



Petroleum Resource Rent Tax Assessment Act 1987

No. 142, 1987

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About this compilation

This compilation

This is a compilation of the *Petroleum Resource Rent Tax Assessment Act 1987* that shows the text of the law as amended and in force on 1 April 2019 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act about petroleum resource rent tax, and for related purposes

Part I—Preliminary

1 Short title

This Act may be cited as the *Petroleum Resource Rent Tax Assessment Act 1987*.

1A Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* applies to all offences against this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Part II—Interpretation

2 Defined terms

In this Act, unless the contrary intention appears:

Aboriginal person has the meaning given by subsection 4(1) of the *Aboriginal and Torres Strait Islander Act 2005*.

access authority means:

- (a) a petroleum access authority within the meaning of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*;
or
- (b) an authority or right (however described) under another Australian law to carry on, in relation to petroleum, specified operations in a specified area (other than an authority or right that is an exploration permit, retention lease, production licence or infrastructure licence).

Note: The Resources Minister may determine that an authority or right is, or is not, an authority or right of a kind mentioned in this paragraph: see section 2AA.

accounts includes:

- (a) ledgers; and
- (b) journals; and
- (c) statements of financial performance; and
- (d) profit and loss accounts; and
- (e) balance-sheets; and
- (f) statements of financial position;

and also includes statements, reports and notes attached to, or intended to be read with, anything covered by any of the above paragraphs.

acquisition:

- (a) in clauses 18 and 19 of Schedule 2—has the meaning given by subclauses 18(7) and (8) of that Schedule; and

- (b) otherwise—has the meaning given by section 195-1 of the GST Act.

agent includes:

- (a) a person who, for and on behalf of a person out of Australia, has the management or control in Australia of the whole or a part of a business of the second-mentioned person; and
- (b) a person declared by the Commissioner, by notice in writing served on the person, to be an agent or the sole agent of a person for the purposes of this Act.

annual transfer has the meaning given by subsection 45E(4).

applicable commencement date, in relation to a petroleum project, means:

- (a) unless paragraph (b) or (c) applies—1 July 1986; or
- (b) if the project is the Bass Strait project, or if the Bass Strait project is a pre-combination project in relation to the project—1 July 1990; or
- (c) if the project is an onshore petroleum project or the North West Shelf project, or if an onshore petroleum project is a pre-combination project in relation to the project—1 July 2012.

applicable foreign currency has the meaning given by section 58C.

apportionment percentage figure has the meaning given by subsection 2C(2).

approved form has the meaning given by section 388-50 in Schedule 1 to the *Taxation Administration Act 1953*.

Note: Forms previously approved by the Commissioner under this Act continue in effect: see item 230 of Schedule 10 to the *Tax Laws Amendment (2004 Measures No. 7) Act 2005*.

assessment means the ascertainment of the amount of a person's taxable profit (or that a person has no taxable profit) in relation to a

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year of tax and a petroleum project, and of the tax payable on that amount (or that no tax is payable).

Note: Under clause 23 of Schedule 2, assessments may also be made for starting base purposes.

Australia, when used in a geographical sense, has the same meaning as in the *Income Tax Assessment Act 1997*.

Australian law has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

basic company group has the meaning given by section 2B.

Bass Strait exploration permit means the exploration permit known as VIC/P1.

Bass Strait project means the petroleum project referred to in subsection 19(1A).

block means:

- (a) in relation to an offshore area—a block within the meaning of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*; or
- (b) in relation to an onshore area—an area (however described) referred to in another Australian law relating to exploration for, or recovery of, petroleum.

combined project means a petroleum project to which subsection 19(2) applies.

Commissioner means the Commissioner of Taxation.

company means a body corporate that has a share capital.

condensate means a mixture that includes pentane and hexane, where the pentane and hexane comprise more than 50% by weight of the mixture.

consolidated group has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

created, in relation to a consolidated group or a MEC group, has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

creditable purpose has the meaning given by section 195-1 of the GST Act.

current apportionment percentage has the meaning given by subsection 2C(1).

decreasing adjustment has the meaning given by section 195-1 of the GST Act.

Deputy Commissioner means a Deputy Commissioner of Taxation.

designated company group has the meaning given by section 2BA.

designated frontier area means that block or those blocks that constitute both:

- (a) an area or part of an area:
 - (i) specified in section 36A; or
 - (ii) specified in an instrument made under subsection 36B(1); and
- (b) an exploration permit area.

designated frontier expenditure, in relation to a petroleum project and a financial year, means exploration expenditure that is actually incurred:

- (a) by a person in that year where the eligible exploration or recovery area in relation to the project is a designated frontier area; and
- (b) during the original period of the exploration permit concerned (before the permit is first renewed or ceases to be in force);

other than exploration expenditure that is incurred in evaluating or delineating a petroleum pool (within the meaning of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*) that has been discovered in a designated frontier area.

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eligible real expenditure means exploration expenditure, general project expenditure, resource tax expenditure, acquired exploration expenditure, starting base expenditure or closing-down expenditure.

employee amenities means housing, health, educational, recreational, welfare or other similar facilities and services for, or facilities and services involved in the supply of meals to, employees or dependants of employees, not being facilities and services conducted for the purpose of profit-making.

excess closing-down expenditure has the meaning given by paragraph 46(1)(a).

excluded commodity means a marketable petroleum commodity that:

- (a) has been sold;
- (b) after being produced, has been further processed or treated;
- (c) has been moved away from the place of its production other than to a storage site adjacent to that place; or
- (d) has been moved away from a storage site adjacent to the place of its production.

excluded fee means:

- (a) an amount of a kind referred to in paragraph 113(1)(c), subsection 115(5), paragraph 118(1)(c), subsection 178(4) or paragraph 181(1)(c) of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*; or
- (b) a similar amount payable, under another Australian law, in relation to the grant of an exploration permit, retention lease or production licence.

exploration permit means:

- (a) a petroleum exploration permit within the meaning of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*; or
- (b) an authority or right (however described) under another Australian law:

- (i) to explore for petroleum in an area; or
 - (ii) to recover petroleum on an appraisal basis in that area;
or
 - (iii) to carry on such operations, and execute such works, in the area as are necessary for those purposes;
- that is not an authority or right to recover petroleum other than on an appraisal basis.

Note: An authority or right may not be covered by this paragraph because it is the subject of a determination of the Resources Minister under section 2AA, or because the activities relating to petroleum are only incidental to the activities relating to other resources (see section 2AC).

exploration permit area means:

- (a) a petroleum exploration permit area within the meaning of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*; or
- (b) the area covered by an authority or right mentioned in paragraph (b) of the definition of ***exploration permit***.

external petroleum, in relation to a petroleum project, means petroleum, or constituents of petroleum, recovered from an area or areas other than the production licence area or production licence areas in relation to the project.

facilities means land, buildings, plant, equipment and other facilities.

financial year means any financial year that commenced or commences on or after 1 July 1979.

foreign currency means a currency other than Australian currency.

future closing-down expenditure has the meaning given by section 2D.

GDP factor, in relation to a financial year, means the GDP factor for the financial year worked out in accordance with section 2A.

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general interest charge means the charge worked out under Part IIA of the *Taxation Administration Act 1953*.

Greater Sunrise project means a petroleum project for the recovery of petroleum from one or more of the Greater Sunrise unit reservoirs.

Greater Sunrise unit area has the same meaning as in the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

Greater Sunrise unit reservoirs has the same meaning as in the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

group company has the meaning given by section 2B.

GST has the meaning given by section 195-1 of the GST Act.

GST Act means the *A New Tax System (Goods and Services Tax) Act 1999*.

head company:

- (a) of a designated company group—has the meaning given by section 2BA; and
- (b) of a consolidated group or a MEC group—has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

holder of a registered interest, in relation to a production licence, means a person holding an interest in the production licence, being an interest created by a dealing in relation to which:

- (a) an entry has been made under subsection 494(3) of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*;
or
- (b) an entry has been made in a register mentioned in paragraph (b) of the definition of **registered holder**.

increasing adjustment has the meaning given by section 195-1 of the GST Act.

ineligible project, in relation to a financial year, means a petroleum project that is a pre-combination project by virtue of the issue of a project combination certificate during the financial year.

infrastructure licence means:

- (a) an infrastructure licence within the meaning of section 7 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*; or
- (b) an authority or right (however described) under another Australian law to construct and operate facilities in a specified area for engaging in any of the following activities (other than an authority or right that is an exploration permit, retention lease, production licence or pipeline licence):
 - (i) remote control of facilities, structures or installations used to recover petroleum in a production licence area;
 - (ii) processing petroleum recovered in any place, including converting petroleum into another form by physical or chemical means, or both, and partial processing of petroleum;
 - (iii) storing petroleum before it is transported to another place;
 - (iv) preparing petroleum for transport to another place (for example, pumping or compressing);
 - (v) activities related to any of the above.

Note: The Resources Minister may determine that an authority or right is, or is not, an authority or right of a kind mentioned in this paragraph: see section 2AA.

input tax credit has the meaning given by section 195-1 of the GST Act.

instalment of tax means an instalment of tax payable under Division 2 of Part VIII.

instalment percentage, in relation to an instalment period in a year of tax, means:

- (a) in the case of the first instalment period in the year of tax—
25%;

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- (b) in the case of the second instalment period in the year of tax—50%; and
- (c) in the case of the third instalment period in the year of tax—75%.

instalment period, in relation to an instalment of tax in a year of tax, means the period commencing at the beginning of the year of tax and ending at the end of the month preceding that in which the instalment is due and payable.

instalment transfer has the meaning given by subsection 45E(5).

instalment transfer charge period has the meaning given by subsection 98A(4).

instalment transfer excess has the meaning given by subsection 98A(1).

instalment transfer interest charge has the meaning given by subsection 98A(4).

internal petroleum, in relation to a petroleum project, means petroleum, or constituents of petroleum, recovered from the production licence area or production licence areas in relation to the project, where:

- (a) the petroleum, or the constituents of petroleum, is, or is to be, recovered or processed:
 - (i) by a person entitled to derive assessable receipts in relation to the project; and
 - (ii) for or on behalf of another person who is entitled to derive assessable receipts in relation to the project; or
- (b) the petroleum, or the constituents of petroleum, is, or is to be, sold:
 - (i) by a person entitled to derive assessable receipts in relation to the project; and
 - (ii) to another person who is entitled to derive assessable receipts in relation to the project.

lease derived production licence means a production licence that is derived from a retention lease.

liable person has the meaning given by subsection 98A(1).

licensed property, in relation to a petroleum project, has the meaning given by paragraph 2D(1)(b).

liquefied petroleum gas means a mixture that includes propane and butane, where the propane and butane comprise more than 50% by weight of the mixture.

long-term bond rate means:

- (a) in relation to the financial year commencing on 1 July 1979—0.1066; and
- (b) in relation to the financial year commencing on 1 July 1980—0.1258; and
- (c) in relation to the financial year commencing on 1 July 1981—0.1548; and
- (d) in relation to the financial year commencing on 1 July 1982—0.1443; and
- (e) in relation to the financial year commencing on 1 July 1983—0.1272; and
- (f) in relation to the financial year commencing on 1 July 1984—0.1341; and
- (g) in relation to the financial year commencing on 1 July 1985—0.1365; and
- (h) in relation to any subsequent financial year that is earlier than the financial year commencing on 1 July 2012—the average, expressed as a decimal fraction, of the assessed secondary market yields in respect of 10-year non-rebate Treasury bonds published by the Reserve Bank during that year or, if no assessed secondary market yield in respect of bonds of that kind was published by the Reserve Bank during the year, the decimal fraction determined by the Treasurer by notice in writing published in the *Gazette* for the purposes of this definition in relation to the financial year; and

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- (i) in relation to the financial year commencing on 1 July 2012 and any subsequent financial year—has the same meaning as in subsection 995-1(1) of the *Income Tax Assessment Act 1997*; and
- (j) in relation to a period that is not a financial year—has the same meaning as in subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

marketable petroleum commodity has the meaning given by section 2E.

market value, of a commodity, at a particular time, is its market value reduced by an amount equal to the amount of the input tax credit (if any) to which a person would be entitled if:

- (a) the person had acquired the commodity at that time; and
- (b) the acquisition had been solely for a creditable purpose.

MEC group has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

member:

- (a) in relation to a consolidated group—has the meaning given by section 703-15 of the *Income Tax Assessment Act 1997*; and
- (b) in relation to a MEC group—has the meaning given by section 719-25 of that Act.

North West Shelf exploration permits means the exploration permits known as WA-1-P and WA-28-P.

North West Shelf project means the petroleum project referred to in subsection 19(1B).

notional tax amount has the meaning given by section 97.

offence against this Act includes an offence against:

- (a) the *Crimes Act 1914*; or
 - (b) the *Taxation Administration Act 1953*;
- relating to this Act.

officer means a person appointed or engaged under the *Public Service Act 1999*.

oil shale means any shale or other rock (other than coal) from which a fluid consisting of or including hydrocarbons may be extracted or produced.

onshore area, in relation to a State or Territory, means the area of the State or Territory that is not part of that State's or Territory's offshore area within the meaning of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* and is not within the Joint Petroleum Development Area within the meaning of that Act.

onshore petroleum project means a petroleum project for which:

- (a) no part of the production licence area is a petroleum production licence area within the meaning of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*; and
- (b) no part of the production licence area is an area within the Joint Petroleum Development Area within the meaning of that Act.

overall company group has the meaning given by section 2B.

permit derived production licence means a production licence that is derived from an exploration permit.

petroleum means:

- (a) petroleum within the meaning of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*; or
- (b) oil shale.

petroleum project or **project** means a petroleum project within the meaning of subsection 19(1) or (2), and includes the extended meaning given by subsection 19(2B) or (2C).

pipeline licence means:

- (a) a pipeline licence within the meaning of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*; or

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- (b) an authority or right (however described) under another Australian law:
 - (i) to construct a pipeline in a specified area in accordance with any specified conditions; and
 - (ii) to construct in that area specified pumping stations, tank stations and valve stations at specified positions; and
 - (iii) to operate that pipeline and those pumping stations, tank stations and valve stations; and
 - (iv) to carry on such operations, to execute such works and to do all such other things in that area as are necessary for, or incidental to, the construction or operation of that pipeline and those pumping stations, tank stations and valve stations.

Note: The Resources Minister may determine that an authority or right is, or is not, an authority or right of a kind mentioned in this paragraph: see section 2AA.

post-30 June 2008 petroleum project means a petroleum project, where the production licence, or each production licence, in relation to the project came into force after 30 June 2008, and includes an onshore petroleum project and the North-West shelf project.

pre-1 July 2008 petroleum project means a petroleum project other than a post-30 June 2008 petroleum project.

pre-combination project, in relation to a combined project, means:

- (a) any petroleum project that, immediately before the project combination certificate that gave rise to the combined project came into force, was a petroleum project in relation to any one or more of the production licences specified in the certificate; and
- (b) any petroleum project that is a pre-combination project in relation to another petroleum project that is a pre-combination project in relation to the combined project under paragraph (a) or this paragraph.

pre-licence area, in relation to a production licence, means:

- (a) if the production licence was derived from an exploration permit—the exploration permit area of the exploration permit; or
- (b) if the production licence was derived from a retention lease—either:
 - (i) the retention lease area of the retention lease; or
 - (ii) the exploration permit area of the exploration permit to which the retention lease is related.

processing of external petroleum, in relation to a petroleum project, includes the stabilisation, transportation, storage or recovery of external petroleum in relation to the project.

processing of internal petroleum, in relation to a petroleum project, includes the stabilisation, transportation, storage or recovery of internal petroleum in relation to the project.

production licence means:

- (a) a petroleum production licence within the meaning of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*; or
- (b) a lawful authority or right (however described) to undertake activities in the Western Greater Sunrise area for the recovery of petroleum from one or more of the Greater Sunrise unit reservoirs; or
- (c) an authority or right (however described) under another Australian law to undertake activities for the recovery of petroleum from an area (other than an authority or right that is an exploration permit or a retention lease).

Note: An authority or right may not be covered by this paragraph because it is the subject of a determination of the Resources Minister under section 2AA, or because it is limited to the incidental recovery of coal seam gas (see section 2AB).

production licence area means the following:

- (a) a petroleum production licence area within the meaning of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*;

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(b) the area covered by an authority or right mentioned in paragraph (c) of the definition of *production licence*; and, in relation to the Greater Sunrise project, includes the Western Greater Sunrise area.

production licence notice, in relation to a petroleum project, means:

- (a) a notice issued under subsection 258(7) of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* in relation to the project; or
- (b) a notice issued by a State or Territory authority that specifies the day that sufficient information has been provided to determine the application for the production licence in relation to the project.

project combination certificate means a certificate under section 20.

provisional head company of a MEC group has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

registered holder means:

- (a) in relation to a title under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*—the registered holder within the meaning of that Act; and
- (b) in relation to an authority or right (however described) under another Australian law—the person whose name is shown in the register (however described) kept under the relevant Australian law concerned.

re-inject, in relation to a marketable petroleum commodity produced from petroleum recovered from the eligible exploration or recovery area in relation to a petroleum project, means return the commodity to a natural reservoir in:

- (a) where the return takes place before any production licence in relation to the project comes into force—any area from which the recovery of petroleum would, at the time of the return, constitute recovery of petroleum from the eligible exploration or recovery area in relation to the project; and

- (b) in any other case—the production licence area or any of the production licence areas in relation to the project.

related charge means:

- (a) shortfall interest charge, or general interest charge, in relation to tax; or
- (b) instalment transfer interest charge in relation to an instalment of tax.

Resources Department means the Department that:

- (a) deals with matters arising under section 1 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*; and
- (b) is administered by the Resources Minister.

Resources Minister means the Minister administering section 1 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

retention lease means:

- (a) a petroleum retention lease within the meaning of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*; or
- (b) an authority or right (however described) under another Australian law:
- (i) to explore for petroleum in an area; or
 - (ii) to recover petroleum on an appraisal basis in that area; or
 - (iii) to carry on such operations, and execute such works, in the area as are necessary for those purposes;
- that is not an authority or right to recover petroleum other than on an appraisal basis, and that is granted on the basis that the area contains petroleum and that recovery of that petroleum is likely to become commercially viable in the future.

Note: An authority or right may not be covered by this paragraph because it is the subject of a determination of the Resources Minister under section 2AA, or because the activities relating to petroleum are only incidental to the activities relating to other resources (see section 2AC).

