act taxes "public trading trusts" as if they were companies. If a Holder is a unit trust that is not a public trading trust before investing in the PMG, then the investment in the PMG will not of itself cause the Holder to become a public trading trust. Please refer to the sub-part headed "**Acquiring a PMG**" below.

Unit trusts who complete an Exercise Notice and take delivery of the gold will be holding physical gold bullion and not a financial instrument. The holding of physical gold bullion is not an "*eligible investment business*" for the purposes of Division 6C of Part III of the 1936 Tax Act. Please refer to "Physical Settlement of a PMG" below.

3. CGT Implications

For CGT purposes, a PMG is a "*CGT asset*". The CGT asset is the option itself and not the Underlying Parcel (that is, gold). Please refer to the "**Capital gains tax**" section below for more detail of the CGT consequences summarised below.

Exit mechanism	Capital gains tax impact
Sale of PMG on ASX	Disposal of a PMG is a taxable CGT event. The CGT discount may be available if the PMG was held for more than 12 months.
Physical Settlement	No CGT event. The costs of acquisition and exercise of a PMG become part of the cost base of the gold.
Cash Settlement	Cancellation of a PMG on the Cash Settlement is a taxable CGT event, with the Cash Settlement Amount being the capital proceeds for CGT purposes. The CGT discount may be available if the PMG was held for more than 12 months.

Fee/Reduction	Capital gains tax impact
PMG Management Fee	<p>Forms part of the cost base of the PMG. Can be utilised to reduce any capital gain on the disposal or cancellation of the PMG.</p> <p>Does not form part of the reduced costs base of the PMG and so cannot increase any capital loss on disposal or cancellation of a PMG.</p> <p>Not a cost of acquiring or exercising the PMG. Will not become part of the cost base of any physical gold a Holder acquires through exercising the PMG.</p>
PMG Trading Fee	<p>The PMG Trading Fee paid by a Holder when purchasing a PMG on the ASX is added to the Holder's cost base in the PMG.</p> <p>The PMG Trading Fee which is received when a Holder sells a PMG on the ASX increases the capital proceeds for CGT purposes received by a Holder on a disposal of the PMG.</p>
Cash Settlement Reduction Amount	<p>Is not a separate fee charged by Gold Corporation. It reduces the capital proceeds for CGT purposes received by a Holder on a Cash Settlement.</p>

Characterisation of PMG for income tax purposes

Every 100 PMGs held by a Holder gives to the Holder a right to acquire from Gold Corporation one troy ounce of gold (referred to here and in the Product Disclosure Statement as the "Underlying Parcel").

A PMG is considered to be an option to acquire gold bullion. This is because the terms of a PMG require Gold Corporation to deliver gold bullion of a specified amount to the Holder, when a Holder completes a valid Exercise Notice requesting physical delivery.

Gold Corporation continues to be the owner of the gold bullion backing the PMG. However, even though Gold Corporation holds gold bullion in order to back the PMGs, it is not required to do so and does not hold gold bullion for the benefit of the Holder. Only when a valid Exercise Notice requesting physical delivery is given to Gold Corporation will there be a contract to transfer ownership of gold bullion by physical delivery.

1. Qualifying security or traditional security

1.1 "Qualifying security"

Division 16E applies to tax the holder of "*qualifying securities*" on an accruals basis. A "*qualifying security*" is defined in subsection 159GP(1) of the 1936 Tax Act.

The first requirement is that there be a "*security*". A security is defined in section 159GP(1) of the 1936 Tax Act to mean:

- (i) *stock, a bond, debenture, certificate of entitlement, bill of exchange, promissory note or other security;*
- (ii) *a deposit with a bank or other financial institution;*
- (iii) *a secured or unsecured loan; or*
- (iv) *any other contract, whether or not in writing, under which a person is liable to pay an amount or amounts, whether or not the liability is secured.*

In our view a PMG is not a security as defined. A PMG does not fall into any of the four paragraphs of the definition.

Paragraph (i) has no direct application.

