



# Tax & Legal Flash



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## Mining Rehabilitation Vehicles

Mining companies are obliged to perform environmental rehabilitation of mining sites upon the termination or premature closure, decommissioning and final closure, of mining activities. Section 37A of the Income Tax Act attempts to align tax policy with environmental regulations and regulates mining rehabilitation vehicles, created with the sole objective of applying their property, for the environmental rehabilitation of mining areas. These rehabilitation vehicles are typically created as companies or trusts.

Section 37A grants a tax deduction for payments made to a dedicated mining rehabilitation vehicle and requires such funds to be strictly utilised in accordance with its objectives. The provisions of section 37A are stringent and can easily be breached in *inter alia* the following instances:

1. The trust deed or incorporation document does not comply with the requirements of section 37A.
2. The funds in the rehabilitation vehicle are used for purposes other than closure rehabilitation.
3. Where alternate provision is made for rehabilitation (i.e. insurance policies) and the designated rehabilitation vehicle's assets are pledged as security for purposes of the insurance contract.

KPMG Tax can assist in assessing compliance with section 37A and providing commercially and tax efficient mechanisms in order to achieve the desired commercial objectives and meet the requisite statutory and environmental obligations.

For additional information or assistance, please contact us.

#### Contact us



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