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retention lease area means:

- (a) a petroleum retention lease area within the meaning of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*; or
- (b) the area covered by an authority or right mentioned in paragraph (b) of the definition of **retention lease**.

sales gas means a substance:

- (a) which is in a gaseous state when at the temperature of 15°C and a pressure of one atmosphere; and
- (b) which consists of naturally occurring hydrocarbons, or a naturally occurring mixture of hydrocarbons and non-hydrocarbons; and
- (c) the principal constituent of which is methane; and
- (d) which:
 - (i) if it is to be used as a feedstock for conversion to another product—has been processed so that it is suitable for that use; or
 - (ii) in any other case—has been processed so that it is suitable for direct consumption as energy.

Second Commissioner means a Second Commissioner of Taxation.

services means water, light, power, access, communications or other services.

shortfall interest charge means the charge worked out under Division 280 in Schedule 1 to the *Taxation Administration Act 1953*.

starting base amount has the meaning given by Division 1 of Part 3 of Schedule 2.

starting base asset has the meaning given by clause 10 of Schedule 2.

subsidiary has the meaning given by section 2B.

subsidiary member has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

tax means tax imposed by any of the following:

- (a) the *Petroleum Resource Rent Tax (Imposition—General) Act 2012*;
- (b) the *Petroleum Resource Rent Tax (Imposition—Customs) Act 2012*;
- (c) the *Petroleum Resource Rent Tax (Imposition—Excise) Act 2012*.

this Act includes:

- (a) the regulations; and
- (b) Part IVC of the *Taxation Administration Act 1953*, insofar as that Part relates to this Act.

Torres Strait Islander has the meaning given by subsection 4(1) of the *Aboriginal and Torres Strait Islander Act 2005*.

transferable exploration expenditure in relation to a person and a financial year, means expenditure that is, according to Schedule 1, transferable by the person in relation to the financial year.

Note 1: the following provisions of Schedule 1 provide for expenditure to be transferable:

- paragraph 7(b)
- paragraph 8(5)(c)
- paragraph 11(b)
- paragraph 12(4)(c)
- subclause 18(1)
- subclause 18(2)
- paragraph 18(3)(e).

Note 2: Special rules apply in relation to the transfer of Greater Sunrise exploration expenditure: see Part 1A of Schedule 1.

Tribunal means the Administrative Appeals Tribunal.

trustee includes:

Section 2

- (a) a person appointed or constituted trustee by act of parties, by order or declaration of a court, or by operation of law; or
- (b) an executor, administrator or other personal representative of a deceased person; or
- (c) a guardian or committee; or
- (d) a receiver or receiver and manager; or
- (e) a liquidator of a company; or
- (ea) an administrator, within the meaning of the *Corporations Act 2001*, of a company; or
- (eb) an administrator of a deed of company arrangement executed by a company under Part 5.3A of that Act; or
- (f) a person:
 - (i) having or taking upon himself or herself the administration or control of any real or personal property affected by any express or implied trust;
 - (ii) acting in any fiduciary capacity; or
 - (iii) having the possession, control or management of any real or personal property of a person under any legal or other disability.

unincorporated association does not include a joint venture.

uplifted frontier expenditure has the meaning given by section 36C.

value, of a starting base asset, means:

- (a) if, under Part 2 of Schedule 2, the book value approach is the valuation approach for the interest, in a petroleum project, to which the asset relates—the book value of the asset, worked out under Division 3 of Part 3 of that Schedule; or
- (b) if, under Part 2 of Schedule 2, the market value approach is the valuation approach for the interest, in a petroleum project, to which the asset relates—the market value of the asset, worked out under Division 3 of Part 3 of that Schedule.

Western Greater Sunrise area has the same meaning as in the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

year of tax, in relation to a person in relation to a petroleum project, means a financial year commencing on or after the applicable commencement date, being:

- (a) except in a case to which paragraph (b) applies—the first financial year in which assessable petroleum receipts are derived by the person in relation to the project or a subsequent financial year; or
- (b) if the project is a combined project and the person has, in a financial year before the financial year in which the project combination certificate in relation to the project comes into force, derived assessable petroleum receipts in relation to any of the pre-combination projects in relation to the combined project—the financial year in which the project combination certificate comes into force or a subsequent financial year.

2AA Determinations relating to certain defined terms

- (1) An authority or right under an Australian law is taken, for the purposes of this Act, to be an authority or right mentioned in one of the paragraphs to which this section applies if the Resources Minister determines, by legislative instrument, that it is an authority or right of that kind.
- (2) An authority or right under an Australian law is taken, for the purposes of this Act, not to be an authority or right mentioned in one of the paragraphs to which this section applies if the Resources Minister determines, by legislative instrument, that it is not an authority or right of that kind.
- (3) This section applies to the following paragraphs in section 2:
 - (a) paragraph (b) of the definition of ***access authority***;
 - (b) paragraph (b) of the definition of ***exploration permit***;
 - (c) paragraph (b) of the definition of ***infrastructure licence***;
 - (d) paragraph (b) of the definition of ***pipeline licence***;
 - (e) paragraph (c) of the definition of ***production licence***;
 - (f) paragraph (b) of the definition of ***retention lease***.

Section 2AB

2AB Exclusion of incidental recovery of coal seam gas

- (1) An authority or right under an Australian law is taken, for the purposes of this Act (other than this section), not to be an authority or right mentioned in paragraph (c) of the definition of *production licence* in section 2 if the only recovery of petroleum that is undertaken under the authority or right is recovery of coal seam gas, being recovery that:
 - (a) is a necessary result of coal mining that the holder of the authority or right carries out under the authority or right; or
 - (b) is necessary to ensure a safe working environment for coal mining carried out under the authority or right; or
 - (c) is necessary to minimise the fugitive emission of methane or similar gases during the course of coal mining carried out under the authority or right.
- (2) This section does not apply to an authority or right that is the subject of a determination under subsection 2AA(1).

2AC Exclusion of incidental exploration etc. for petroleum

An authority or right under an Australian law is taken, for the purposes of this Act (other than this section), not to be:

- (a) an authority or right mentioned in paragraph (b) of the definition of *exploration permit* in section 2; or
- (b) an authority or right mentioned in paragraph (b) of the definition of *retention lease* in that section;

if, to the extent that the authority or right permits activities of a kind mentioned in a subparagraph of that paragraph, it only permits them as an incident of exploration for resources other than petroleum.

2A GDP factor

- (1) For the purposes of this Act, the GDP factor for a financial year is the number (calculated to 3 decimal places) worked out by dividing the GDP deflator for the financial year by the GDP deflator for the immediately preceding financial year.

- (2) For the purposes of subsection (1), the GDP deflator for a financial year is the Implicit Price Deflator for Expenditure on Gross Domestic Product first published by the Australian Statistician in respect of the financial year.
- (3) If the Australian Statistician changes the index reference period for the GDP deflator, then, for the purposes of the application of subsection (1) after the change takes place, regard must be had only to the GDP deflator in terms of the new index reference period.
- (4) Where the GDP factor worked out under subsection (1) for a financial year would, if it were calculated to 4 decimal places, end with a number greater than 4, the GDP factor worked out under that subsection for that financial year is taken to be the GDP factor calculated to 3 decimal places under that subsection and increased by 0.001.

2B Group companies, subsidiaries, basic company groups and overall company groups

Group company—period

- (1) For the purposes of this Act, a company is a group company in relation to another company and a period if:
 - (a) one of the companies was a subsidiary of the other company;
or
 - (b) each of the companies was a subsidiary of the same company;at all times during so much of the period during which both companies were in existence.

Group company—time

- (1A) For the purposes of this Act, a company is a **group company** in relation to another company at a particular time if, at that time:
 - (a) one of the companies was a subsidiary of the other company;
or

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- (b) each of the companies was a subsidiary of the same company.

Subsidiary

- (2) For the purposes of this Act, a company (in this subsection called the **subsidiary company**) is a **subsidiary** of another company (in this subsection called the **holding company**) at a particular time if, at that time:
 - (a) all the shares in the subsidiary company are beneficially owned by:
 - (i) the holding company; or
 - (ii) a company that is, or 2 or more companies each of which is, a subsidiary of the holding company; or
 - (iii) the holding company and a company that is, or 2 or more companies each of which is, a subsidiary of the holding company; and
 - (b) there is no agreement, arrangement or understanding in force under which any person is able, or would be able after that time, to affect rights of the holding company or of a subsidiary of the holding company in relation to the subsidiary company.
- (3) For the purposes of this Act, where a company is a subsidiary of another company (including a company that is such a subsidiary by virtue of another application or other applications of this subsection), every company that is a subsidiary of the first-mentioned company is also a subsidiary of the other company.
- (4) For the purposes of subsection (2), a person is taken to be able to affect rights of a company in relation to another company if the person has a right, power or option (whether because of any provision in the constituent document of either of those companies or because of any agreement or instrument or otherwise) to acquire those rights or do an act or thing that would prevent the first-mentioned company from exercising those rights for its own benefit or receiving any benefits occurring because of those rights.

Basic company group

- (4A) For the purposes of this Act, a **basic company group** is a group of companies, where each company in the group is a group company in relation to each other company in the group.

Overall company group

- (4B) For the purposes of this Act, an **overall company group** is a basic company group that is not a subset of any other basic company group.

When company in existence

- (5) For the purposes of this section, a company is taken to be in existence if it has been incorporated and has not been dissolved.

2BA Designated company groups

- (1) This section sets out the method for identifying a **designated company group** for the purposes of this Act.
- (2) First, identify a particular overall company group.
- (3) Second, identify all of the members of the overall company group that are entitled to derive assessable receipts in relation to a petroleum project (whether or not the same petroleum project). These members constitute a **provisional designated company group**.
- (4) Third, if the following conditions are satisfied in relation to a company (the **key company**):
- (a) the key company is a member of the provisional designated company group;
 - (b) the key company is not a subsidiary of any other company in the provisional designated company group;
 - (c) each other company in the provisional designated company group is a subsidiary of the key company;
- then:

Section 2BA

- (d) the provisional designated company group is a *designated company group*; and
 - (e) the key company is the *head company* of that designated company group.
- (5) Fourth, if:
- (a) subsection (4) does not apply; and
 - (b) each company in the provisional designated company group is a subsidiary of another company (the *key company*) that:
 - (i) is a member of the overall company group; and
 - (ii) is not a member of the provisional designated company group;
- then:
- (c) both:
 - (i) the key company; and
 - (ii) the members of the provisional designated company group;constitute a *designated company group*; and
 - (d) the key company is the *head company* of that designated company group.
- (6) Subsection (5) has effect subject to subsection (7).
- (7) If:
- (a) a designated company group is covered by subsection (5); and
 - (b) the head company of the designated company group is a subsidiary of another company (the *higher-tier company*); and
 - (c) the higher-tier company is a member of the overall company group; and
 - (d) the higher-tier company is not a member of the provisional designated company group;
- there is taken not to be a designated company group of which:
- (e) the higher-tier company is the head company; and

- (f) any member of the provisional designated company group is a member.

2C Greater Sunrise apportionments

- (1) For the purposes of this Act, **current apportionment percentage** means the percentage applying from time to time under the definition of **current apportionment percentage** in subsection 286(4) of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.
- (2) For the purposes of this Act, **apportionment percentage figure**, in relation to a year of tax, means:
- if the current apportionment percentage did not change during the year of tax—the numerator of the fraction with a denominator of 100 that represents the current apportionment percentage that applied during that year; or
 - if the current apportionment percentage changed during the year of tax—means the amount worked out using the following formula:

$$\frac{\left(\text{First \% figure} \times \text{Prior days} \right) + \left(\text{Second \% figure} \times \text{Subsequent days} \right)}{\text{Days in tax year}}$$

where:

days in tax year means the number of days in the year of tax.

first % figure, in relation to a year of tax in which the current apportionment percentage changed, means the numerator of the fraction with a denominator of 100 that represents the current apportionment percentage applying before the change.

prior days, in relation to a year of tax in which the current apportionment percentage changed, means the number of days in that year before the current apportionment percentage changed.

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second % figure, in relation to a year of tax in which the current apportionment percentage changed, means the numerator of the fraction with a denominator of 100 that represents the current apportionment percentage applying after the change.

subsequent days, in relation to a year of tax in which the current apportionment percentage changed, means the number of days in that year from and including the day on which the current apportionment percentage changed.

2D Future closing-down expenditure

- (1) A person has **future closing-down expenditure** in relation to a petroleum project if:
 - (a) the project terminates on the cessation of one or more production licences; and
 - (b) on that termination, an infrastructure licence comes into force, or continues in force, permitting the use of any part (the **licensed property**) of the operation, facilities and other things that comprised the project immediately before the termination; and
 - (c) but for the continued use of the licensed property (as permitted by the infrastructure licence) after that termination, the person would have incurred closing-down expenditure in relation to the project, with respect to the licensed property.
- (2) The amount of the person's future closing-down expenditure is worked out as follows:

$$\frac{\text{Future closing down costs}}{(1.02 + \text{Bond rate})^{\text{Years of operation}}}$$

where:

bond rate is the long-term bond rate in relation to the financial year during which the project terminates.

future closing-down costs is the payments (not being excluded expenditure), whether of a capital or revenue nature, that the person would expect:

- (a) the person; or
- (b) another person who becomes responsible for carrying on operations involved in closing down the licensed property; to be liable to make in carrying on operations involved in closing down the licensed property. It includes any environmental restoration as a consequence of closing down the licensed property.

years of operation is the number of years after the termination of the project over which the licensed property is expected to be used as permitted by the infrastructure licence.

- (3) For the purposes of the definition of **future closing-down costs** in subsection (2), if the person intends to make alterations or additions to the licensed property after the termination of the project, the payments referred to in that definition are to be disregarded to the extent that they relate to the alterations or additions.
- (4) In subsection (2):

year means a period of 12 months.

Example: On the termination of a petroleum project and the coming into force of an infrastructure licence, a person has future closing-down costs of \$1 million. The licensed property is expected to be used as permitted by the infrastructure licence for 10 years, and the bond rate in relation to the financial year in question is 5%.

The amount of the person's future closing-down expenditure is:

$$\frac{\$1,000,000}{(1.02 + 0.05)^{10}} = \$508,349$$

2E Marketable petroleum commodity

- (1) A **marketable petroleum commodity** is a product listed in subsection (2) that:

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- (a) is produced from petroleum for the purpose of:
 - (i) sale; or
 - (ii) use as a feedstock for conversion to another product (whether a product listed in subsection (2) or not); or
 - (iii) direct consumption as energy; and
 - (b) is in its final form for that purpose.
- (2) The products are as follows:
- (a) stabilised crude oil;
 - (b) sales gas;
 - (c) condensate;
 - (d) liquefied petroleum gas;
 - (e) ethane;
 - (ea) shale oil;
 - (f) any other product specified in regulations made for the purposes of this paragraph.
- (3) However, a product cannot be a **marketable petroleum commodity** if it has been produced wholly or partly from a product that was a marketable petroleum commodity.

3 Petroleum pools

- (1) Where, for the purposes of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*, petroleum recovered from a petroleum pool, within the meaning of that Act, is taken by Division 3 of Part 1.2 of that Act to have been recovered from a particular area or from particular areas in particular proportions, the petroleum shall be taken for the purposes of this Act to have been recovered from that area, or from those areas in those proportions, as the case may be.
- (2) If, for the purposes of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*, petroleum recovered from a part of the seabed is taken by subsection 54(1E) of that Act to have been recovered from a particular area or from particular areas in particular proportions, the petroleum is taken for the purposes of this Act to

have been recovered from that area, or from those areas in those proportions, as the case may be.

4 Relationship between licences, permits and leases etc.

- (1) For the purposes of this Act:
- (a) a production licence shall be taken to be related to an exploration permit if:
 - (i) because of the grant of the production licence, the exploration permit ceased to be in force in respect of the block or blocks in respect of which the production licence was granted; or
 - (ii) because of the grant of the production licence, a retention lease that was related to the exploration permit ceased to be in force in respect of the block or blocks in respect of which the production licence was granted;
 - (b) a retention lease shall be taken to be related to an exploration permit if, because of the grant of the retention lease, the exploration permit ceased to be in force in respect of the block or blocks in respect of which the retention lease was granted;
 - (c) a production licence shall be taken to be related to a retention lease if, because of the grant of the production licence, the retention lease ceased to be in force in respect of the block or blocks in respect of which the production licence was granted; and
 - (d) where an exploration permit, retention lease or production licence (which permit, lease or licence is in this paragraph referred to as the ***original authority***) is or was renewed, the renewed permit, lease or licence shall be taken to be a continuation of the original authority notwithstanding that the renewal may not have been granted in respect of all of the blocks in respect of which the original authority was granted.
- (2) For the purposes of this Act:
-

Section 4A

- (a) a production licence is derived from an exploration permit if the licence is related to the permit because of subparagraph (1)(a)(i); and
- (b) a production licence is derived from a retention lease if the licence is related to the lease.

4A Holding an interest—petroleum project

Petroleum projects generally

- (1) For the purposes of this Act, a person is taken to have held, at a particular time, an interest in, or in relation to, a petroleum project if the person was, at that time, entitled to receive receipts from the sale of petroleum, or of marketable petroleum commodities produced from petroleum, recovered from:
 - (a) if the time is a time after the production licence in relation to the project came into force—the production licence area in relation to the project; or
 - (b) if the time is a time before the production licence in relation to the project came into force—a pre-licence area in relation to the production licence.
- (2) However, subsection (1) does not apply if the project is a combined project, the Bass Strait project or the North West Shelf project.

Combined projects

- (3) For the purposes of this Act, a person is taken to have held, at a particular time, an interest in, or in relation to, a combined project if the person was, at that time, entitled to receive receipts from the sale of petroleum, or of marketable petroleum commodities produced from petroleum, recovered from:
 - (a) if the time is a time after the project combination certificate came into force—the production licence areas in relation to the project; or
 - (b) if the time is a time before the project combination certificate came into force:

- (i) any production licence areas in relation to pre-combination projects relating to the combined project; or
- (ii) any pre-licence areas in relation to any of those pre-combination projects.

The Bass Strait project and the North West Shelf project

- (4) For the purposes of this Act, a person is taken to have held, at a particular time, an interest in, or in relation to,:
- (a) the Bass Strait project; or
 - (b) the North West Shelf project;
- if the person was, at that time, entitled to receive receipts from the sale of petroleum, or of marketable petroleum commodities produced from petroleum, recovered from any of the production licence areas in relation to that project.