The PMG will be a CHESSE Approved Security. The term "*security*" for CHESSE purposes is the corporate law definition. The reference to "*or other security*" in paragraph (i), above, is clearly intended to cover instruments that are similar in structure or design to the other instruments mentioned in that paragraph. Therefore, it should mean any instrument which is similar to or in the form of stock, a bond, debenture, etc. A PMG, being an option to acquire a commodity, is considered to be fundamentally different from stock, a bond, debenture, a certificate of entitlement, a bill of exchange or a promissory note. In our view, the PMG would not fall within paragraph (i) of the definition of security.

With respect to paragraph (ii), the reference to "*a deposit with*" is clearly intended to cover moneys placed with a bank or financial institution and does not apply to a deposit or other amount payable pursuant to a contract to acquire a commodity, assuming that the amount paid under a PDS could be described as a deposit.

Paragraph (iii) does not apply as no loan is made.

The only paragraph under which the PMG could be considered to be a security is paragraph (iv). Under the proposal, as outlined, Gold Corporation has a liability to pay an amount of money if the PMG is cancelled in one of the ways discussed below under "Cancellation of a PMG", in which case Gold Corporation is required to pay the cash equivalent amount of the Underlying Parcel of gold bullion to the Holder (less whatever amounts it is entitled to retain). This liability is not a presently existing liability, but only arises in a certain number of defined circumstances. Paragraph (iv) of the definition of security refers to:

*"any other contract...under which a person **is liable** to pay an amount or amounts..." [emphasis added]*

This infers that Gold Corporation must be currently liable to pay, and the liability must not arise after one or more conditions are satisfied, before the PMG would be characterised as a security. Under the PMG, Gold Corporation is not currently liable to pay any amount until one of a number of events (expiry, redemption, Cash Settlement, etc) takes place. As there is no presently existing liability, the PMG should not be a security.

Moreover, to regard it as a security for the purposes of Division 16E under paragraph (iv) of the definition is to give the definition a scope well beyond any legislative intention.

In summary, taking into account the applicable rules on statutory interpretation, the purpose and object for which the definition was introduced into the 1936 Tax Act and judicial statements regarding the definition, it is considered that a PMG is not a security as defined for the purposes of Division 16E.

Nevertheless, as it is possible for a court to conclude that a PMG is a security, it is necessary to consider one of the key requirements for a security to be a qualifying security. Paragraph (d) of the definition of qualifying security provides that the security must be one "*that has an eligible return*". Section 159GP(3) of the 1936 Tax Act says that:

*"...there shall be taken to be an eligible return in relation to a security if at the time when the security is issued it is **reasonably likely**, by reason that the security was issued at a discount, bears deferred interest or is capital indexed or for any other reason, having regard to the terms of the security, for the sum of all payments (other than periodic interest payments) under the security to exceed the issue price of the security, and the amount of the eligible return is the amount of the excess."* [emphasis added]

A PMG's return is based on the price of gold, and this price could decrease as well as increase. At the time the PMGs are issued, while it is expected that the price of gold will increase, it cannot be stated that it is "*reasonably likely*" that the price will increase.

Insofar as it is possible to regard the PMG as a security issued either by Gold Corporation, we are certain that the security does not have an "*eligible return*" and it would therefore not be a qualifying security.

Consequently, Division 16E does not apply to a PMG.

1.2 "Traditional security"

Sections 26BB and 70B of the 1936 Tax Act deal with "*traditional securities*" and, broadly, treat any gains or losses on the redemption or disposal of a traditional security as ordinary income or losses. The requirements of traditional security are that it is a "*security*" that:

- (a) *is or was acquired by the taxpayer after 10 May 1989;*
- (b) *either:*
 - (i) *does not have an eligible return; or*
 - (ii) *has an eligible return, where:*
 - (A) *the precise amount of the eligible return is able to be ascertained at the time of the issue of the security; and*
 - (B) *that amount is not greater than 1½%...*
- (c) *is not a prescribed security within the meaning of section 26C; and*
- (d) *is not trading stock of the taxpayer.*

As discussed above in respect of qualifying securities, a PMG does not have an eligible return, therefore fulfilling the requirement in paragraph (b) of subsection 26BB(1) of the 1936 Tax Act. The requirements in the other three paragraphs of that subsection should also be

satisfied. Therefore, if the PMG is considered to be a "security", then it would also be a "traditional security".

