



19 November 2020

The Manager
Company Announcements
Australian Stock Exchange Limited
20 Bridge Street
SYDNEY NSW 2000

Dear Sir / Madam

Full Federal Court Tax Appeal Update

Please see attached release to the market in relation to Full Federal Court tax appeal update.

Authorised by:

A handwritten signature in blue ink, appearing to read "Alex Finley".

Alexandra Finley
Company Secretary

ASX RELEASE

19 November 2020

Full Federal Court appeal decision on the tax treatment of customer contributions for Victoria Power Networks – update on estimated financial impacts

Following its announcement on 22 October 2020, Spark Infrastructure provides the following update on the estimated financial impacts on the business arising from the Full Federal Court decision on the appeal by Victoria Power Networks (“VPN”) against the Commissioner of Taxation.

Background

The Full Federal Court appeal decision related to the tax treatment of certain cash contributions and gifted assets for the tax years 2008 to 2011 of VPN.

As announced on 22 October 2020, VPN was successful in respect of its appeal on the gifted assets matter and unsuccessful on the appeal in relation to cash contributions. The judgements were unanimous on both matters.

In summary, the effect of the decision was as follows.

1. For Gifted Assets (being assets transferred to VPN from customers) – after the offset of any rebate paid by VPN to the customer, the receipt of the gifted assets will not give rise to an amount of assessable income to VPN for income tax purposes. This was a reversal of the original Federal Court decision.
2. For Cash Contributions (where assets are constructed by VPN and the customer contributes to the cost of construction of those assets) – the cash contribution should be treated as assessable income for income tax purposes on receipt. This was consistent with the original decision of the Federal Court.

The deadline to lodge a special leave application to appeal to the High Court of Australia has now passed. Neither party has sought special leave to appeal and as such the decision of the Full Federal Court is now final.

Estimated Financial Impact to VPN

As a result of the Full Federal Court decision, VPN estimates that it is due a refund of corporate tax paid of approximately \$23 million in respect of 2020 tax year, and now anticipates becoming a taxpayer in respect of the 2021 tax year. The deferral in timing of tax payments by VPN will delay the ability of VPN to frank dividends paid to its shareholders, including Spark Infrastructure.

Estimated Financial Impact to Spark Infrastructure

Spark Infrastructure considers the decision to be equally applicable to SA Power Networks.

As previously disclosed, Spark Infrastructure Holdings No.2 Pty Ltd (SIH No.2), as the parent shareholder of Spark Infrastructure's 49% interest in SA Power Networks and as head entity of the SIH No.2 tax consolidated group, estimated it would recover \$87 million of income tax in respect of the 31 December 2015 to 31 December 2019 income tax years if successful on both matters. Based on the Full Federal Court decision, Spark Infrastructure now estimates that, in respect of prior years, it is due a refund of primary tax of approximately \$40 million and a refund of interest of approximately \$5 million.

The exact amount of the refund and timing is dependent on the detailed calculations being prepared by SA Power Networks and discussions with the Australian Taxation Office to agree the final calculations and process the refund.

Effective tax rate

As the result of the Full Federal Court decision impacted only gifted assets, the financial impact is one of timing of taxable income only. Therefore, Spark Infrastructure does not anticipate any material change in the medium term to its effective tax rate as presented in its half year presentation pack.

Spark Infrastructure will keep the market updated on developments as they occur.

Further Information:

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