4B Holding an interest—exploration permit

For the purposes of this Act, a person is taken to have held an interest in, or in relation to, an exploration permit at a particular time if the person was, at that time, entitled to receive receipts from the sale of petroleum, or marketable petroleum commodities produced from petroleum, recovered from the exploration permit area.

4C Holding an interest—retention lease

For the purposes of this Act, a person is taken to have held an interest in, or in relation to, a retention lease at a particular time if the person was, at that time, entitled to receive receipts from the sale of petroleum, or marketable petroleum commodities produced from petroleum, recovered from:

- (a) if the time is a time after the retention lease was granted—the retention lease area; or
- (b) if the time is a time before the retention lease was granted—the exploration permit area of the exploration permit to which the retention lease is related.

Section 5

5 Petroleum exploration and recovery in relation to certain areas

Pre-1 July 2008 petroleum project

- (1) For the purposes of the application of this Act (including this section) to a pre-1 July 2008 petroleum project, a reference to exploration for petroleum in, or recovery of petroleum from, a production licence area, an exploration permit area or a retention lease area is a reference to exploration for petroleum in, or recovery of petroleum from, the production licence area, the exploration permit area or the retention lease area while the production licence, exploration permit or retention lease concerned is or was in force.
- (2) For the purposes of the application of this Act to a pre-1 July 2008 petroleum project, a reference to exploration for petroleum in, or recovery of petroleum from, the eligible exploration or recovery area in relation to a petroleum project is a reference to exploration for petroleum in, or recovery of petroleum from:
 - (a) where the production licence or any production licence in relation to the project is a permit derived production licence—the exploration permit area in relation to the exploration permit to which the production licence is related (being exploration or recovery occurring either before or after the production licence came into force but not after marketable petroleum commodities cease, otherwise than temporarily, to be produced in relation to the project);
 - (b) where the production licence or any production licence in relation to the project is a lease derived production licence—the retention lease area in relation to the retention lease to which the production licence is related (being exploration or recovery occurring either before or after the production licence came into force but not after marketable petroleum commodities cease, otherwise than temporarily, to be produced in relation to the project); and
 - (c) the production licence area of the production licence, or the production licence areas of the production licences, in respect of the project.

- (3) For the purposes of subsections (1) and (2), where, at a time when no permit derived production licence in relation to an exploration permit is in force, a retention lease that is related to the exploration permit comes into force, any exploration for, or recovery of, petroleum that occurred while the exploration permit was in force in the block or blocks in respect of which the retention lease was granted and during the period:
- (a) where paragraph (b) does not apply—before the retention lease came into force; or
 - (b) where, before the retention lease came into force, a permit derived production licence, or permit derived production licences, in relation to the exploration permit were in force—after that production licence or all of those production licences, as the case may be, ceased to be in force and before the retention lease came into force;
- shall be taken to have occurred in the retention lease area and not in the exploration permit area notwithstanding that the retention lease was not in force at that time.
- (4) For the purposes of subsection (2), where, but for this subsection, the same exploration for petroleum or recovery of petroleum would be exploration for petroleum in, or recovery of petroleum from, the exploration permit area or the retention lease area in relation to 2 or more production licences, the exploration or recovery shall be taken to relate only to the production licence that first came into force.

Post-30 June 2008 petroleum project

- (5) For the purposes of the application of this Act (including this section) to a post-30 June 2008 petroleum project, a reference to exploration for petroleum in, or recovery of petroleum from, a production licence area, an exploration permit area or a retention lease area is a reference to exploration for petroleum in, or recovery of petroleum from, the production licence area, the exploration permit area or the retention lease area while the production licence, exploration permit or retention lease concerned is or was in force.

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- (6) For the purposes of the application of this Act to a post-30 June 2008 petroleum project, a reference to exploration for petroleum in, or recovery of petroleum from, the eligible exploration or recovery area in relation to a petroleum project is a reference to:
- (a) if the production licence, or any production licence, in relation to the project is a production licence (in this paragraph called the **current production licence**) derived from an exploration permit (in this paragraph called the **prior exploration permit**)—exploration for petroleum in, or recovery of petroleum from, the exploration permit area of the prior exploration permit, where the exploration or recovery occurred:
 - (i) before the current production licence came into force; and
 - (ii) if, before the current production licence came into force, there came into force one or more retention leases, or one or more other production licences, derived from the prior exploration permit—after whichever of those retention leases or other production licences last came into force before the current production licence came into force; and
 - (b) if the production licence, or any production licence, in relation to the project is a production licence (in this paragraph called the **current production licence**) derived from a retention lease (in this paragraph called the **prior retention lease**)—exploration for petroleum in, or recovery of petroleum from, the retention lease area of the prior retention lease, where the exploration or recovery occurred before the current production licence came into force; and
 - (c) if:
 - (i) the production licence, or any production licence, in relation to the project is a production licence (in this paragraph called the **current production licence**) derived from a retention lease (in this paragraph called the **prior retention lease**); and

- (ii) the prior retention lease was derived from an exploration permit (in this paragraph called the *prior exploration permit*);
exploration for petroleum in, or recovery of petroleum from, the exploration permit area of the prior exploration permit, where the exploration or recovery occurred:
 - (iii) before the prior retention lease came into force; and
 - (iv) if, before the prior retention lease came into force, there came into force one or more other production licences, or one or more other retention leases, derived from the prior exploration permit—after whichever of those other retention leases or other production licences last came into force before the prior retention lease came into force; and
 - (d) exploration for petroleum in, or recovery of petroleum from, the production licence area of the production licence, or the production licence areas of the production licences, in respect of the project.
- (7) If:
- (a) paragraph (6)(c) applies to a post-30 June 2008 petroleum project; and
 - (b) the prior retention lease mentioned in that paragraph is one of a set of 2 or more retention leases that:
 - (i) came into force at the same time; and
 - (ii) were derived from the prior exploration permit mentioned in that paragraph; and
 - (c) the production licence, or the production licences, in relation to one or more other post-30 June 2008 petroleum projects were derived from one or more of the retention leases included in the set mentioned in paragraph (b) of this subsection; and
 - (d) exploration expenditure incurred in relation to the petroleum project mentioned in paragraph (a) of this subsection is attributable to exploration for petroleum in, or recovery of petroleum from, the exploration permit area of the prior exploration permit;

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then, for the purposes of the application of this Act to the petroleum project mentioned in paragraph (a) of this subsection, the amount of the exploration expenditure mentioned in paragraph (d) of this subsection is taken to be the amount worked out using the following formula:

$$\text{Unadjusted amount of exploration expenditure} \times \frac{\text{Number of retention leases relating to the petroleum project mentioned in paragraph (a) of this subsection}}{\text{Total number of retention leases}}$$

where:

number of retention leases relating to the petroleum project mentioned in paragraph (a) of this subsection means the number of retention leases:

- (a) from which the production licence, or the production licences, in relation to the petroleum project mentioned in paragraph (a) of this subsection were derived; and
- (b) that are included in the set mentioned in paragraph (b) of this subsection.

total number of retention leases means the number of retention leases that are included in the set mentioned in paragraph (b) of this subsection.

unadjusted amount of exploration expenditure means the amount that, apart from this subsection, is the amount of the exploration expenditure mentioned in paragraph (d) of this subsection.

6 Termination of use of property in relation to a petroleum project

For the purposes of this Act:

- (a) a termination of the use of all property in relation to a petroleum project shall be taken to occur where the production licence or all of the production licences in relation to the project cease to be in force; and

- (b) no termination of the use of property in relation to a petroleum project shall be taken to occur by reason of the specifying of the production licence or production licences in relation to the project in a project combination certificate.

7 Property installed ready for use

Where property is installed ready for use for a purpose and held in reserve, the property shall, for the purposes of this Act, be taken to be being used for that purpose.

8 Consideration not in cash

For the purposes of this Act, where, upon any transaction, any consideration is liable to be given by way of the provision of property (other than money), the money value of that consideration shall be deemed to have been liable to be given.

9 Amounts credited, reinvested etc. to be taken to be receivable

An amount shall be taken to have been receivable by a person although it is not actually to be paid over to the person but is to be reinvested, accumulated, capitalised, carried to any reserve, sinking fund or insurance fund however designated, or otherwise dealt with on behalf of the person or as the person directs.

10 Translation of amounts into Australian currency

- (1) For the purposes of this Act, an amount in a foreign currency is to be translated into Australian currency.

Examples of an amount

- (2) The following are examples of an amount:
 - (a) an amount of an expense;
 - (b) an amount of an obligation;
 - (c) an amount of a liability;
 - (d) an amount of a receipt;

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- (e) an amount of a payment;
- (f) an amount of consideration;
- (g) a value.

Translation rule—assessable receipt

- (3) If:
- (a) a person derives an assessable receipt in relation to a petroleum project; and
 - (b) the receipt is in a foreign currency;
- the receipt is to be translated into Australian currency at the exchange rate applicable at the time when the receipt is derived.

Translation rule—eligible real expenditure

- (4) If:
- (a) a person incurs eligible real expenditure in relation to a petroleum project; and
 - (b) the expenditure is in a foreign currency;
- the expenditure is to be translated into Australian currency at the exchange rate applicable at the time when the expenditure is incurred.

Translation rule—transfer of entire entitlement to assessable receipts

- (5) If:
- (a) section 48 applies in relation to a transaction; and
 - (b) a person is a purchaser (within the meaning of section 48) in relation to the transaction; and
 - (c) the person is taken, under section 48, to have derived or incurred an amount; and
 - (d) the vendor (within the meaning of section 48) in relation to the transaction has made an election under section 58B (functional currency); and

- (e) the election is in effect for the year of tax in which the transfer time (within the meaning of section 48) occurred; and
- (f) the amount is in the vendor's applicable functional currency; the amount is to be translated from the applicable functional currency into Australian currency at the exchange rate applicable at the transfer time (within the meaning of section 48).

Translation rule—transfer of part of entitlement to assessable receipts

- (6) If:
 - (a) section 48A applies in relation to a transaction; and
 - (b) a person is a purchaser (within the meaning of section 48A) in relation to the transaction; and
 - (c) the person is taken, under section 48A, to have derived or incurred an amount; and
 - (d) the vendor (within the meaning of section 48A) in relation to the transaction has made an election under section 58B (functional currency); and
 - (e) the election is in effect for the year of tax in which the transfer time (within the meaning of section 48A) occurred; and
 - (f) the amount is in the vendor's applicable functional currency; the amount is to be translated from the applicable functional currency into Australian currency at the exchange rate applicable at the transfer time (within the meaning of section 48A).

Operation of functional currency provisions unaffected

- (7) This section does not affect the operation of Division 7 of Part V (functional currency).

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11 Residence

- (1) For the purposes of this Act, a person shall be taken to have been a non-resident at a particular time if the person was not a resident of Australia at that time.
- (2) For the purposes of this Act, a person shall be taken to have been a resident of Australia at a particular time if:
 - (a) in the case of a natural person:
 - (i) the person resided in Australia at that time; or
 - (ii) except in a case where the Commissioner is satisfied that that person's permanent place of residence at that time was outside Australia—the person was domiciled in Australia at that time;
 - (b) in the case of a body corporate:
 - (i) the body was incorporated in Australia at that time; or
 - (ii) at that time the body corporate carried on business in Australia and:
 - (A) had its central management and control in Australia; or
 - (B) had its voting power controlled by shareholders who were residents of Australia; or
 - (c) in the case of a partnership or an unincorporated association—any member of the partnership or association was a resident of Australia at that time by virtue of paragraph (a) or (b).

12 Partnerships

- (1) Subject to this section, this Act applies to a partnership as if the partnership were a person.
- (2) Where, but for this subsection, an obligation would be imposed on a partnership by virtue of the operation of subsection (1), the obligation is imposed on each partner, but may be discharged by any of the partners.

- (3) Where, by virtue of the operation of subsection (1), an amount is payable under this Act by a partnership, the partners are jointly and severally liable to pay that amount.
- (4) Where, by virtue of the operation of subsection (1), an offence against this Act is deemed to have been committed by a partnership, that offence shall be deemed to have been committed by each of the partners.
- (5) In a prosecution of a person for an offence by virtue of this section, it is a defence if the person proves that the person:
 - (a) did not aid, abet, counsel or procure the act or omission by virtue of which the offence is deemed to have been committed; and
 - (b) was not in any way, by act or omission, directly or indirectly, knowingly concerned in, or party to, the act or omission by virtue of which the offence is deemed to have been committed.
- (6) A reference in this section to this Act includes a reference to Part III of the *Taxation Administration Act 1953* to the extent to which that Part of that Act relates to this Act.

13 Unincorporated associations

- (1) Subject to this section, this Act applies to an unincorporated association as if the association were a person.
- (2) Where, but for this subsection, an obligation would be imposed on an unincorporated association by virtue of the operation of subsection (1), the obligation is imposed on each member of the committee of management of the association, but may be discharged by any of those members.
- (3) Where, by virtue of the operation of subsection (1), an offence against this Act is deemed to have been committed by an unincorporated association, that offence shall be deemed to have been committed by each member of the committee of management of the association.

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- (4) In a prosecution of a person for an offence by virtue of this section, it is a defence if the person proves that the person:
- (a) did not aid, abet, counsel or procure the act or omission by virtue of which the offence is deemed to have been committed; and
 - (b) was not in any way, by act or omission, directly or indirectly, knowingly concerned in, or party to, the act or omission by virtue of which the offence is deemed to have been committed.
- (5) A reference in this section to this Act includes a reference to Part III of the *Taxation Administration Act 1953* to the extent to which that Part of that Act relates to this Act.

14 Application of Act

- (1) This Act extends to every external Territory and, except so far as the contrary intention appears, to acts, omissions, matters and things outside Australia, whether or not in a foreign country.
- (2) Except where otherwise expressly provided, this Act extends to matters and things whether occurring before or after the commencement of this Act.
- (3) In subsection (1), a reference to this Act includes a reference to the *Taxation Administration Act 1953* to the extent to which that Act relates to this Act.

Part III—Administration

15 General administration of Act

The Commissioner has the general administration of this Act.

Note: An effect of this provision is that people who acquire information under this Act are subject to the confidentiality obligations and exceptions in Division 355 in Schedule 1 to the *Taxation Administration Act 1953*.

16 Annual report

- (1) The Commissioner shall, as soon as practicable after 30 June in each year, prepare and furnish to the Minister a report on the working of this Act, including any breaches or evasions of this Act of which the Commissioner has notice.
- (2) The Minister shall cause a copy of a report furnished under subsection (1) to be laid before each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.
- (3) For the purposes of section 34C of the *Acts Interpretation Act 1901*, a report that is required by subsection (1) to be furnished as soon as practicable after 30 June in a year shall be taken to be a periodic report relating to the working of this Act during the year ending on that 30 June.

Part IV—Petroleum projects

19 Petroleum project

- (1) Subject to subsection (1A) and (1B), for the purposes of this Act, where a production licence is in force and is not specified in a project combination certificate that is in force, there shall be taken to be a petroleum project in relation to the production licence.
- (1A) For the purposes of this Act, there is taken to be a single petroleum project in relation to all production licences that are related to the Bass Strait exploration permit and that are in force from time to time, unless those licences are specified in a project combination certificate that is in force.
- (1B) For the purposes of this Act, there is taken to be a single petroleum project in relation to all production licences that are related to the North West Shelf exploration permits and that are in force from time to time.
- (2) For the purposes of this Act, where 2 or more production licences are specified in a project combination certificate that is in force, there shall be taken to be a petroleum project in relation to such of the production licences as are in force.
- (2A) If:
- (a) the production licences that are related to the Bass Strait exploration permit are specified in a project combination certificate; and
 - (b) another production licence that is related to the Bass Strait exploration permit comes into force at a time when the project combination certificate is in force;
- the certificate has effect after that time as if the production licence referred to in paragraph (b) were specified in the certificate.
- (2B) For the purposes of this Act, there shall be taken to be included, as part of any petroleum project within the meaning of subsection (1)

or (2), the carrying on of any processing of external petroleum wholly or partly using the operations, facilities and other things comprising the project:

- (a) in the case of a production licence referred to in subsection (1)—while that licence is in force; or
- (b) in the case of 2 or more production licences referred to in subsection (2)—while any of those licences are in force.

Note: Under subsection (4), the operations, facilities and other things comprising the project are limited to those used in relation to petroleum recovered from the one or more production licence areas in relation to the project.

(2C) For the purposes of this Act, there is taken to be included, as part of any petroleum project within the meaning of subsection (1) or (2), the carrying on of any processing of internal petroleum wholly or partly using the operations, facilities and other things comprising the project:

- (a) in the case of a production licence referred to in subsection (1)—while that licence is in force; or
- (b) in the case of 2 or more production licences referred to in subsection (2)—while any of those licences are in force.

(3) For the purposes of this Act, where any one or more, but not all, of the production licences specified in a project combination certificate that is in force ceases to be in force, the combined project shall be taken to continue to exist in relation to the production licence or production licences that remain in force.

(4) For the purposes of this Act, a reference to the operations, facilities and other things comprising a petroleum project is a reference to:

- (a) operations and facilities for the recovery of petroleum from the production licence area or production licence areas in relation to the project; and
- (b) such of the following as are carried on or provided:
 - (i) operations and facilities involved in moving petroleum so recovered between any storage or processing facilities prior to the production of any marketable petroleum commodity from the petroleum;

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- (ii) operations and facilities involved in the storage, processing or treatment of petroleum so recovered to produce any marketable petroleum commodity from the petroleum;
- (iii) operations and facilities involved in the moving or storage of any such marketable petroleum commodity before it becomes an excluded commodity;
- (iv) services, or facilities for the provision of services, in connection with the operations, facilities, amenities and services referred to in this section;
- (v) employee amenities in connection with the operations, facilities and services referred to in this section;
- (vi) operations and facilities, carried on or provided, for an environmental purpose, in relation to the carrying on or provision of the operations, facilities and services referred to in this section.

20 Combining of petroleum projects

- (1) Subject to this section, where within the qualifying period in relation to a production licence in relation to a petroleum project, the Resources Minister, whether on application, request or otherwise, having regard to:
 - (a) the respective operations, facilities and other things that comprise, have comprised or will comprise that project and any other petroleum project or projects existing at the time at which the production licence came into force; and
 - (b) the persons by whom or on whose behalf the operations, facilities and other things referred to in paragraph (a) are being, have been or are proposed to be carried on or provided; and
 - (c) to the extent (if any) that the projects are onshore petroleum projects—the respective operations, facilities and other things that are involved, have been involved or will be involved in any further processing or treating of any petroleum or marketable petroleum commodity produced in relation to the projects; and

- (d) to the extent (if any) that the projects are not onshore petroleum projects—the geological, geophysical and geochemical and other features of the production licence areas in relation to the projects;

considers that the projects are sufficiently related to be treated for the purposes of this Act as a single petroleum project, the Minister must issue a certificate under this subsection specifying the production licence or production licences in relation to each of the projects.