In our view, as a PMG is an option to acquire gold bullion, it is not a "security" as defined and so sections 26BB and 70B will not apply on the disposal or redemption of a PMG. The expression "security" is defined for the purposes of section 26BB as a security as defined in Division 16E. For the reasons outlined above, it is considered that a PMG is not a security as defined for the purposes of Division 16E and is therefore not a security for the purposes of section 26BB.

2. Eligible investment business

2.1 Acquiring a PMG

Broadly speaking, Division 6C of Part III of the 1936 Tax Act taxes "public trading trusts" as if they were companies. If a Holder is a trustee of a unit trust, it must determine for itself whether it is a public trading trust. In our view, if a Holder is a unit trust that is not a public trading trust before investing in the PMG, then the investment in the PMG will not of itself cause the Holder to become a public trading trust.

One of the criteria of a public trading trust, as defined in subsection 102R(1) of the 1936 Tax Act, is that the trust is a "unit trust" and "*is a trading trust in relation to the relevant year of income*". A "trading trust" is defined by section 102N of the 1936 Tax Act as a unit trust where the trustee:

- (a) *carried on a trading business; or*
- (b) *controlled, or was able to control, directly or indirectly, the affairs or operations of another person in respect of the carrying on by that other person of a trading business.*

Section 102M of the 1936 Tax Act defines a trading business as: "*a business that does not consist wholly of eligible investment business*" and also defines an "*eligible investment business*" as including:

- (b) *investing or trading in any or all of the following:*
 - (i) *secured or unsecured loans (including deposits with a bank or other financial institution);*
 - (ii) *bonds, debentures, stock or other securities;*
 - (iii) *shares in a company;*
 - (iv) *units in a unit trust;*
 - (v) *futures contracts;*
 - (vi) *forward contracts;*
 - (vii) *interest rate swap contracts;*
 - (viii) *currency swap contracts;*
 - (ix) *forward exchange rate contracts;*

- (x) *forward interest rate contracts;*
- (xi) *life assurance policies;*
- (xii) *a right or option in respect of such a loan, security, share, unit, contract or policy;*
- (xiii) *any similar financial instruments;*

In summary, if the PMG falls within any of the financial instruments in subparagraphs (i) to (xiii) above, then the purchasing and holding of PMGs by a Holder who is the trustee of a unit trust would not, of itself, cause the unit trust to become a trading trust.

The PMG is an option to acquire gold. As discussed above in relation to section 26BB and Division 16E, a PMG would not be considered to be a "*security*", where that term is used in relation to "*stock, a bond, debenture...or other security*". For similar reasons, the PMG is considered not to be an "*other security*" under subparagraph (ii), above.

Whether a PMG is a "*forward contract*", under subparagraph (vi), above is an unresolved issue. Even though the expression "*forward contract*" is used in a number of sections in the tax legislation and in a number of tax cases, we are not aware of any relevant statutory or legal definition in Australia. Therefore, to find its definition, it is necessary to refer to its ordinary meaning. However, unlike futures contracts which are regulated and traded on specific exchanges, forward contracts have more informal trading arrangements.

As a starting point, the Palgrave Dictionary of Money & Finance, 1992 Edition, on page 180 defines "*forward contract*" as "*an agreement between two parties in which the parties make a commitment to trade a certain quantity of some asset or commodity at a fixed date or dates in the future, and in which the details of the exchange are fixed at the time of contracting*". Statements in other investment texts are similar although, due to the informal nature of these contracts, the exact attributes of a forward contract are fluid: in particular, (i) the price can be determined at the time of contracting or at the date of exchange; (ii) payment for the commodity can occur at the time of contracting or at some later date. One of the essential elements is that there is a presently existing contract or agreement for the delivery of commodities at a future date.

As mentioned above, the PMG is an option and not a contract for the sale of gold. An option can be characterised as either an irrevocable offer or as a conditional contract. The courts have never conclusively determined which characterisation is preferred. If the option were characterised as a conditional contract, with the condition merely being the completion of a valid Exercise Notice and the payment of the Exercise Price and other fees on Physical Settlement, then it is likely that a PMG can be considered to be a "*forward contract*" under ordinary usage, as it is a contract for the delivery of a commodity (gold bullion) at a future date.

