

## RECENT AMENDMENTS TO THE MINERALS LAW OF MONGOLIA

2024.05.17



On 19 April 2024, the Parliament of Mongolia adopted the Law on the Sovereign Wealth Fund, which regulates the establishment, distribution and management of the sovereign wealth fund, as well as detailed relations related to it. This law aims to ensure equal and fair distribution of the benefits of subsoil resources to every citizen of Mongolia, both in the present and future. According to this law, one of the main sources of the sovereign wealth fund will be royalties on mineral resources. Consequently, the Minerals Law was amended on the same day (the "**Amendment**"), and the main provisions of the amendment are as follows:

### 1. Ownership restrictions

This Amendment establishes certain restrictions on the share ownership of legal entities holding licenses for mineral deposits of strategic importance. Specifically, it prohibits any person, either alone or jointly with affiliated parties, from holding more than 34 percent of the total issued shares of a company holding a special license for a mineral deposit of strategic importance. However, these regulations do not apply to shares owned wholly or partially by state-owned or locally owned legal entities, nor to shares of legal entities that have entered into an investment agreement with the Government of Mongolia. Therefore, within the framework of implementing the Amendment, there is a need to transfer the shares of any persons holding more than 34 percent of the shares in companies holding licenses for mineral deposits of strategic importance, whether alone or jointly with affiliated parties.

If the holder of a license for a mineral deposit of strategic importance fails to comply with the above requirement, the Government has the right to appoint an authorized representative to manage the company and ensure compliance with the law. The law stipulates that the Government has the right to approve the working procedure of the authorized representative, though this procedure has not yet been approved.

The Amendment does not specify a timeframe for the license holder to comply with the ownership restriction.

### 2. Non-compensated state participation

Articles 5.4 and 5.5 of the Minerals Law provide that the percentage and amount of state ownership in mineral deposits of strategic importance range from 34 and 50 percent, depending on whether the exploration work was conducted with the state budget, and such percentage and amount are determined by the contract for the use of deposits.

However, according to this Amendment, the regulation will apply to mineral deposits of strategic importance as well as its derivative deposits, and the state will acquire part of the shares free of charge.

### **3. Relevant tax amendments**

In connection with the adoption of the Law on the Sovereign Wealth Fund, the Law on Corporate Income Tax was amended on 19 April 2024.

The tax rate has increased from 10 percent to 30 percent when the beneficial owner of a license holder for a mineral deposit of strategic importance fully or partially transfers the right to own and use land, as well as exploration and exploitation licenses for minerals, radioactive minerals, and oil through the gifting or inheriting of shares, participation or voting rights of a legal entity.

This regulation only applies to licenses for mineral deposits of strategic importance.

### **Conclusion**

Although this Amendment aims to provide and distribute benefits from Mongolia's subsoil resources to present and future generations, it may negatively impact the investment environment of the sector by increasing state control over the mining sector through ownership restrictions and non-compensated state participation.

*For more information on the Amendments to the Minerals Law, please contact us.*