- (1A) Despite subsection (1), the Minister cannot specify, under that subsection:
- (a) a production licence relating to the North West Shelf project; or
 - (b) if one of the projects is not an onshore petroleum project—a production licence relating to:
 - (i) an onshore petroleum project existing on 30 June 2012; or
 - (ii) if a pre-combination project in relation to a combined project is such a project—the combined project.
- (2) For the purposes of subsection (1), the qualifying period in relation to an production licence is:
- (a) the period of 90 days after the latest of the following:
 - (i) the time the licence comes into force;
 - (ii) the commencement of this Act;
 - (iii) if the licence relates to an onshore petroleum project and was granted on or after 1 July 2012—the start of 1 January 2013;
 - (iv) if the licence relates to an onshore petroleum project and was granted before 1 July 2012—the start of 1 July 2013; or
 - (b) where, within the period referred to in paragraph (a), the Resources Minister receives any information, application or request relevant to the exercise of the powers of the Minister under subsection (1) in relation to the production licence, such longer period (if any) as is necessary to enable the

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Minister adequately to consider that information, application or request.

- (3) For the purposes of paragraph (1)(a):
- (a) a reference to operations, facilities and other things that have comprised a petroleum project includes, in the case of a combined project, a reference to operations, facilities and other things that have comprised the pre-combination projects in relation to the project; and
 - (b) a reference to operations, facilities and other things that will comprise a petroleum project is a reference to operations, facilities and other things that are proposed, by the registered holders of, and the holders of registered interests in, the production licence or licences in relation to the project, to comprise the project.
- (4) The Minister shall not accept or comply with any application or request (other than from an officer in the performance of his or her duties) for the issue of a certificate under subsection (1) in respect of petroleum projects unless the application or request is from a person who is, or from persons who together are, entitled to receive at least half of the receipts from the sale of petroleum or marketable petroleum commodities produced in relation to each of the projects.
- (5) A certificate under subsection (1) shall not be repealed, rescinded, revoked, amended or varied otherwise than:
- (a) under subsection (8);
 - (b) pursuant to a decision of the Tribunal or an order of a court; or
 - (c) to correct an error in the certificate.
- (6) A certificate under subsection (1) shall come into force on the issue of the certificate and continue in force until the issue of a subsequent certificate under that subsection specifying production licences that include such of the production licences specified in the first-mentioned certificate as are in force at the time when the subsequent certificate is issued.

- (7) Where, in deciding whether or not to issue a certificate under subsection (1) specifying 2 or more production licences, the Resources Minister has reasonable grounds to believe that an operation, facility or other thing is being, has been or is proposed to be carried on or provided, or is being, has been or is proposed to be carried on or provided in a particular manner or by particular persons, for the sole or dominant purpose of obtaining the issue of the certificate, the Minister must disregard the carrying on or provision of the operation, facility or thing.
- (8) Where, after the issue of a certificate under subsection (1), it appears to the Resources Minister that, having regard to information that was not available to the Minister at the time of issue of the certificate, the certificate would not, by reason of the application of subsection (7), have been issued if the Minister had been aware of the information at the time of issue of the certificate, the Minister must cancel the certificate and upon the cancellation the certificate shall be deemed never to have been issued.
- (9) The Minister must:
- (a) within 30 days after the issue of a certificate under subsection (1) or the cancellation under subsection (8) of such a certificate, arrange for notice in writing of the issue or cancellation:
 - (i) to be sent to the holder or holders of the production licences concerned and to the Commissioner; and
 - (ii) to be published in the *Gazette*; and
 - (b) within 30 days after making a decision to refuse an application or request for the issue of a certificate under subsection (1), arrange for notice in writing of the decision to be sent to the person or persons making the application or request.
- (10) A notice under subsection (9) shall include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Tribunal for review of the decision to issue or cancel the certificate, or to refuse the application or

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request, as the case may be, by or on behalf of the person or persons whose interests are affected by the decision.

- (11) Any failure to comply with the requirement of subsection (10) in relation to a decision does not affect the validity of the decision.
- (12) Application may be made to the Tribunal for a review of:
 - (a) a decision of the Resources Minister to issue a certificate under subsection (1); or
 - (b) a decision of the Minister refusing an application or request to issue such a certificate; or
 - (c) a decision of the Minister under subsection (8) to cancel such a certificate.

Part V—Liability to taxation

Division 1—Liability to tax on taxable profit

21 Liability to pay tax

Subject to this Act, tax imposed in respect of the taxable profit of a person of a year of tax in relation to a petroleum project is payable by the person.

22 Taxable profit

- (1) Where, in relation to a petroleum project and a year of tax, the assessable receipts derived by a person exceed the sum of:
 - (a) the deductible expenditure incurred by the person; and
 - (b) the total of the amounts (if any) transferred by the person to the project in relation to the year of tax under section 45A; and
 - (c) the total of the amounts (if any) transferred by another person to the person in relation to the project and the year of tax under section 45B;

the person is taken for the purposes of this Act to have a taxable profit in relation to the project and the year of tax of an amount equal to the excess.

Note: because of subsection 45D(2), some transfers of expenditure are taken to be transfers of amounts compounded in accordance with Part 7 of Schedule 1.

Allowing for Greater Sunrise apportionments

- (2) However, if the petroleum project is a Greater Sunrise project, the person is taken for the purposes of this Act to have a taxable profit in relation to the project and the year of tax of an amount worked out using the following formula:

Part V Liability to taxation

Division 1 Liability to tax on taxable profit

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$$\frac{\text{Initial taxable profit} \times \text{Apportionment percentage figure}}{100}$$

where:

apportionment percentage figure has the meaning given by subsection 2C(2).

initial taxable profit means the amount of taxable profit worked out under subsection (1) ignoring this subsection.

Division 2—Assessable receipts

22B Effect of GST etc. on assessable receipts

- (1) For the purposes of this Division, a reference to consideration receivable, to value receivable or to an amount receivable does not include an amount equal to:
 - (a) any GST payable on the supply for which the consideration, value or amount was receivable; or
 - (b) any increasing adjustments that relate to that supply.
- (2) For the purposes of this Division, a reference to the sale price of property does not include an amount equal to:
 - (a) any GST payable on the sale; or
 - (b) any increasing adjustments that relate to that sale.
- (3) For the purposes of this Division, a reference to expenses payable in relation to a sale does not include an amount equal to:
 - (a) any input tax credit to which you are entitled; or
 - (b) any decreasing adjustment that you have;in relation to those expenses.

23 Assessable receipts

- (1) For the purposes of this Act, but subject to subsections (2) and (3), a reference to the assessable receipts derived by a person in a financial year in relation to a petroleum project (not being an ineligible project in relation to the financial year) is a reference to the total receipts of the following kinds, whether of a capital or revenue nature, derived by the person in the financial year in relation to the project:
 - (a) assessable petroleum receipts;
 - (aa) assessable tolling receipts;
 - (b) assessable exploration recovery receipts;
 - (c) assessable property receipts;
 - (d) assessable miscellaneous compensation receipts;

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- (e) assessable employee amenities receipts;
 - (f) assessable incidental production receipts.
- (2) For the purposes of this Act, the assessable receipts derived by a person in a financial year in relation to a combined project (not being an ineligible project in relation to the financial year) shall include any amounts of a kind referred to in paragraphs (1)(a) to (f) (inclusive) derived by the person during the financial year in relation to the pre-combination projects in relation to the combined project.
- (3) For the purposes of this Act, assessable receipts, in relation to a Greater Sunrise project, are to be calculated as if each amount of the petroleum recovered from a Greater Sunrise unit reservoir became the property of the person who recovered that amount as soon as it was recovered.
- (4) Subsection (3) has effect despite subsection 286(2) of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

24 Assessable petroleum receipts

- (1) For the purposes of this Act, a reference to assessable petroleum receipts derived by a person in relation to a petroleum project is a reference to:
- (a) where any petroleum (other than project natural gas (within the meaning of the regulations) to which paragraph (f) applies) from the project is or was sold, whether processed or unprocessed, before any marketable petroleum commodity is or was produced from it—the consideration receivable, less any expenses payable, by the person in relation to the sale; and
 - (b) where any marketable petroleum commodity (other than sales gas to which paragraph (d) applies) produced from petroleum from the project becomes or became an excluded commodity by virtue of being sold—the consideration receivable, less any expenses payable, by the person in relation to the sale; and

- (c) where any marketable petroleum commodity (other than sales gas to which paragraph (e) applies) produced from petroleum from the project becomes or became an excluded commodity otherwise than by virtue of being:
- (i) sold; or
 - (ii) treated or processed, or moved, for re-injection or destruction or for use in carrying on or providing operations, facilities or other things of a kind referred to in section 37, 38 or 39 in relation to the petroleum project;
- so much of the market value of the commodity immediately before it becomes or became an excluded commodity, or, where there is insufficient evidence of that market value, of such amount as, in the opinion of the Commissioner, is fair and reasonable, as is taken by section 26 to be derived by the person; and
- (d) where:
- (i) any sales gas produced from petroleum from the project becomes or became an excluded commodity by virtue of being sold; and
 - (iii) the regulations apply to the sales gas;
- the amount worked out in accordance with the regulations; and
- (e) where the regulations apply to any sales gas produced from petroleum from the project, and that sales gas becomes or became an excluded commodity otherwise than by virtue of being:
- (i) sold; or
 - (ii) treated or processed, or moved, for re-injection or destruction or for use in carrying on or providing operations, facilities or other things of a kind referred to in section 37, 38 or 39 in relation to the petroleum project;
- the amount worked out in accordance with the regulations; and
- (f) where:
-

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- (i) any project natural gas (within the meaning of the regulations) recovered from the project is or has been sold; and
 - (ii) the regulations apply to the project natural gas; the amount worked out in accordance with the regulations.
- (2) In this section:

non-arm's length transaction means a transaction where the Commissioner, having regard to any connection between the parties to the transaction or to any other relevant circumstances, is satisfied that the parties to the transaction are not dealing with each other at arm's length in relation to the transaction.

petroleum from the project means any petroleum or a constituent of petroleum:

- (a) that is recovered from the production licence area or areas in relation to the petroleum project in question; or
- (b) that is external petroleum in relation to the project.

24A Assessable tolling receipts

For the purposes of this Act, a reference to assessable tolling receipts derived by a person in relation to a petroleum project is a reference to the consideration receivable by the person in relation to the processing of external petroleum, or internal petroleum, in relation to the project.

25 Assessable exploration recovery receipts

For the purposes of this Act, a reference to assessable exploration recovery receipts derived by a person in relation to a petroleum project is a reference to:

- (a) where any petroleum, or a constituent of petroleum, recovered from the eligible exploration or recovery area (other than any production licence area) in relation to the project is or was sold, whether processed or unprocessed, before any marketable petroleum commodity is or was

- produced from it—the consideration receivable, less any expenses payable, by the person in relation to the sale;
- (b) where any marketable petroleum commodity produced from petroleum recovered from the area to which paragraph (a) applies becomes or became an excluded commodity by virtue of being sold—the consideration receivable, less any expenses payable, by the person in relation to the sale; and
- (c) where any marketable petroleum commodity produced from petroleum recovered from the area to which paragraph (a) applies becomes or became an excluded commodity otherwise than by virtue of being:
- (i) sold; or
 - (ii) treated or processed, or moved, for re-injection or destruction or for use in carrying on or providing operations, facilities or other things of a kind referred to in section 37, 38 or 39 in relation to the petroleum project;
- so much of the market value of the commodity immediately before it becomes or became an excluded commodity, or, where there is insufficient evidence of that market value, of such amount as, in the opinion of the Commissioner, is fair and reasonable, as is taken by section 26 to be derived by the person.

26 Amounts notionally derived where no sale of petroleum etc.

Where paragraph 24(1)(c), 24(1)(e) or 25(c) applies in relation to any marketable petroleum commodity, the market value or other amount referred to in that paragraph in relation to the marketable petroleum commodity shall, for the purposes of this Act, be taken to have been derived by the person or persons entitled to receive receipts from the sale of marketable petroleum commodities produced in relation to the project and, where there are 2 or more such persons, in the same respective shares as those persons are or were entitled to receive those receipts.

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27 Assessable property receipts

- (1) For the purposes of this Act, a reference to assessable property receipts derived by a person in relation to a petroleum project is a reference to:
- (a) the consideration receivable by the person in respect of the disposal, loss or destruction of property in respect of which capital expenditure being eligible real expenditure in relation to the project (including in the case of a combined project any pre-combination project in relation to the project) was incurred by the person;
 - (b) the value of property in respect of which capital expenditure of a kind referred to in paragraph (a) was incurred by the person, as at the date of any other termination of the use of the property in relation to the project;
 - (c) the amount or value receivable by the person under a policy of insurance or otherwise in respect of damage to property in respect of which capital expenditure of a kind referred to in paragraph (a) was incurred by the person;
 - (d) any amount receivable by the person from the hiring or leasing out of, or the granting of rights to use, property that is or was also being used in relation to the project, being property in respect of which capital expenditure of a kind referred to in paragraph (a) was incurred by the person; or
 - (e) any amount receivable by the person from the provision of information obtained:
 - (i) from any survey, appraisal or study in respect of which eligible real expenditure in relation to the project (including in the case of a combined project any pre-combination project in relation to the project) was incurred by the person; or
 - (ii) otherwise as a result of the incurring by the person of such expenditure.
- (2) In paragraph (1)(a), a reference to the consideration in respect of the disposal, loss or destruction of property is a reference to:

- (a) where the property is or was sold (whether with or without other property) for a specified price—the sale price of the property, less the expenses of the sale of the property, or less such part of the expenses of the sale of the property together with the other property as the Commissioner determines;
 - (b) where the property is or was sold with other property and a specified price is or was not allocated to the property—such part of the total sale price, less the expenses of the sale, as the Commissioner determines;
 - (c) where the property is or was disposed of otherwise than by sale—the value of the property at the date of disposal; or
 - (d) where the property is or was lost or destroyed—the amount or value receivable under a policy of insurance or otherwise in respect of the loss or destruction.
- (3) Any future closing-down expenditure in relation to licensed property and a petroleum project must be taken into account in working out the assessable property receipts derived by a person in relation to the project to the extent that the assessable property receipts are worked out under paragraph (1)(b) in relation to the termination of the use of the licensed property.
- (4) Assessable property receipts worked out under paragraph (1)(b) are taken to be zero if future closing-down expenditure taken into account under subsection (3) equals or exceeds what would have been those assessable property receipts if the future closing-down expenditure was not taken into account.

Note: In this case, an extra amount may be included in the person's closing-down expenditure in relation to the project: see subsection 39(3).

28 Assessable miscellaneous compensation receipts

- (1) For the purposes of this Act, a reference to assessable miscellaneous compensation receipts derived by a person in relation to a petroleum project is a reference to amounts of the following kinds:

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- (a) amounts receivable by the person by way of insurance, compensation or indemnity in respect of:
 - (i) the loss or destruction, or the loss of any profit caused by the loss or destruction, of any petroleum, or constituent of petroleum, recovered or recoverable from the eligible exploration or recovery area in relation to the project (including in the case of a combined project any pre-combination project in relation to the project), being a loss or destruction that occurred before a marketable petroleum commodity had been produced from the petroleum;
 - (ii) the loss or destruction, or the loss of any profit caused by the loss or destruction, of any marketable petroleum commodity produced from petroleum recovered from the area referred to in subparagraph (i), being a loss or destruction that occurred before the commodity became an excluded commodity; or
 - (iii) the loss of any amount that would otherwise have been an assessable receipt derived by the person in relation to the project;
 - (b) amounts receivable by the person in respect of eligible real expenditure incurred by the person in relation to the project (including in the case of a combined project any pre-combination project in relation to the project), being amounts by way of:
 - (i) indemnity or compensation for the incurring of the expenditure;
 - (ii) refund of the expenditure; or
 - (iii) rebate, discount or commission in respect of the expenditure.
- (2) However, an amount referred to in subparagraph (b)(ii) that is a refund of resource tax expenditure is increased by dividing the amount by the rate mentioned in section 5 of the *Petroleum Resource Rent Tax (Imposition—General) Act 2012*.

29 Assessable employee amenities receipts

For the purposes of this Act, a reference to assessable employee amenities receipts derived by a person in relation to a petroleum project is a reference to amounts receivable by the person for or in respect of the provision of employee amenities in respect of which eligible real expenditure in relation to the project (including in the case of a combined project any pre-combination project in relation to the project) was incurred by the person.

29A Assessable incidental production receipts

- (1) For the purposes of this Act, a reference to assessable incidental production receipts derived by a person in relation to a petroleum project is a reference to the consideration receivable, less the amount mentioned in subsection (2), by the person in relation to the sale of a product, or the provision of a service relating to carbon capture and storage, if:
- (a) it has been recovered, extracted, provided or produced in carrying on operations, facilities or other things of a kind mentioned in section 37, 38 or 39 in relation to the project; and
 - (b) it is not petroleum or a marketable petroleum commodity; and
 - (c) eligible real expenditure in relation to the project (including, in the case of a combined project, any pre-combination project in relation to the project) was incurred by the person in relation to those operations, facilities, or other things.

Example: The following are some examples:

- (a) water from a water treatment facility that is an integral part of a coal seam gas project is sold;
 - (b) excess electricity that is produced as part of the petroleum project is sold.
- (2) The amount is the sum of any expenditure (whether of a capital or revenue nature) incurred by the person to the extent that:
- (a) it is incurred in deriving assessable incidental production receipts in relation to the petroleum project; and

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- (b) it is not eligible real expenditure in relation to the petroleum project.

30 Reduction of amount of assessable property etc. receipts

Where:

- (a) but for this section, a person would, in relation to a petroleum project, derive for the purposes of this Act an amount (in this section referred to as the *assessable amount*) of assessable property receipts, assessable miscellaneous compensation receipts, assessable employee amenities receipts or assessable incidental production receipts in relation to property in respect of which eligible real expenditure was incurred by the person in relation to the project; and
 - (b) the Commissioner considers that, because section 42 applied in relation to the eligible real expenditure or for any other reason, a proportion only of the assessable amount is attributable to the eligible real expenditure;
- the person shall be taken for the purposes of this Act to have derived only that proportion of the assessable amount.