However, it is unlikely that subparagraph (vi), above, was intended to apply to every contract which involves a deferral in the delivery of a commodity and it is likely to be read down in light of the other subparagraphs. In particular, subparagraph (xiii) refers to "*any similar financial instrument*", implying that subparagraphs (i) to (xii) are all "*financial instruments*". The instruments referred to in paragraph (b) of the definition of "*eligible investment business*" in section 102M of the 1936 Tax Act all consist of a bundle of intangible rights, used for the

purpose of investment and, generally, capable of being traded or otherwise converted into cash with a certain degree of ease. The term "*forward contract*" is likely to be read in light of this and such a contract would need to have the characteristics of a financial instrument.

The PMG is a CHESSE Approved Security, traded on the ASX. It is an "*instrument*", meaning that it is a document in writing which creates or affects legal or equitable rights and liabilities. It is "*financial*" in that it is capable of being traded on the ASX, can be converted into cash with ease and is used as a tool for making short or long term investments. It consists of a bundle of intangible rights (even though it is linked to a tangible product, being gold) and its characteristics are similar in nature to the other instruments referred to in paragraph (b) of the definition of "*eligible investment business*" in section 102M of the 1936 Tax Act. Therefore, should the PMG be characterised as a conditional contract, it will fall within the requirements of being a "*forward contract*" as discussed and the investment by a unit trust in a PMG should be an "*eligible investment business*" in accordance with subparagraph (vi), above.

As mentioned above, the courts have never conclusively decided whether an option is a conditional contract or an irrevocable offer. If the PMG were characterised as an irrevocable offer, there would be no agreement or contract for the sale of the gold until the option is actually exercised. The PMG would then not be a "*forward contract*" as there is no current contract for the sale of the gold bullion. Even if this were the case, the PMG would still be a "*similar financial instrument*", as mentioned in subparagraph (xiii) above. As discussed immediately above, the PMG is a CHESSE Approved Security, traded on the ASX, and is a "*financial instrument*". Its characteristics are similar in nature to the other instruments referred to in paragraph (b) of the definition of "*eligible investment business*" in section 102M of the 1936 Tax Act. Therefore, even if the PMG were considered to be an irrevocable offer and not a conditional contract, the PMG is considered to be a "*similar financial instrument*" under subparagraph (xiii).

2.2 Physical Settlement of a PMG

Under the terms of the PMG, once a Holder completes a valid Exercise Notice requesting physical delivery and pays the Exercise Price, Gold Corporation will arrange for delivery of the gold bullion to the Holder. The Holder will therefore be holding physical gold bullion and not a financial instrument. The holding of physical gold bullion is not an "*eligible investment business*" for the purposes of Division 6C of Part III of the 1936 Tax Act.

3. The New Debt/Equity Rules

We are of the opinion that the PMG is not a debt interest as defined by section 974-15 of the 1997 Tax Act.

In the event that we are wrong and the PMG is a debt interest, characterising a PMG as a debt interest under the new debt/equity rules has no adverse implications for a Holder.

Capital gains tax

For CGT purposes, a PMG is a "*CGT asset*". The CGT asset is the option itself and not the Underlying Parcel.

1. Transfer

The transfer of a PMG is a CGT event and, if the capital proceeds for the transfer exceed the cost base, the Holder will make a taxable capital gain. Correspondingly, if the capital proceeds are less than the asset's cost base a capital loss will be realised.

If a taxable capital gain is made and the Holder has capital losses, those capital losses can be offset against the gain.

If the PMG has been held for at least 12 months by the Holder, then the Holder may be able to avail themselves of the 50% discount. This discount reduces the taxable capital gain by 50% but only after the Holder has first applied any capital losses (whether from an earlier year or the same year) against the capital gain.

2. Delivery of the Underlying Parcel

Under section 134-1 of the 1997 Tax Act, any gain or loss on the exercise of an option is disregarded and any payment made to acquire the option, plus any payment made to exercise the option, will become part of the cost base of the asset acquired on exercise of the option.