31 Time of derivation of receipts

- (1) For the purposes of this Act:
 - (a) assessable petroleum receipts;; or
 - (aa) assessable tolling receipts; or
 - (b) assessable exploration recovery receipts; or
 - (c) assessable property receipts; or
 - (d) assessable miscellaneous compensation receipts; or
 - (e) assessable employee amenities receipts;; or
 - (ea) assessable incidental production receipts;may be derived by a person in relation to a petroleum project:
 - (f) unless paragraph (g) or (h) applies—at any time, including a time:
 - (i) before the project commenced or after the project has ceased; or

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- (ii) before the commencement of this Act; or
 - (g) in the case of the Bass Strait project—at any time on or after 1 July 1990, including a time after the project has ceased; or
 - (h) in the case of an onshore petroleum project or the North West Shelf project—at any time on or after 1 July 2012, including a time before the project commenced or after the project has ceased.
- (2) Despite paragraph (1)(h), an assessable receipt that is an assessable receipt because of clause 21 of Schedule 2 may be derived at any time, including a time before the project commences or after the project ceases.

31A Eligible real expenditure and the Bass Strait project

Despite section 45, this Division applies in relation to the Bass Strait project, or a project in relation to which the Bass Strait project is a pre-combination project, as if eligible real expenditure could be incurred in relation to the Bass Strait project at any time, including a time before 1 July 1990.

31AA Eligible real expenditure—onshore petroleum projects and the North West Shelf project

Despite section 45, this Division applies in relation to:

- (a) an onshore petroleum project; or
 - (b) the North West Shelf project; or
 - (c) a project in relation to which an onshore petroleum project is a pre-combination project;
- as if eligible real expenditure could be incurred in relation to such a project at any time, including a time before 1 July 2012.

Division 3—Deductible expenditure

31B Effect of input tax credits etc. on deductible expenditure

For the purposes of this Division, a reference to an amount of expenditure incurred, or a liability incurred, by a person does not include an amount equal to:

- (a) any input tax credit to which the person is entitled; or
 - (b) any decreasing adjustments that the person has;
- in relation to that expenditure or liability.

32 Deductible expenditure

For the purposes of this Act, a reference to the deductible expenditure incurred by a person in a financial year in relation to a petroleum project (not being an ineligible project in relation to the financial year) is a reference to the total expenditure of the following kinds incurred by the person in the financial year in relation to the project:

- (a) class 1 augmented bond rate general expenditure;
- (b) class 1 augmented bond rate exploration expenditure;
- (c) class 2 augmented bond rate general expenditure;
- (d) class 1 GDP factor expenditure;
- (e) class 2 augmented bond rate exploration expenditure;
- (f) class 2 GDP factor expenditure;
- (fa) resource tax expenditure;
- (fb) acquired exploration expenditure;
- (fc) starting base expenditure;
- (g) closing-down expenditure.

33 Class 1 augmented bond rate general expenditure

- (1) For the purposes of this Act, a reference to the class 1 augmented bond rate general expenditure incurred by a person in a financial year in relation to a petroleum project (not being a combined

project, the Bass Strait project or the North West Shelf project) is a reference to the sum of:

- (a) any amount of class 1 general project expenditure actually incurred by the person in relation to the project in the financial year, not being expenditure incurred more than 5 years before the production licence in relation to the project came into force; and
 - (b) any amount that is taken by subsection (3) or Division 5 to be class 1 augmented bond rate general expenditure incurred by the person in relation to the project in the financial year.
- (2) For the purposes of this Act, a reference to the class 1 augmented bond rate general expenditure incurred by a person in a financial year in relation to a combined project is a reference to the sum of:
- (a) any amount of class 1 general project expenditure actually incurred by the person in relation to the project in the financial year (not being expenditure incurred before the project combination certificate in relation to the project came into force);
 - (b) any amount that is taken by subsection (3) or Division 5 to be class 1 augmented bond rate general expenditure incurred by the person in relation to the project in the financial year; and
 - (c) where the financial year is the year in which the project combination certificate in relation to the project came into force—any amount of class 1 general project expenditure, or any amount that is taken by subsection (3) or Division 5 to be class 1 augmented bond rate general expenditure, incurred by the person in relation to the pre-combination projects in relation to the project in the financial year.
- (3) For the purposes of subsection (1) or (2), where the class 1 augmented bond rate general expenditure incurred by a person in a financial year in relation to a petroleum project exceeds the assessable receipts derived by the person in the financial year in relation to the project, an amount ascertained in accordance with the formula $A(1.15 + \dots)$, where:

A is the amount of the excess; and

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B is the long-term bond rate in relation to the financial year; shall be taken to be class 1 augmented bond rate general expenditure incurred by the person in relation to the project on the first day of the next succeeding financial year.

(4) In this section:

class 1 general project expenditure means general project expenditure actually incurred before 1 July 1990.

34 Class 1 augmented bond rate exploration expenditure

- (1) For the purposes of this Act, a reference to the class 1 augmented bond rate exploration expenditure incurred by a person in a financial year in relation to a petroleum project (not being a combined project, the Bass Strait project or the North West Shelf project) is a reference to the sum of:
- (a) any amount of class 1 exploration expenditure actually incurred by the person in relation to the project in the financial year, not being expenditure incurred more than 5 years before the production licence in relation to the project came into force; and
 - (b) any amount that is taken by subsection (3), subsection 36(1) or Division 5 to be class 1 augmented bond rate exploration expenditure incurred by the person in relation to the project in the financial year.
- (2) For the purposes of this Act, a reference to the class 1 augmented bond rate exploration expenditure incurred by a person in a financial year in relation to a combined project is a reference to the sum of:
- (a) any amount of class 1 exploration expenditure actually incurred by the person in relation to the project in the financial year (not being expenditure incurred before the project combination certificate in relation to the project came into force);
 - (b) any amount that is taken by subsection (3), subsection 36(1) or Division 5 to be class 1 augmented bond rate exploration

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expenditure incurred by the person in relation to the project in the financial year; and

- (c) where the financial year is the year in which the project combination certificate in relation to the project came into force—any amount of class 1 exploration expenditure, or any amount that is taken by subsection (3), paragraph 36 (1) (b) or Division 5 to be class 1 augmented bond rate exploration expenditure, incurred by the person in relation to the pre-combination projects in relation to the project in the financial year.
- (3) For the purposes of subsection (1) or (2), where the sum of the class 1 augmented bond rate general expenditure and the class 1 augmented bond rate exploration expenditure incurred by a person in a financial year in relation to a petroleum project exceeds the assessable receipts derived by the person in the financial year in relation to the project, an amount ascertained in accordance with the formula $A \times 1.15 + B$, where:

A is so much of the excess as does not exceed the amount of the class 1 augmented bond rate exploration expenditure; and

B is the long-term bond rate in relation to the financial year; shall be taken to be class 1 augmented bond rate exploration expenditure incurred by the person in relation to the project on the first day of the next succeeding financial year.

- (4) In this section:

class 1 exploration expenditure means exploration expenditure actually incurred before 1 July 1990.

34A Class 2 augmented bond rate general expenditure

- (1) For the purposes of this Act, a reference to the class 2 augmented bond rate general expenditure incurred by a person in a financial year in relation to a petroleum project (not being a combined project, the Bass Strait project or the North West Shelf project) is a reference to the sum of:

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- (a) any amount of class 2 general project expenditure actually incurred by the person in relation to the project in the financial year, not being expenditure incurred more than 5 years before the earlier of the following:
 - (i) the day specified in the production licence notice in relation to the project;
 - (ii) the day the production licence was issued in relation to the project; and
 - (b) any amount that is taken by subsection (4) or Division 5 to be class 2 augmented bond rate general expenditure incurred by the person in relation to the project in the financial year.
- (2) For the purposes of this Act, a reference to the class 2 augmented bond rate general expenditure incurred by a person in a financial year in relation to a combined project is a reference to the sum of:
- (a) any amount of class 2 general project expenditure actually incurred by the person in relation to the project in the financial year (not being expenditure incurred before the project combination certificate in relation to the project came into force); and
 - (b) any amount that is taken by subsection (4) or Division 5 to be class 2 augmented bond rate general expenditure incurred by the person in relation to the project in the financial year; and
 - (c) if the financial year is the year in which the project combination certificate in relation to the project came into force—any amount of class 2 general project expenditure, or any amount that is taken by subsection (4) or Division 5 to be class 2 augmented bond rate general expenditure, incurred by the person in relation to the pre-combination projects in the financial year.
- (3) For the purposes of this Act, a reference to the class 2 augmented bond rate general expenditure incurred by a person in a financial year in relation to the Bass Strait project or the North West Shelf project is a reference to the sum of:
- (a) any amount of class 2 general project expenditure actually incurred by the person in relation to the project in the financial year; and

- (b) any amount that is taken by subsection (4) or Division 5 to be class 2 augmented bond rate general expenditure incurred by the person in relation to the project in the financial year.
- (4) For the purposes of subsection (1), (2) or (3), if the sum of:
- (a) the class 1 augmented bond rate general expenditure; and
 - (b) the class 1 augmented bond rate exploration expenditure; and
 - (c) the class 2 augmented bond rate general expenditure;
- incurred by a person in a financial year (in this subsection called the *assessable year*) in relation to a petroleum project exceeds the assessable receipts derived by the person in the assessable year in relation to the project, the person is taken to incur, in relation to the project and on the first day of the next financial year, an amount of class 2 augmented bond rate general expenditure worked out in accordance with the formula:

$$\text{Available excess} \times \text{Augmented bond rate}$$

where:

Available excess means so much of the excess as does not exceed the class 2 augmented bond rate general expenditure incurred in the assessable year.

Augmented bond rate means the long term bond rate in relation to the assessable year plus 1.05.

- (5) In this section:

class 2 general project expenditure means general project expenditure actually incurred on or after 1 July 1990 (other than acquired exploration expenditure or starting base expenditure).

35 Class 1 GDP factor expenditure

- (1) For the purposes of this Act, a reference to the class 1 GDP factor expenditure incurred by a person in a financial year in relation to a petroleum project (not being a combined project, the Bass Strait project or the North West Shelf project) is a reference to the sum of:

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- (a) any amount of class 1 GDP factor expenditure actually incurred by the person in relation to the project in the financial year, being expenditure incurred more than 5 years before the earlier of the following:
 - (i) the day specified in the production licence notice in relation to the project;
 - (ii) the day the production licence was issued in relation to the project; and
 - (b) any amount that is taken by subsection (3), subsection 36(1) or Division 5 to be class 1 GDP factor expenditure incurred by the person in relation to the project in the financial year.
- (2) For the purposes of this Act, a reference to the class 1 GDP factor expenditure incurred by a person in a financial year in relation to a combined project is a reference to the sum of:
- (a) any amount that is taken by subsection (3), subsection 36(1) or Division 5 to be class 1 GDP factor expenditure incurred by the person in relation to the project in the financial year; and
 - (b) where the financial year is the year in which the project combination certificate in relation to the project came into force—any amount that is taken by subsection (3), paragraph 36(1)(b) or Division 5 to be class 1 GDP factor expenditure incurred by the person in relation to the pre-combination projects in relation to the combined project in the financial year.
- (3) For the purposes of subsection (1) or (2), if the sum of:
- (a) the class 1 augmented bond rate general expenditure; and
 - (b) the class 1 augmented bond rate exploration expenditure; and
 - (c) the class 2 augmented bond rate general expenditure; and
 - (d) the class 1 GDP factor expenditure;
- incurred by a person in a financial year in relation to a petroleum project exceeds the assessable receipts derived by the person in the financial year in relation to the project, an amount ascertained in accordance with the formula **AB**, where:

A is so much of the excess as does not exceed the amount of the GDP factor expenditure; and

B is the class 1 GDP factor in relation to the financial year; shall be taken to be class 1 GDP factor expenditure incurred by the person in relation to the project on the first day of the next succeeding financial year.

(4) In this section:

class 1 GDP factor expenditure means general project expenditure incurred in any financial year, or exploration expenditure incurred before 1 July 1990.

35A Class 2 augmented bond rate exploration expenditure

(1) For the purposes of this Act, the amount of class 2 augmented bond rate exploration expenditure that a person is taken to have incurred in a financial year in relation to a petroleum project is to be determined in accordance with Part 2 of Schedule 1.

Note: the following provisions of Part 2 of Schedule 1 provide for a person to be taken to have incurred an amount of class 2 augmented bond rate exploration expenditure:

paragraph 8(4)(a)

paragraph 8(5)(a).

(2) The expenditure to which an amount of class 2 augmented bond rate exploration expenditure is, according to Part 2 of Schedule 1, attributable, must not be counted again as expenditure incurred, or taken to be incurred, by a person:

(a) when working out the liability of the person to tax in relation to a later financial year; or

(b) when working out, in accordance with Part 2, 3 or 4 of Schedule 1, whether there is expenditure that is transferable by the person in relation to a later financial year.

Note: the following provisions of Part 2 of Schedule 1 deal with the expenditure to which an amount of class 2 augmented bond rate exploration expenditure is attributable:

paragraph 8(4)(b)

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paragraph 8(5)(b) and subclauses 8(6) and (7).

35B Class 2 GDP factor expenditure

- (1) For the purposes of this Act, the amount of class 2 GDP factor expenditure that a person is taken to have incurred in a financial year in relation to a petroleum project is to be determined in accordance with Part 3 of Schedule 1.

Note: the following provisions of Part 3 of Schedule 1 provide for a person to be taken to have incurred an amount of class 2 GDP factor expenditure:

paragraph 12(3)(a)
paragraph 12(4)(a).

- (2) The expenditure to which an amount of class 2 GDP factor expenditure is, according to Part 3 of Schedule 1, attributable, must not be counted again as expenditure incurred, or taken to be incurred, by a person:

- (a) when working out the liability of the person to tax in relation to a later financial year; or
(b) when working out, in accordance with Part 2, 3 or 4 of Schedule 1, whether there is expenditure that is transferable by the person in relation to a later financial year.

Note: the following provisions of Part 3 of Schedule 1 deal with the expenditure to which an amount of class 2 GDP factor expenditure is attributable:

paragraph 12(3)(b)
paragraph 12(4)(b) and subclauses 12(5) and (6).

35C Resource tax expenditure

- (1) For the purposes of this Act, a reference to the resource tax expenditure incurred by a person in a financial year in relation to a petroleum project (not being a combined project) is a reference to the sum of:

- (a) any amount of resource tax expenditure actually incurred by the person in relation to the project in the financial year; and

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- (b) any amount that is taken by subsection (5) or Division 5 to be resource tax expenditure incurred by the person in relation to the project in the financial year.
- (2) For the purposes of this Act, a reference to the resource tax expenditure incurred by a person in a financial year in relation to a combined project is a reference to the sum of:
- (a) any amount of resource tax expenditure actually incurred by the person in relation to the project in the financial year (not being expenditure incurred before the project combination certificate in relation to the project came into force); and
 - (b) any amount that is taken by subsection (5) or Division 5 to be resource tax expenditure incurred by the person in relation to the project in the financial year; and
 - (c) if the financial year is the year in which the project combination certificate in relation to the project came into force—any amount of resource tax expenditure, or any amount that is taken by subsection (5) or Division 5 to be resource tax expenditure, incurred by the person in relation to the pre-combination projects in the financial year.
- (3) For the purposes of subsections (1) or (2), a reference to resource tax expenditure incurred by a person in a financial year in relation to a petroleum project is a reference to resource tax expenditure incurred by the person in the year to the extent the expenditure:
- (a) is incurred in relation to petroleum recovered, on or after 1 July 2012, from the production licence area for the project; and
 - (b) is incurred under an Australian law (other than this Act); and
 - (c) is expenditure to which one of the following applies:
 - (i) the expenditure is a royalty, or would be a royalty if the petroleum were owned by the Commonwealth, or a State or Territory, just before the recovery of the petroleum;
 - (ii) the expenditure is an excise;
 - (iii) the expenditure is an amount calculated by reference to the revenue, expenditure or profits made or incurred by

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- a person in relation to petroleum recovered from the production licence area for the project;
- (iv) the expenditure is an amount calculated by reference to the value, at the wellhead, of petroleum recovered from the production licence area for the project.
- (4) However, the amount of resource tax expenditure under subsection (3) is increased by dividing it by the rate of tax mentioned in section 5 of the *Petroleum Resource Rent Tax (Imposition—General) Act 2012*.
- (5) For the purposes of subsection (1) or (2), if the sum of the following incurred by a person in a financial year (the **assessable year**) in relation to a petroleum project exceeds the assessable receipts derived by the person in the assessable year in relation to the project:
- (a) the class 1 augmented bond rate general expenditure;
 - (b) the class 1 augmented bond rate exploration expenditure;
 - (c) the class 2 augmented bond rate general expenditure;
 - (d) the class 1 GDP factor expenditure;
 - (e) the class 2 augmented bond rate exploration expenditure;
 - (f) the class 2 GDP factor expenditure;
 - (g) the resource tax expenditure;

the person is taken to incur, in relation to the project and on the first day of the next financial year, an amount of resource tax expenditure worked out in accordance with the formula:

Available excess × Augmented bond rate

where:

augmented bond rate means the long term bond rate in relation to the assessable year plus 1.05.

available excess means so much of the excess as does not exceed the resource tax expenditure incurred in the assessable year.

- (6) Despite subsection (3), if a person (the *eligible person*) incurs a liability to make a payment to procure expenditure of a kind mentioned in subsection (3) by another person, then the expenditure is taken to have been incurred by the eligible person, and not by the other person, to the extent of the liability.

35D Acquired exploration expenditure

- (1) For the purposes of this Act, a reference to the acquired exploration expenditure incurred by a person in a financial year in relation to a petroleum project (not being a combined project) is a reference to:
- (a) in relation to the financial year commencing on 1 July 2009—the person's acquired exploration expenditure amount in relation to the project, under clause 19 of Schedule 2; or
 - (b) in relation to any subsequent financial year—any amount that is taken by subsection (3) or (4) or Division 5 to be acquired exploration expenditure incurred by the person in relation to the project in the financial year.
- (2) For the purposes of this Act, a reference to the acquired exploration expenditure incurred by a person in a financial year in relation to a combined project is a reference to:
- (a) any amount that is taken by subsection (3) or (4) or Division 5 to be acquired exploration expenditure incurred by the person in relation to the project in the financial year; or
 - (b) if the project combination certificate in relation to the project came into force in the financial year:
 - (i) any amount of acquired exploration expenditure; or
 - (ii) any amount that is taken by subsection (3) or (4) or Division 5 to be acquired exploration expenditure; incurred by the person in relation to the pre-combination projects in relation to the project in the financial year.
- (3) For the purposes of subsection (1) or (2), if:
- (a) the sum of:
 - (i) the class 1 augmented bond rate general expenditure; and

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- (ii) the class 1 augmented bond rate exploration expenditure; and
- (iii) the class 2 augmented bond rate general expenditure; and
- (iv) the class 1 GDP factor expenditure; and
- (v) the class 2 augmented bond rate exploration expenditure; and
- (vi) the class 2 GDP factor expenditure; and
- (vii) the resource tax expenditure; and
- (viii) the acquired exploration expenditure; incurred by a person in a financial year (the *assessable year*) in relation to the petroleum project exceeds the assessable receipts derived by the person in the assessable year in relation to the project; and

- (b) the next financial year starts not later than 5 years after 2 May 2010;

the person is taken to incur, in relation to the project and on the first day of the next financial year, an amount of acquired exploration expenditure worked out in accordance with the formula:

Available excess \times Augmented bond rate

where:

augmented bond rate means the long term bond rate in relation to the assessable year plus 1.15.

available excess means so much of the excess as does not exceed the acquired exploration expenditure incurred in the assessable year.

- (4) For the purposes of subsection (1) or (2), if:
 - (a) the sum of:
 - (i) the class 1 augmented bond rate general expenditure; and

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- (ii) the class 1 augmented bond rate exploration expenditure; and
- (iii) the class 2 augmented bond rate general expenditure; and
- (iv) the class 1 GDP factor expenditure; and
- (v) the class 2 augmented bond rate exploration expenditure; and
- (vi) the class 2 GDP factor expenditure; and
- (vii) the resource tax expenditure; and
- (viii) the acquired exploration expenditure; incurred by a person in a financial year (the *assessable year*) in relation to the petroleum project exceeds the assessable receipts derived by the person in the assessable year in relation to the project; and
- (b) the next financial year starts later than 5 years after 2 May 2010;

the person is taken to incur, in relation to the project and on the first day of the next financial year, an amount of acquired exploration expenditure worked out in accordance with the formula:

Available excess × Augmented bond rate

where:

augmented bond rate means the long term bond rate in relation to the assessable year plus 1.05.

available excess means so much of the excess as does not exceed the acquired exploration expenditure incurred in the assessable year.

35E Starting base expenditure

- (1) For the purposes of this Act, a reference to the starting base expenditure incurred by a person in a financial year in relation to a petroleum project (not being a combined project) is a reference to:
 - (a) in relation to the starting base financial year for the project:

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- (i) if the look-back approach is not the valuation approach for the person's interest in the project under Part 2 of Schedule 2—the person's starting base amount in relation to the interest; or
 - (ii) if subparagraph (i) does not apply—an amount included in the person's starting base expenditure in relation to the project under clause 18 of Schedule 2; or
- (b) in relation to any subsequent financial year—any amount that is taken by subsection (3) or Division 5 to be starting base expenditure incurred by the person in relation to the project in the financial year.

Note: For *starting base amounts*, see Division 1 of Part 3 of Schedule 2.

(1A) However, if:

- (a) the petroleum project is the North West Shelf project; and
- (b) in the starting base financial year for the project or in a later financial year, a production licence relating to the project comes into existence; and
- (c) the production licence is derived from an exploration permit, or a retention lease, that existed at the start of 1 July 2012;

subsection (1) has effect as if the starting base expenditure incurred by the person in that financial year in relation to the project includes an amount equal to the person's starting base expenditure in that financial year in relation to the petroleum project that would, but for subsection 19(1B), relate to that production licence.

(1B) For the purposes of this Act, starting base expenditure incurred by a person in the starting base financial year is taken to be incurred on the first day of the starting base financial year.

(2) For the purposes of this Act, a reference to the starting base expenditure incurred by a person in a financial year in relation to a combined project is a reference to:

- (a) any amount that is taken by subsection (3) or Division 5 to be starting base expenditure incurred by the person in relation to the project in the financial year; or

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- (b) if the project combination certificate in relation to the project came into force in the financial year:
- (i) any amount of starting base expenditure; or
 - (ii) any amount that is taken by subsection (3) or Division 5 to be starting base expenditure;
- incurred by the person in relation to the pre-combination projects in relation to the project in the financial year.
- (3) For the purposes of subsection (1) or (2), if the sum of:
- (a) the class 1 augmented bond rate general expenditure; and
 - (b) the class 1 augmented bond rate exploration expenditure; and
 - (c) the class 2 augmented bond rate general expenditure; and
 - (d) the class 1 GDP factor expenditure; and
 - (e) the class 2 augmented bond rate exploration expenditure; and
 - (f) the class 2 GDP factor expenditure; and
 - (g) the resource tax expenditure; and
 - (h) the acquired exploration expenditure; and
 - (i) the starting base expenditure;

incurred by a person in a financial year (the *assessable year*) in relation to the petroleum project exceeds the assessable receipts derived by the person in the assessable year in relation to the project, the person is taken to incur, in relation to the project and on the first day of the next financial year, an amount of starting base expenditure worked out in accordance with the formula:

Available excess × Augmented bond rate

where:

augmented bond rate means the long term bond rate in relation to the assessable year plus 1.05.

available excess means so much of the excess as does not exceed the starting base expenditure incurred in the assessable year.

- (4) References in paragraph (1)(a) and subsections (1A) and (1B) to the starting base financial year for a petroleum project are references to:

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- (a) if the look-back approach is not the valuation approach for the person's interest in the project under Part 2 of Schedule 2—the earliest financial year, after 30 June 2012, in which a production licence relating to the project is in existence; or
- (b) if paragraph (a) of this subsection does not apply—the financial year commencing on 1 July 2009.

36 Class 1 augmented bond rate exploration and class 1 GDP factor expenditures in relation to project groups

- (1) Where there is a project group in relation to a person in relation to a year of tax, the following provisions have effect:
 - (a) in relation to any petroleum project in the group other than the last occurring project—where there is a carry forward expenditure amount of the person in relation to the project in relation to the year of tax, that amount shall be taken to be class 1 augmented bond rate exploration expenditure or class 1 GDP factor expenditure, as the case requires, incurred by the person in the year of tax in relation to the next occurring project and the person shall not be taken by subsection 34(3) to have incurred class 1 augmented bond rate exploration expenditure, or by subsection 35(3) to have incurred class 1 GDP factor expenditure, in relation to the first-mentioned project on the first day of the next succeeding year of tax;
 - (b) in relation to the last occurring petroleum project in the group—where, but for this paragraph, the person would be taken by subsection 34(3) to have incurred an amount of class 1 augmented bond rate exploration expenditure, or by subsection 35(3) to have incurred an amount of class 1 GDP factor expenditure, in relation to the project on the first day of the next succeeding year of tax, that expenditure shall be taken to have been incurred instead by the person on that day in relation to the first occurring of such of the projects in the group as are petroleum projects on that day.
- (2) Where 2 or more project groups, in relation to a person in relation to a financial year, are related project groups in relation to each

other, subsection (1) applies as if the petroleum projects in the groups were projects in a single project group in relation to the person in relation to the financial year.

(3) For the purposes of this section:

(a) where:

(i) a financial year is a year of tax in relation to a person in relation to 2 or more petroleum projects (not including any ineligible project in relation to the financial year); and

(ii) the production licence, or at least one of the production licences, in relation to each of the projects is related to the same exploration permit;

the projects shall be taken to be in a project group in relation to the person in relation to the year of tax;

(b) a reference to the relevant production licence in relation to a petroleum project is a reference to:

(i) in the case of a combined project—the production licence in relation to the project that first came into force; and

(ii) in any other case—the production licence in relation to the project;

(c) petroleum projects in a project group in relation to a person in relation to a year of tax shall be taken to occur in the order in which the relevant production licences in relation to the projects came into force; and

(d) a project group, in relation to a person in relation to a financial year, shall be taken to be a related project group in relation to another project group, in relation to the person in relation to the financial year, if:

(i) one or more of the petroleum projects in the first-mentioned group is a project in the second-mentioned group; or

(ii) one or more of the petroleum projects in the first-mentioned group is a project in another project group that is a related project group in relation to the

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second-mentioned project group under subparagraph (i) or this subparagraph.

- (4) Where, by reason of the application of subsection 34(3) or 35(3) in relation to a person in relation to a petroleum project in relation to a year of tax (in this subsection referred to as the **relevant year of tax**), an amount of class 1 augmented bond rate exploration expenditure or class 1 GDP factor expenditure, as the case may be, would, if subsection (1) did not provide otherwise, be taken to be incurred by the person on the first day of the next succeeding year of tax, there shall, for the purposes of this section, be taken to be a carry forward expenditure amount in relation to the person in relation to the project in relation to the relevant year of tax equal to the amount that would so be taken to be incurred if:
- (a) in the case of an amount of class 1 augmented bond rate exploration expenditure—the formula in subsection 34(3) in its application in relation to the relevant year of tax consisted only of component A; and
 - (b) in the case of an amount of class 1 GDP factor expenditure—the formula in subsection 35(3) in its application in relation to the relevant year of tax consisted only of component A.

36A Designated frontier areas for 2004

For the purposes of the definition of *designated frontier area*, the following areas are specified:

- (a) Area T04-5, as first gazetted in the *Tasmanian Government Gazette* on 5 May 2004 under subsection 20(1) of the repealed *Petroleum (Submerged Lands) Act 1967*;
- (b) Areas W04-2, W04-4, W04-15 and W04-16, as first gazetted in the *Western Australia Government Gazette* on 30 March 2004 under subsection 20(1) of the repealed *Petroleum (Submerged Lands) Act 1967*;
- (c) Area NT04-3, as first gazetted in the *Northern Territory Government Gazette* on 14 April 2004 under subsection 20(1) of the repealed *Petroleum (Submerged Lands) Act 1967*.

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Note: An amount of exploration expenditure incurred in respect of an area that is specified under this section might be increased by 150% (before the GDP factor or the augmented bond rate is applied to the amount under Schedule 1): see section 36C.

36B Designated frontier areas for 2005 to 2009

- (1) For the purposes of the definition of *designated frontier area*, the Resources Minister may designate, in writing, up to (and including) 20% of potential exploration permit areas as frontier areas.

Note: An amount of exploration expenditure incurred in respect of an area that is specified under this section might be increased by 150% (before the GDP factor or the augmented bond rate is applied to the amount under Schedule 1): see section 36C.

- (2) The Resources Minister must not specify new areas for a calendar year after 2009.
- (3) The Resources Minister must publish an instrument made under subsection (1) in the *Gazette*.
- (4) An instrument made under subsection (1) is not a legislative instrument.
- (5) The Resources Minister may, by signed instrument, delegate his or her power under subsection (1) to an SES employee or an acting SES employee in the Resources Department.

Note: The expressions *SES employee* and *acting SES employee* are defined in section 2B of the *Acts Interpretation Act 1901*.

- (6) In this section:

potential exploration permit area means an area or areas constituted by a block or blocks in respect of which applications for exploration permits have been invited, but not yet granted, under Part 2.2 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

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36C Uplifted frontier expenditure

For the purposes of this Act, the amount of *uplifted frontier expenditure* that a person is taken to have incurred in a financial year in relation to a petroleum project is worked out as follows:

$$\begin{array}{l} \text{Designated frontier expenditure} \\ \text{actually incurred by the person} \\ \text{in the financial year} \\ \text{in relation to the petroleum project} \end{array} \times 150\%$$

37 Exploration expenditure

- (1) For the purposes of this Act, a reference to exploration expenditure incurred by a person in relation to a petroleum project is a reference to payments (not being excluded expenditure), whether of a capital or revenue nature, to the extent that they are made by the person:
- (a) in carrying on or providing operations and facilities involved in or in connection with exploration for petroleum in the eligible exploration or recovery area in relation to the project; and
 - (b) in carrying on or providing such of the following as are or have been carried on or provided:
 - (i) operations and facilities involved in the recovery of any petroleum from the eligible exploration or recovery area (other than any production licence area) in relation to the project;
 - (ii) operations and facilities involved in moving any petroleum so recovered to or between any storage or processing facilities prior to the production of any marketable petroleum commodity from the petroleum;
 - (iii) operations and facilities involved in the storage, processing or treating of any petroleum so recovered to produce any marketable petroleum commodity from the petroleum;

- (iv) operations and facilities involved in the moving or storage of any such marketable petroleum commodity before it becomes an excluded commodity;
 - (v) services, or facilities for the provision of services, in connection with the operations, facilities, amenities and services referred to in this section;
 - (vi) employee amenities in connection with the operations, facilities and services referred to in this section;
 - (vii) operations and facilities, carried on or provided, for an environmental purpose, in relation to the carrying on or provision of the operations, facilities and services referred to in this section; and
- (c) in procuring another person to stabilise, transport, store, recover or process petroleum recovered from the eligible exploration or recovery area (other than any production licence area) in relation to the project, if that stabilisation, transportation, storage, recovery or processing constitutes:
- (i) the processing of internal petroleum in relation to the project; or
 - (ii) the processing of external petroleum in relation to another petroleum project;
- and includes any exploration permit, retention lease or other fee (not being an excluded fee) paid by the person, to the extent that the payment relates to the carrying on or providing of any operations, facilities or other things referred to in this section.
- (2) Where, by reason of the application of subsection 5(3), exploration for petroleum during a period is taken to occur in a retention lease area or areas in relation to a retention lease or leases related to an exploration permit, any liability incurred during that period to pay an exploration permit fee shall, for the purposes of subsection (1), be taken to relate proportionally to the carrying on of operations involved in exploration for petroleum in the retention lease area or areas and in the remainder of the exploration permit area in relation to the exploration permit, according to the respective sizes of those areas.
- (2A) Despite subsection (1), if:
-

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- (a) a payment made by a person would, apart from this subsection, be exploration expenditure incurred by the person in relation to a petroleum project; and
- (b) the person holds, under an Australian law, an authority or right (however described) that permits activities relating to resources other than petroleum to be carried on in the eligible exploration or recovery area in relation to the project;
- the payment is taken, for the purposes of this Act, to be exploration expenditure only to the extent that it would be reasonable to conclude that the purpose of the payment is exploring for petroleum in order to obtain a commercial return from petroleum.
- (2B) An authority or right referred to in paragraph (2A)(b) may be a production licence, exploration permit or retention lease, including a production licence to which the petroleum project relates.
- (2C) Subsections (2A) and (2B) are to avoid doubt, and do not extend by implication the scope of subsection (1).
- (3) For the purposes of this section, a person is taken to make a payment when the person becomes liable to make the payment.

38 General project expenditure

- (1) For the purposes of this Act, a reference to general project expenditure incurred by a person in relation to a petroleum project is a reference to payments (not being excluded expenditure, exploration expenditure or closing-down expenditure), whether of a capital or revenue nature, to the extent that they are made by the person:
- (a) in carrying on or providing operations and facilities preparatory to the activities referred to in paragraph (b), including in carrying out any feasibility or environmental study; and
- (b) in carrying on or providing the operations, facilities and other things comprising the project; and
- (c) in purchasing, as part of the project, external petroleum, or internal petroleum, in relation to the project; and

- (d) in procuring another person to stabilise, transport, store, recover or process petroleum recovered from the production licence area or areas in relation to the project, if that stabilisation, transportation, storage, recovery or processing constitutes:
- (i) the processing of internal petroleum in relation to the project; or
 - (ii) the processing of external petroleum in relation to another petroleum project;
- and includes any production licence or other fee (not being an excluded fee) paid by the person, to the extent that the payment relates to the carrying on or providing of any operations, facilities or other things referred to in this section.
- (2) To avoid doubt, carrying on or providing the operations, facilities and other things comprising the project referred to in paragraph (1)(b) includes carrying on or providing the operations, facilities and other things in relation to the processing of external petroleum, or internal petroleum, in relation to the project.
- (3) For the purposes of this section, a person is taken to make a payment when the person becomes liable to make the payment.

39 Closing-down expenditure

- (1) For the purposes of this Act, a reference to closing-down expenditure incurred by a person in relation to a petroleum project is a reference to payments (not being excluded expenditure), whether of a capital or revenue nature, to the extent that they are made by the person in carrying on operations involved in closing down the project, including in any environmental restoration as a consequence of closing down the project.
- (2) For the purposes of this Act, if:
- (a) on the termination of a petroleum project, a person disposes of all of the person's property in respect of which the person incurred capital expenditure that is eligible real expenditure in relation to the project; and

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- (b) there is no consideration receivable by the person in respect of the disposal;
- a reference to the closing-down expenditure incurred by the person in relation to the project includes a reference to any consideration given by the person for the disposal, to the extent that the consideration relates to the future closing-down expenditure in relation to the project.
- (3) For the purposes of this Act, if a person's assessable property receipts under paragraph 27(1)(b) in relation to a petroleum project are taken to be zero because of subsection 27(4), a reference to closing-down expenditure incurred by a person in relation to the project includes a reference to an amount equal to the difference between:
- (a) the future closing-down expenditure in relation to the project; and
 - (b) the amount that would, but for subsections 27(3) and (4), have been the person's assessable property receipts in relation to the project.

Example: A production licence of Petgas Ltd ceases to be in force on 24 October 2006, but the use of some facilities of the petroleum project in question continues to be permitted by an infrastructure licence that comes into force on that day. The value of the facilities on that day is \$240,000, but there are future closing-down costs that result in Petgas Ltd having a future closing-down expenditure of \$360,000.

Under subsection 27(4), Petgas Ltd's assessable property receipts under paragraph 27(1)(b) are taken to be zero. In addition, Petgas Ltd's closing-down expenditure includes an amount of \$120,000 (the difference between its future closing-down expenditure and the actual value of the facilities).

- (4) Closing-down expenditure in relation to a petroleum project does not include closing-down expenditure in relation to operations, facilities or other things comprising the project to the extent that:
- (a) the person has previously had assessable property receipts under paragraph 27(1)(a) in relation to the project and the consideration referred to in that paragraph took into account future closing-down expenditure that relates to those operations, facilities or other things; or

- (b) the person has previously had assessable property receipts under paragraph 27(1)(b) in relation to the project and such future closing-down expenditure was taken into account in working out those assessable property receipts; or
- (c) the person has previously had closing-down expenditure in relation to the project that included such future closing-down expenditure.

However, this subsection does not apply if there has been a change in the ownership of those operations, facilities or other things after the assessable property receipts or closing-down expenditure arose.