Therefore, no CGT will arise if the Holder completes an Exercise Notice requesting physical delivery of gold bullion. A Holder's cost in acquiring a PMG plus any amount paid by the Holder to exercise the PMG (which would include the Exercise Price of \$0.50 per Underlying Parcel exercised and the Physical Settlement Fee) will become part of the cost base of the Underlying Parcel which is delivered to the Holder.

If the Holder subsequently sells the gold bullion more than 12 months after exercising the PMG, any capital gain made will be a discount capital gain for the purposes of the CGT provided that the other requirements for the discount are satisfied: see generally Division 115 of the 1997 Tax Act. The time in which the Holder held the PMG will not count towards this 12 month period. This has been confirmed by the recent decision of the Administrative Appeals Tribunal in *Van v Commissioner of Taxation* [2002] AATA 1313. However, that decision may be reversed on appeal.

Under section 115-100 of the 1997 Tax Act, the discount will be 50%, although if the Holder has capital losses that can be offset against the capital gain, the discount will only apply to the difference between the capital gain and those capital losses.

Under clause 7.4 of the Terms and Conditions, if a Holder fails to take delivery of its Physical Form of the Underlying Parcel within 20 Business Days of the Settlement Date, Gold Corporation will sell the Physical Form of the Underlying Parcel and pay the sale proceeds (after deducting the Physical Settlement Fee and the Non-Delivery Fee) to the Holder. In this scenario, Gold Corporation is selling the gold bullion as agent for the Holder, with the same consequences as if the Holder had sold the gold bullion directly. The Holder would not be entitled to a discount in this instance.

3. Cancellation of a PMG

There are a number of situations where PMG will be cancelled, being:

- (a) where the Holder completes a valid Exercise Notice requesting a Cash Settlement;
- (b) where the Holder does not complete a valid Exercise Notice by 31 December 2013 and the PMG expires;
- (c) where the Holder completes a valid Exercise Notice requesting physical delivery and authorises Gold Corporation to redeem PMGs in order to pay the Physical Settlement Fee;
- (d) Gold Corporation redeems PMGs under clause 8 of the Terms and Conditions, in order to pay the PMG Management Fee;
- (e) the Holder issues a notice under clause 11.1 of the Terms and Conditions, requesting Gold Corporation to pay the cash equivalent of 110% of the Underlying Parcel in accordance with paragraph (b) of that clause; and
- (f) in any situation covered by paragraphs (d) and (e) of clause 12.1 of the Terms and Conditions.

Each of these scenarios would be characterised as a CGT event C2 (cancellation, surrender and similar endings to an asset), per section 104-25 of the 1997 Tax Act, in relation to the PMG which is cash settled, expires or is redeemed.

In regard to paragraph (e), clause 11.1 of the Terms and Conditions provides a Holder with a second option, being that the Holder can request Gold Corporation to physically deliver 110% of the Underlying Parcel, in accordance with paragraph (a) of that clause. This physical delivery would be an exercise of the option and would have the same tax treatment as discussed above under "**Delivery of the Underlying Parcel**".

4. PMG Fees and other reductions: impact on cost base

4.1 Cash Settlement Reduction Amount

In a Cash Settlement, Gold Corporation will distribute to the Holder an amount equal to the cash equivalent of the gold bullion reduced by the Cash Settlement Reduction Amount. The Cash Settlement Reduction Amount is calculated as \$100 plus \$0.50 per Underlying Parcel exercised.

This amount is a reduction in the consideration received on a Cash Settlement and is not a separate fee charged by Gold Corporation. It reduces the capital proceeds for CGT purposes received by a Holder on a Cash Settlement.

4.2 PMG Management Fee

Gold Corporation will charge annual PMG Management Fees to a Holder. This fee is designed to cover Gold Corporation's costs of storage and insurance of the gold bullion backing the PMG, CHES costs in relation to the PMG, costs in making the PMG available to the public and other expenses. The fee is a cost to the Holder of holding and owning the PMG. A PMG does not earn any income. A Holder will hold a PMG with the intention of selling either the PMG or the Underlying Parcel for a capital gain. Therefore, the PMG

Management Fee would not be deductible in the year in which it is incurred: see section 51AAA of the 1936 Tax Act.