- (5) For the purposes of this section, a person is taken to make a payment when the person becomes liable to make the payment.

40 Bad debts

- (1) Where:
 - (a) a debt is a bad debt and is written off as such by a person during a financial year; and
 - (b) the debt has been brought to account by the person as a receipt of a kind referred to in section 24, 25, 27, 28 or 29 derived by the person in any financial year in relation to a petroleum project;then, at the time at which the debt is written off and in relation to:
 - (c) the petroleum project; or
 - (d) if, at that time, there is a combined project in relation to which the petroleum project is a pre-combination project—the combined project;the person shall be taken for the purposes of this Act to have incurred an amount of:
 - (e) where at or before the time at which the debt is written off the person has not incurred any general project expenditure or closing-down expenditure in relation to the petroleum project or the combined project (including any pre-combination project in relation to the project)—exploration expenditure;

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- (f) where at or before the time at which the debt is written off the person has incurred general project expenditure, but has not incurred any closing-down expenditure, in relation to the petroleum project or the combined project (including any pre-combination project in relation to the project)—general project expenditure; or
 - (g) where at or before the time at which the debt is written off the person has incurred closing-down expenditure in relation to the petroleum project or the combined project—closing-down expenditure;
equal to the amount of the debt.
- (2) If a debtor, after incurring a debt that has been brought to account as mentioned in paragraph (1) (b), becomes bankrupt or executes a personal insolvency agreement for the benefit of creditors:
- (a) where, in the opinion of the Commissioner, no amount will be paid on account of the debt—the debt; or
 - (b) where, in the opinion of the Commissioner, an amount less than the amount of the debt will be paid on account of the debt—so much of the debt as exceeds the amount that, in the opinion of the Commissioner, will be so paid;
- shall be deemed to be a bad debt.
- (3) Where a person receives an amount in respect of a debt to which subsection (1) applies, that amount shall for the purposes of this Act be taken to be a receipt of the kind referred to in paragraph (1)(b) derived by the person in relation to:
- (a) the petroleum project referred to in that paragraph; or
 - (b) if, at the time at which the amount is received, there is a combined project in relation to which the petroleum project referred to in that paragraph is a pre-combination project—the combined project.

41 Effect of procuring the carrying on of operations etc. by others

- (1) If a person (the *eligible person*) makes or made a payment wholly or partly to procure the carrying on or providing of operations,

facilities or other things of a kind referred to in section 37, 38 or 39 by another person, then:

- (a) for the purposes of this Act:
 - (i) the operations, facilities or other things are taken to have been carried on or provided by the eligible person and not by the other person; and
 - (ii) to the extent that the payment is to procure the carrying on or providing of the operations, facilities or other things—it is taken to have been made by the eligible person in carrying on or providing the operations, facilities or other things; and
- (b) if subsection (1A) does not apply to the other person in relation to the payment—to the extent that the payment is to procure the carrying on or providing of the operations, facilities or other things, the payment is taken, for the purposes of sections 37, 38, 39 and 44, to have the same character and nature as the operations, facilities or other things procured; and
- (c) if subsection (1A) applies to the other person in relation to the payment—to the extent that:
 - (i) the payment is to procure the carrying on or providing of the operations, facilities or other things; and
 - (ii) the payment relates to use of property on which the other person has incurred capital expenditure;the payment is taken, for the purposes of those sections, to have the same character and nature as the operations, facilities or other things procured; and
- (d) if subsection (1A) applies to the other person in relation to the payment—to the extent that:
 - (i) the payment is to procure the carrying on or providing of the operations, facilities or other things; and
 - (ii) the payment does not relate to use of property on which the other person has incurred capital expenditure;the payment is taken, for the purposes of those sections, to be of the same amount, and to have the same character and nature, as the expenditure the other person incurred in

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carrying on or providing the operations, facilities or other things procured.

Note: If the payment is excluded expenditure, it will not be exploration expenditure under section 37, general project expenditure under section 38 or closing-down expenditure under section 39. However, if paragraph (1)(d) applies to the payment, the amount taken to be excluded expenditure may be reduced under subsection (1D) of this section.

(1A) This subsection applies to the other person in relation to a payment if, at the time the payment is made, the other person:

- (a) holds an interest in the petroleum project to which the operations, facilities or other things relate; or
- (b) is connected (within the meaning of section 328-125 of the *Income Tax Assessment Act 1997*) with the eligible person.

(1B) The amount of the other person's expenditure referred to in paragraph (1)(d) is taken not to exceed so much of the amount of the eligible person's payment as:

- (a) is a payment to procure the carrying on or providing of the operations, facilities or other things; and
- (b) does not relate to use of property on which the other person has incurred capital expenditure.

(1C) If:

- (a) subsection (1A) applies to the other person in relation to the payment; and
- (b) the other person, to any extent, procures for:
 - (i) the eligible person; or
 - (ii) the eligible person and one or more persons who hold an interest in the project;

the operations, facilities or other things from a third person who is connected (within the meaning of section 328-125 of the *Income Tax Assessment Act 1997*) with the other person; the references in paragraph (1)(d) and subsection (1B) to the other person's expenditure are taken (to the extent that carrying on or providing the operations, facilities or other things was procured

from the third person) to be references to the third person's expenditure.

- (1D) If the other person's expenditure is reduced because of subsection (1B), sections 37, 38, 39 and 44 apply in relation to that expenditure as if it were reduced to the same extent.
- (2) This section does not apply if the other person carries on or provides the operations, facilities or other things as part of the processing of:
- (a) internal petroleum in relation to the petroleum project; or
 - (b) external petroleum in relation to a petroleum project other than the project to which the operations, facilities or other things referred to in subsection (1) relate.
- (3) For the purposes of this section, a person is taken to make a payment when the person becomes liable to make the payment.

42 Expenditure on property for partial project use

Where:

- (a) a person incurs or incurred eligible real expenditure in relation to a petroleum project; and
- (b) the eligible real expenditure is or was capital expenditure in respect of property for use only proportionally (the proportion of use of which is in this section referred to as the *eligible proportion*) in carrying on or providing the operations, facilities or other things by reason of which the capital expenditure is eligible real expenditure of the person in relation to the project;

the eligible proportion only of the eligible real expenditure shall be taken for the purposes of this Act to be the eligible real expenditure.

43 Deferred use of property on project etc.

- (1) Where:

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- (a) a person incurs or incurred capital expenditure in relation to property, being eligible real expenditure in relation to a petroleum project or petroleum projects;
 - (b) the person terminates or terminated the use of the property in relation to the project or all of the projects otherwise than by sale or other disposal; and
 - (c) immediately after the termination of the use of the property the person is or was using the property, or at a later time the person commences or commenced to use the property, in carrying on or providing operations, facilities or other things of a kind referred to in section 37, 38 or 39 in relation to a petroleum project or petroleum projects;
- then, for the purposes of this Act (including this section):
- (d) the person shall be taken to have incurred capital expenditure immediately after the termination or at the later time referred to in paragraph (c), as the case may be, in carrying on or providing the operations, facilities or other things, referred to in paragraph (c) in relation to the project or projects referred to in that paragraph; and
 - (e) the amount of the expenditure shall be taken to be equal to so much of the value of the property at the time at which the person is so taken to have incurred the expenditure as, in the opinion of the Commissioner, is attributable to the expenditure referred to in paragraph (a).

(2) Where:

- (a) a person incurs or incurred capital expenditure in relation to property that is not or was not for use in carrying on or providing operations, facilities or other things of a kind referred to in section 37, 38 or 39 in relation to any petroleum project; and
- (b) the person commences or commenced to use the property at a later time in carrying on or providing such operations, facilities or other things in relation to a petroleum project or projects;

the person shall, for the purposes of this Act, be taken to have incurred expenditure, at that later time, in carrying on or providing

the operations, facilities or other things in relation to the project or projects of an amount equal to so much of the value of the property at that later time as, in the opinion of the Commissioner, is attributable to the expenditure referred to in paragraph (a).

44 Excluded expenditure

- (1) For the purposes of this Act, a reference to excluded expenditure is a reference to:
- (a) payments of principal or interest on a loan or other borrowing costs; or
 - (b) interest components of hire-purchase payments; or
 - (c) payments of dividends or the cost of issuing shares; or
 - (d) the repayment of equity capital; or
 - (e) payments of a kind known as private override royalty payments; or
 - (f) payments to acquire, or to acquire an interest in, an exploration permit, retention lease, production licence, pipeline licence or access authority, otherwise than in respect of the grant of the permit, lease, licence or authority; or
 - (g) payments to acquire interests in petroleum project profits, receipts or expenditures; or
 - (h) payments of tax under the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997*; or
 - (i) payments of GST under the GST Act; or
 - (j) payments of administrative or accounting costs, or of wages, salary or other work costs, incurred indirectly in carrying on or providing operations, facilities or other things of a kind referred to in sections 37, 38 and 39; or
 - (k) payments in respect of land or buildings for use in connection with administrative or accounting activities in respect of the carrying on or provision of other operations, facilities or things of a kind referred to in sections 37, 38 and 39, not being land or buildings located at or adjacent to the site or sites at which those other operations, facilities or things are carried on or provided.

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- (2) For the purposes of paragraph (1)(e), a private override royalty payment does not include a payment to the extent:
- (a) it is by way of compensation for carrying on or providing, in an area the operations, facilities or other things comprising a petroleum project; and
 - (b) it is paid:
 - (i) to a native title holder (within the meaning of the *Native Title Act 1993*) whose approved determination of native title (within the meaning of that Act) relates to that area; or
 - (ii) to a registered native title claimant (within the meaning of the *Native Title Act 1993*) whose claimant application (within the meaning of that Act) relates to that area; or
 - (iii) to a person who holds a right that relates to that area and arises under another Australian law dealing with the rights of Aboriginal persons or Torres Strait Islanders in relation to land or waters.

Note: Under the look-back approach under Schedule 2, some excluded expenditure relating to onshore petroleum projects or the North West Shelf project may be included in eligible real expenditure.

45 Time of incurring of expenditure

Petroleum projects generally

- (1) For the purposes of this Act, eligible real expenditure may be incurred by a person in relation to a petroleum project (other than an onshore petroleum project, the Bass Strait project or the North West Shelf project) at any time, including a time:
- (a) before the project commences or after the project ceases; or
 - (b) before the commencement of this Act.

Onshore petroleum projects

- (2) For the purposes of this Act, eligible real expenditure may be incurred by a person in relation to an onshore petroleum project:

- (a) if the project, or the exploration permit or retention lease from which the production licence to which the project relates is derived, came into existence before 2 May 2010—
at any time on or after the starting base day under subsection (5) for the person's interest in the project, including a time before the project commences or after the project ceases; or
- (b) if paragraph (a) does not apply—at any time on or after 2 May 2010, including a time before the project commences or after the project ceases.

The Bass Strait project

- (3) For the purposes of this Act, eligible real expenditure may be incurred by a person in relation to the Bass Strait project at any time on or after 1 July 1990, including a time after the project ceases.

The North West Shelf project

- (4) For the purposes of this Act, eligible real expenditure may be incurred by a person in relation to the North West Shelf project at any time on or after the starting base day under subsection (5) for the person's interest in the project, including a time after the project ceases.

Starting base days

- (5) For the purposes of paragraph (2)(a) or subsection (4), the starting base day for a person's interest in an onshore petroleum project, or in the North West Shelf project, is:

Starting base days		
Item	If ...	The starting base day is ...
1	the look-back approach is not the valuation approach for the interest that the person holds in the project	1 July 2012
2	(a) the look-back approach is the valuation	the day, on or after 1 July

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Starting base days		
Item	If ...	The starting base day is ...
	approach for the interest; and (b) the person who held the interest at the start of 2 May 2010 had first acquired the interest, or (being a company) had been acquired, on or after 1 July 2007	2007, on which the person first commenced to hold the interest, or was acquired, as the case requires
3	(a) the look-back approach is the valuation approach for the interest; and (b) item 2 does not apply	1 July 2002

Note: Eligible real expenditure incurred before 1 July 2012 in relation to an onshore petroleum project that came into existence before 2 May 2010, or in relation to the North West Shelf project, is taken into account in a person's starting base amount under Schedule 2, if the look-back approach does not apply to the person's interest in the project.

- (6) For the purposes of subsection (5), a person holding an interest in an onshore petroleum project or the North West Shelf project is taken:
- (a) to have acquired the interest if, and when, the person is taken to have acquired that interest for the purposes of clause 18 of Schedule 2; and
 - (b) (not being an individual) to have been acquired if, and when, the person is taken to have been acquired for the purposes of that clause.

Resource tax expenditure

- (7) Despite subsections (1), (2), (3) and (4), resource tax expenditure cannot be incurred by a person, in relation to a petroleum project, before 1 July 2012.

Transferred expenditure relating to onshore petroleum projects or the North West Shelf project

- (8) To avoid doubt, eligible real expenditure that a person may incur in relation to an onshore petroleum project, or the North West Shelf project, may include expenditure that a person is taken to have incurred in relation to the project, before or after the commencement of this section, because of section 48 or 48A.
- (9) However, if the person is taken to have incurred the expenditure because of the application of section 48 or 48A in relation to a transaction entered into before 1 July 2012, subsection 48(3) or 48A(11) (as the case requires) does not apply in relation to the transaction.

Division 3A—Transfer of exploration expenditure incurred on or after 1 July 1990

45A Transfer of expenditure—general

- (1) This section applies to a person in respect of a financial year in relation to which the person has transferable exploration expenditure.
- (2) In relation to the financial year, the person must transfer to petroleum projects as much of the transferable exploration expenditure as can be transferred in accordance with the rules set out in Part 5 of Schedule 1.
- (3) A transfer of expenditure under this section in relation to a financial year:
 - (a) must be made by completing a transfer notice and giving it to the Commissioner not later than 60 days after the end of the financial year or such later day as the Commissioner allows; and
 - (b) subject to subsection (4), takes effect when the notice is given to the Commissioner.
- (4) A purported transfer of expenditure under this section has no effect if the transfer is not in accordance with the rules set out in Part 5 of Schedule 1.
- (5) A person commits an offence if the person contravenes this section.

Penalty: 20 penalty units.

- (5A) Subsection (5) does not apply to the extent that the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matters in subsection (5A), see subsection 13.3(3) of the *Criminal Code*.

- (5B) An offence under this section is an offence of strict liability.

Section 45B

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

(6) In this section:

transfer notice means a written notice in the approved form.

45B Transfer of expenditure—group companies

- (1) This section applies where:
 - (a) a number of companies are group companies in relation to each other and a financial year; and
 - (b) there is unused transferable exploration expenditure in relation to some of the companies (each of which is in this section called a *loss company*) and the financial year.
- (2) In relation to the financial year, each loss company must transfer, to such of the other companies as are not loss companies and in relation to specified petroleum projects, as much of the loss company's unused transferable exploration expenditure as can be transferred in accordance with the rules set out in Part 6 of Schedule 1.
- (3) A transfer of expenditure under this section in relation to a financial year:
 - (a) must be made by completing a transfer notice and giving it to the Commissioner not later than 60 days after the end of the financial year or such later day as the Commissioner allows; and
 - (b) subject to subsection (4), takes effect when the notice is given to the Commissioner.
- (4) A purported transfer of expenditure under this section has no effect if the transfer is not in accordance with the rules set out in Part 6 of Schedule 1.
- (5) A person commits an offence if the person contravenes this section.

Penalty: 20 penalty units.

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- (5A) Subsection (5) does not apply to the extent that the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matters in subsection (5A), see subsection 13.3(3) of the *Criminal Code*.

- (5B) An offence under this section is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (6) In this section:

transfer notice means a written notice in the approved form.

unused transferable exploration expenditure, in relation to a company and a financial year, means so much of the transferable exploration expenditure in relation to the company and the financial year as is not transferred, or to be transferred, under section 45A.

45C Commissioner's power to make transfers of expenditure

- (1) This section applies if a person contravenes section 45A or 45B by failing to transfer expenditure as required by that section in relation to a financial year.
- (2) Subject to subsection (3), the Commissioner may transfer the expenditure that the person failed to transfer.
- (3) The transfer must:
- (a) be in writing; and
 - (b) be such that, if it had been made by the person, it would have been a transfer of expenditure in relation to the financial year under section 45A or 45B, as the case requires.
- (4) For the purposes of this Act (other than this section), the transfer is taken to be a transfer by the person under section 45A or 45B, as the case requires.
- (5) The transfer may not be revoked or varied except:
- (a) under subsection (6); or

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- (b) pursuant to a decision of the Tribunal or an order of a court;
or
 - (c) to correct an error.
- (6) If:
- (a) after the transfer, information becomes available to the Commissioner that was not available at the time of the transfer; and
 - (b) the Commissioner would not have transferred the expenditure in the same way, or at all, if he or she had been aware of the information at the time of transferring the expenditure;
- the Commissioner may, in writing, revoke the transfer and, if appropriate, make another transfer of expenditure under this section.
- (7) If the Commissioner revokes the transfer, then, for the purposes of this Act, the transfer is taken never to have been made.
- (8) The Commissioner must, within 30 days after transferring the expenditure, or revoking the transfer of the expenditure, cause written notice setting out particulars of the transfer or revocation to be given to:
- (a) if the transfer has or had effect as a transfer under section 45A—the person who is taken to have transferred the expenditure; or
 - (b) if the transfer has or had effect as a transfer under section 45B—the person who is taken to have transferred the expenditure and the company to which the expenditure is or was transferred.
- (9) If a person to whom a notice under subsection (8) is given is dissatisfied with the Commissioner's decision to transfer the expenditure, or revoke the transfer, as the case may be, the person may object against the decision in the manner set out in Part IVC of the *Taxation Administration Act 1953*.

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45D Effect of transfer of expenditure

- (1) This section applies if a person transfers an amount of expenditure:
 - (a) to a petroleum project in relation to a financial year under section 45A; or
 - (b) to a company in relation to a petroleum project and a financial year under section 45B.
- (2) If the expenditure was incurred in an earlier financial year, then, for the purposes of this Act other than subsection (3), the transfer is taken to be a transfer of the amount worked out in accordance with Part 7 of Schedule 1.
- (3) The expenditure transferred (disregarding the effect of subsection (2)):
 - (a) must not be transferred again in relation to the financial year; and
 - (b) must not be counted again as expenditure incurred, or taken to be incurred, by a person:
 - (i) when working out the liability of the person to tax in relation to a later financial year; or
 - (ii) when working out, in accordance with Part 2, 3 or 4 of Schedule 1, whether there is expenditure that is transferable by the person in relation to a later financial year.