PMG Management Fees do form part of the cost base of the PMG, as they are considered to be non-capital costs of ownership of the PMG: see section 110-25 of the 1997 Tax Act. They can therefore be utilised to reduce any capital gain on the disposal or cancellation of the PMG. However, such costs do not form part of the reduced costs base of the PMG and so cannot increase any capital loss on disposal or cancellation of a PMG: see section 110-55 of the 1997 Tax Act.

The PMG Management Fee is not a cost of acquiring or exercising the PMG. Therefore, if a Holder exercises the PMG and accepts physical delivery of the Underlying Parcel, this fee would not become part of the cost base of the Underlying Parcel.

4.3 PMG Trading Fee

Gold Corporation will require that a PMG Trading Fee is added to the price at which a PMG is traded on the ASX. This fee would be an incidental cost in acquiring the PMG, and would form part of the cost base and the reduced cost base of the PMG.

On disposal, a PMG Trading Fee is added to the price received by a Holder and will form part of the capital proceeds for CGT purposes.

Part IVA

We are of the view that the arrangements outlined in the Product Disclosure Statement do not of themselves involve a scheme to which Part IVA of the 1936 Tax Act applies from the perspective of either Gold Corporation or the Holder.

Proposed Taxation of Financial Arrangements ("TOFA") legislation

The Federal Government has announced that it will reform the method of taxing financial arrangements. These reforms are intended to become effective for general financial arrangements from July 2004 and could apply to the PMG, although the *Review of Business Taxation 1999* ("the RBT"), which recommended these reforms, suggested that the changes should only apply to instruments in existence before the commencement of the rules if a taxpayer so elects. Should this legislation be enacted as proposed by the RBT and apply to a PMG, a Holder may have to recognise a gain on the PMG on an accruals basis (if the gain is certain), on a realisation basis (if the gain is uncertain) or on a mark-to-market basis (at the election of the Holder). Holders should seek their own advice in relation to the status of the TOFA legislation and the impact that it may have on their tax affairs.

Goods and services tax ("GST")

No GST should apply on the issue, purchase or sale of PMGs. This is because these transactions are treated as input taxed financial supplies. Similarly, no GST is payable on the delivery of the gold represented by PMGs.

GST is payable on the PMG Management Fee but not on the PMG Trading Fee and the Exercise Price. The PMG Management Fee is for a taxable supply provided by Gold

Corporation whereas the PMG Trading Fee and the Exercise Price are for dealings in the PMGs. If the investor is registered for GST and its dealings in PMGs are part of its enterprise, the investor may be entitled to claim back the GST charged on the PMG Management Fee as an input tax credit or as a reduced input tax credit.

Stamp Duty

No stamp duty should be payable on the sale or purchase of gold within the terms contemplated for the above product, nor on the acquisition or subsequent trading in a PMG.

Generally, Western Australia charges duty on a conveyance of property on sale effected by an instrument. However, an exemption applies for a conveyance or transfer of any estate or interest in goods that are stock-in-trade held or used in connection with a business (*Stamp Act 1921 (WA)*, Third Schedule, Item 7(a)).

The issue and any subsequent transfer of a PMG should be exempt.

The warrant in question is an option and an option ordinarily gives the holder an equitable interest in the underlying subject matter. The initial acquisition of such an interest should also come within the exemption for stock-in-trade described above.

If the relevant interest is traded, assuming that no instrument is used, the conveyance head should not apply. We assume that the transfer will occur on CHESS without the use of an instrument. While there are Clayton's contract provisions that apply to transactions effected without the use of instruments, they would relevantly apply to a transaction which causes a change in the beneficial ownership of a "marketable security" (*Stamp Act 1921 (WA)*, section 31B). If the rights in question were characterised as marketable securities, a transfer would ordinarily be caught. However, listing on the ASX and quoting the relevant interest in any case would take a transfer outside the duty net.

The transfer to the Holder upon lodging a valid exercise notice should also be exempt. The exemption referred to above for stock-in-trade should apply to the transfer upon exercise of the option.

Please contact us if you have any questions or comments.

Yours faithfully


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