45E Instalment transfers and annual transfers

- (1) Subject to this section, the following provisions apply in relation to instalment periods in the same way as they apply in relation to financial years:
 - (a) this Division;
 - (b) Schedule 1;
 - (c) definitions or other provisions of this Act as they apply for the purpose of this Division or Schedule 1.

Note: A person who contravenes section 45A or 45B as the section applies in relation to an instalment period commits an offence: see subsections 45A(5) and 45B(5).

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- (2) The provisions mentioned in subsection (1) apply under that subsection only to the extent necessary to require or permit the making of transfers of expenditure in relation to instalment periods.
- (3) For the purpose of subsection (1), the following assumptions apply in relation to any petroleum project and an instalment period in a financial year:
- (a) the instalment period is taken to be a financial year;
 - (b) the amounts taken by subsections 33(3), 34(3), 34A(4), 35(3) and 36(1) (including because of section 48) to be incurred by any person in relation to any project on the first day of the financial year are instead taken to be only the instalment percentages of those amounts;
 - (c) the amounts that would, for the purposes of Schedule 1, be the incurred exploration expenditure amounts in relation to financial years before that financial year are instead taken to be only the instalment percentages of those amounts.
- (4) In this Act, an **annual transfer** is a transfer of an amount of expenditure in accordance with this Division in its application to a financial year.
- (5) In this Act, an **instalment transfer** is a transfer of an amount of expenditure in accordance with this Division in its application under this section to an instalment period.
- (6) Despite subsection 45D(3), if an instalment transfer of an amount of expenditure is made in relation to an instalment period in a financial year, the instalment transfer does not prevent the transfer of all (or a part) of that expenditure being made again:
- (a) in relation to a later instalment period; or
 - (b) in relation to the financial year or a later financial year (as an annual transfer).

Note: In some circumstances, interest may be charged in relation to an instalment transfer if the expenditure cannot be transferred again under this Division as an annual transfer: see section 98A.

- (7) In this section:
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instalment period includes a period in a financial year that would be an instalment period if the financial year were a year of tax.

Division 4—Tax credits

46 Credits in respect of closing-down expenditure

- (1) If, in relation to a petroleum project, the sum of any closing-down expenditure and any other deductible expenditure incurred by a person in a year of tax exceeds the assessable receipts derived by the person in the year of tax:
- (a) so much of the excess as does not exceed the amount of the closing-down expenditure is the person's *excess closing-down expenditure* for the year of tax; and
 - (b) the person is entitled to a credit of the lesser of the following amounts:
 - (i) an amount equal to 40% of the excess closing-down expenditure for the year of tax;
 - (ii) the total amount of any tax in respect of the project (including in the case of a combined project any pre-combination project in relation to the project) paid or payable by the person in relation to previous years of tax, reduced by the total amount of any credits allowed or allowable to the person under this section in relation to the project in relation to any previous years of tax.

Greater Sunrise closing-down credits

- (2) However, for the purposes of the operation of paragraph (1)(a) in relation to a Greater Sunrise project, the amount that is so much of the excess as does not exceed the amount of the closing-down expenditure is taken to be the amount worked out using the following formula:

$$\frac{\text{Initial excess} \times \text{Apportionment percentage figure}}{100}$$

where:

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apportionment percentage figure has the meaning given by subsection 2C(2).

initial excess means the amount that is so much of the excess as does not exceed the amount of the closing-down expenditure under paragraph (1)(a) ignoring this subsection.

47 Application of credits

- (1) Subject to this section, the amount of a credit to which a person is entitled by virtue of this Division is a debt due and payable to the person by the Commissioner on behalf of the Commonwealth.
- (2) The Commissioner may apply the whole or a part of the credit in total or partial discharge of any liability to the Commonwealth of the person entitled to the credit arising under or by virtue of this Act or any other Act of which the Commissioner has the general administration.
- (3) Where, under subsection (2), the Commissioner has applied an amount of a credit in discharge of a liability of a person to the Commonwealth, the person shall be deemed to have paid the amount so applied for the purpose for which, and at the time at which, it has been so applied.
- (4) Where the amount, or the sum of the amounts, applied or paid by the Commissioner as a credit to which a person is entitled under this Division exceeds the amount of the credit to which the person is entitled, the Commissioner may recover the amount of the excess as if it were tax due and payable by the person.

Division 5—Effect of certain transactions

48 Transfer of entire entitlement to assessable receipts

(1A) This section applies if:

- (a) at a particular time (the *transfer time*) a person (the *vendor*) enters into a transaction in relation to a petroleum project; and
- (b) the transaction has the effect of transferring to another person or persons (the *purchasers*):
 - (i) the whole of the vendor's entitlement to derive, after the transaction, assessable receipts in relation to the project; and
 - (ii) any property held by the vendor that is being used in relation to the project; and
- (c) the purchasers give consideration for the entitlement and property.

The transaction may occur at any time (even before the vendor's first year of tax in relation to the project).

(1) For the purposes of this Act (including this section):

- (a) the purchaser, or each of the purchasers in proportion to his or her acquired entitlement to those receipts, shall be taken:
 - (i) to have derived any assessable receipts, and to have incurred any deductible expenditure (other than class 2 augmented bond rate exploration expenditure or class 2 GDP factor expenditure), in relation to the project that, if the financial year in which the transaction is or was entered into had ended immediately before the transfer time, would have been assessable receipts derived, or such deductible expenditure incurred, by the vendor in relation to the project in that financial year; and
 - (ia) to have incurred, in relation to the project, any expenditure that, if the financial year in which the transaction is or was entered into had ended immediately before the transfer time, would, within the

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meaning of Schedule 1, have been included in the incurred exploration expenditure amount in relation to the vendor, the project and the financial year or a previous financial year; and

Note: this is expenditure on which class 2 augmented bond rate exploration expenditure and class 2 GDP factor expenditure are based.

- (ib) if section 35E did not apply immediately before the transfer time, and the look-back approach is not the valuation approach for vendor's interest in the project under Part 2 of Schedule 2—to have incurred starting base expenditure, in relation to the project, of the starting base amount in relation to the vendor's interest; and
 - (ii) to have incurred any liability of the vendor, and to have paid any amounts paid by the vendor, in respect of instalments of tax in relation to the project during the part of the financial year in which the transaction is or was entered into occurring before the transfer time;
- (b) the vendor shall be taken not to have derived those receipts, incurred that expenditure or that liability or paid those amounts, as the case may be;
- (c) the vendor shall be taken not to have derived any assessable property receipts in relation to the transaction by reason of the transfer of any property held by the vendor that was being used in relation to the project at the transfer time;
- (d) the purchaser or purchasers shall be taken not to have incurred any eligible real expenditure in relation to the transaction by reason of the transfer of any such property;
- (e) in any application of section 27, 28 or 29 after the transfer time, the purchaser shall be taken to have incurred any eligible real expenditure incurred by the vendor in relation to the project (including in the case of a combined project any pre-combination project in relation to the project); and
- (f) in any application of section 40 after the transfer time, the purchaser shall be taken to have brought to account as a receipt of a kind referred to in section 24, 25, 27, 28 or 29 in

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relation to the project (including any pre-combination project in relation to the project) any debt so brought to account by the vendor.

- (2) Expenditure that the purchaser, or a purchaser, is taken to have incurred by subparagraph (1)(a)(ia) is taken to have been so incurred at the time when the vendor incurred it, or is taken to have incurred it.
- (2A) Expenditure that the purchaser, or a purchaser, is taken to have incurred by subparagraph (1)(a)(ib) is taken to have been so incurred in the first financial year in relation to which section 35E applies in relation to the project.
- (3) The vendor must give written notice of the transaction, in the approved form, to each purchaser before the end of the latest of the following days:
 - (a) the 60th day after entering into the transaction;
 - (b) the 60th day after the purchasers give consideration for the entitlement and property;
 - (c) if the project is an onshore petroleum project, or the North West Shelf project, and the transaction was entered into between 1 July 2012 and 30 June 2013—31 August 2013.

Note: Subdivision 388-B in Schedule 1 to the *Taxation Administration Act 1953* applies to approved forms under this subsection.

48A Transfer on or after 1 July 1993 of part of entitlement to assessable receipts

Section applies to transfer of part of entitlement to assessable receipts

- (1) This section applies if, on or after 1 July 1993, a person enters into a transaction that has the effect of transferring part only of the person's entitlement to derive, after the transfer, assessable receipts in relation to a petroleum project.

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Definitions

- (2) In this section:
- (a) the person is called the **vendor**;
 - (b) the person, or each of the persons, to whom the entitlement to derive assessable receipts is transferred is called a **purchaser**;
 - (c) the time at which the transaction is entered into is called the **transfer time**;
 - (d) the financial year in which the transaction is entered into is called the **transfer year**;
 - (e) the part of the vendor's entitlement to derive assessable receipts that is being transferred, when expressed as a percentage of the whole of the vendor's entitlement to derive assessable receipts in relation to the project (as determined before the transfer time), is called the **transfer percentage**.

Transfer time may be before vendor's first year of tax

- (3) The transfer time may be before the vendor's first year of tax in relation to the petroleum project.

Subsections (5) to (10) have effect for purposes of this Act

- (4) If this section applies, subsections (5) to (10) have effect for the purposes of this Act (including this section).

Purchaser taken to have derived receipts, incurred expenditure etc.

- (5) The purchaser, or each of the purchasers in proportion to its acquired entitlement to assessable receipts, is taken:
- (a) to have derived the transfer percentage of any assessable receipts that, if the transfer year had ended immediately before the transfer time, would have been assessable receipts derived by the vendor in relation to the project in the transfer year; and
 - (b) to have incurred the transfer percentage of any deductible expenditure (other than class 2 augmented bond rate exploration expenditure or class 2 GDP factor expenditure),

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in relation to the project that, if the transfer year had ended immediately before the transfer time, would have been such deductible expenditure incurred by the vendor in relation to the project in the transfer year; and

- (c) to have incurred, in relation to the project, the transfer percentage of any expenditure that, if the transfer year had ended immediately before the transfer time, would, within the meaning of Schedule 1, have been included in the incurred exploration expenditure amount in relation to the vendor, the project and the transfer year or a previous financial year; and

Note: This is expenditure on which class 2 augmented bond rate exploration expenditure and class 2 GDP factor expenditure are based.

- (ca) if:

- (i) section 35E did not apply immediately before the transfer time; and
(ii) the look-back approach is not the valuation approach for vendor's interest in the project under Part 2 of Schedule 2;

to have incurred starting base expenditure, in relation to the project, of the transfer percentage of the starting base amount in relation to the vendor's interest; and

- (d) to have incurred the transfer percentage of any liability of the vendor, and to have paid the transfer percentage of any amounts paid by the vendor, in respect of instalments of tax in relation to the project during the part of the transfer year that occurred before the transfer time.

Vendor taken not to have derived receipts, incurred expenditure etc.

- (6) The vendor is taken not to have derived, incurred or paid, as the case requires, the transfer percentage of the receipts, expenditure, liabilities and amounts to which subsection (5) applies.

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Time when purchaser taken to have incurred expenditure to which paragraph (5)(c) applies

- (7) Expenditure that the purchaser, or any of the purchasers, is taken by paragraph (5)(c) to have incurred is taken to have been so incurred at the time when the vendor incurred it, or is taken to have incurred it.

Time when purchaser taken to have incurred expenditure to which paragraph (5)(ca) applies

- (7A) Expenditure that the purchaser, or any of the purchasers, is taken by paragraph (5)(ca) to have incurred is taken to have been so incurred in the first financial year in relation to which section 35E applies in relation to the project.

Treatment of property used in relation to the project

- (8) As regards property used in relation to the project:
- (a) the vendor is taken not to have derived any assessable property receipts in relation to the transaction because of the transfer of any property held by the vendor that was being used in relation to the project at the transfer time; and
 - (b) the purchaser or purchasers are taken not to have incurred any eligible real expenditure in relation to the transaction because of the transfer of any such property.

Application of sections 27, 28 and 29

- (9) In any application of section 27, 28 or 29 after the transfer time, the purchaser, or each of the purchasers in proportion to its acquired entitlement to assessable receipts, is taken to have incurred the transfer percentage of any eligible real expenditure incurred by the vendor in relation to the project (including any pre-combination project in relation to the project).

Application of section 40

- (10) In any application of section 40 after the transfer time, the purchaser, or each of the purchasers in proportion to its acquired entitlement to assessable receipts, is taken to have brought to account as a receipt of a kind referred to in section 24, 25, 27, 28 or 29 in relation to the project (including any pre-combination project in relation to the project) the transfer percentage of any debt so brought to account by the vendor.

Transfer notice to be given to purchasers

- (11) The vendor must give written notice of the transaction, in the approved form, to each purchaser before the end of the latest of the following days:
- (a) the 60th day after the transfer time;
 - (b) the 60th day after the purchaser gives consideration for the transfer of the part of the entitlement;
 - (c) if the project is an onshore petroleum project, or the North West Shelf project, and the transaction time occurred between 1 July 2012 and 30 June 2013—31 August 2013.

Note: Subdivision 388-B in Schedule 1 to the *Taxation Administration Act 1953* applies to approved forms under this subsection.

49 Transfer before 1 July 1984 of partial entitlement to assessable receipts

Where, in relation to a petroleum project:

- (a) a person (in this section referred to as the **vendor**) entered into a transaction before 1 July 1984 that had the effect of transferring part only of the entitlement of the person to receive, after the transfer, assessable receipts in relation to the project to another person or persons (which person or each of which persons is in this section referred to as a **purchaser**);
- (b) at or before the time at which the transaction was entered into, the vendor and purchaser or purchasers entered into an agreement in writing in connection with the transaction to the

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effect that the whole or a part of the exploration expenditure incurred by the vendor in relation to the project before the time of the transfer should be taken to have been incurred by the purchaser or purchasers in accordance with the agreement; and

- (c) within 30 days after the day on which this Act comes into operation, the purchaser or a purchaser gives a copy of the agreement to the Commissioner;

then, for the purposes of this Act (including this section):

- (d) the whole or the part of the exploration expenditure of the vendor incurred before the transfer shall be taken to have been incurred instead by the purchaser, or by the purchasers in accordance with the agreement; and
- (e) where any of the exploration expenditure was expenditure in relation to property transferred to the purchaser or purchasers under the transaction referred to in paragraph (a), the vendor shall be taken not to have derived any assessable property receipts in relation to the property by reason of the transfer and the purchaser or purchasers shall be taken not to have incurred any exploration expenditure in relation to the property by reason of the transfer.

Division 6—Anti-avoidance

Subdivision A—Arrangements to obtain tax benefits

50 Arrangements

- (1) In this Subdivision, *arrangement* means:
 - (a) any agreement, arrangement, understanding, promise or undertaking, whether express or implied, and whether or not enforceable, or intended to be enforceable, by legal proceedings; and
 - (b) any scheme, plan, proposal, action, course of action or course of conduct, whether unilateral or otherwise.
- (2) A reference in this Subdivision to the carrying out of an arrangement by a person shall be read as including a reference to the carrying out of an arrangement by a person together with another person or other persons.

51 Tax benefits

A reference in this Subdivision to the obtaining by a person of a tax benefit in connection with an arrangement is a reference to:

- (a) an amount of assessable receipts not being derived by the person in a financial year in relation to a petroleum project where that amount would have been derived, or might reasonably be expected to have been derived, by the person in the financial year in relation to the project if the arrangement had not been entered into or carried out; or
- (b) an amount of deductible expenditure being incurred by the person in a financial year in relation to a petroleum project where that amount would not have been incurred, or might reasonably be expected not to have been incurred, by the person in the financial year in relation to the project if the arrangement had not been entered into or carried out;

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and, for the purposes of this Subdivision, the amount of the tax benefit shall be taken to be equal to the amount referred to in paragraph (a) or (b), as the case requires.

52 Arrangements to which Subdivision applies

This Subdivision applies to any arrangement that has been or is entered into on or after 1 July 1984, and to any arrangement that has been or is carried out or commenced to be carried out on or after that date (other than an arrangement that was entered into before that date), where:

- (a) a person (in this section referred to as the *eligible person*) has obtained, or would but for section 53 obtain, a tax benefit in connection with the arrangement; and
- (b) having regard to:
 - (i) the manner in which the arrangement was entered into or carried out;
 - (ii) the form and substance of the arrangement;
 - (iii) the time at which the arrangement was entered into and the length of the period during which the arrangement was carried out;
 - (iv) the result in relation to the operation of this Act that, but for this Subdivision, would be achieved by the arrangement;
 - (v) any change in the financial position of the eligible person that has resulted, will result, or may reasonably be expected to result, from the arrangement;
 - (vi) any change in the financial position of any person who has, or has had, any connection (whether of a business, family or other nature) with the eligible person, being a change that has resulted, will result or may reasonably be expected to result, from the arrangement;
 - (vii) any other consequence for the eligible person, or for any person referred to in subparagraph (vi), of the arrangement having been entered into or carried out; and

- (viii) the nature of any connection (whether of a business, family, or other nature) between the eligible person and any person referred to in subparagraph (vi);
- it would be concluded that the person, or one of the persons, who entered into or carried out the arrangement or any part of the arrangement did so for the sole or dominant purpose of enabling the eligible person to obtain a tax benefit or tax benefits in connection with the arrangement or of enabling the eligible person and another person or other persons each to obtain a tax benefit or tax benefits in connection with the arrangement (whether or not that person who entered into or carried out the arrangement or any part of the arrangement is the eligible person or is the other person or one of the other persons).

53 Cancellation of tax benefits etc.

- (1) Where a tax benefit has been obtained, or would but for this section be obtained, by a person in connection with an arrangement to which this Subdivision applies, the Commissioner may:
- (a) in the case of a tax benefit that is referable to an amount of assessable receipts not being derived by the person in a financial year in relation to a petroleum project—determine that the whole or a part of the amount shall be assessable receipts derived by the person in the financial year in relation to the project;
 - (b) in the case of a tax benefit that is referable to an amount of deductible expenditure being incurred by the person in a financial year in relation to a petroleum project—determine that the whole or a part of the amount shall not be deductible expenditure incurred by the person in the financial year in relation to the project; and
 - (c) in any case—determine that appropriate adjustments (if any) be made to the assessable receipts derived, or deductible expenditure incurred, by:

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- (i) the person in respect of the project in relation to any other financial year or in respect of any other project in relation to any financial year; or
 - (ii) any other person in respect of the project or any other project in relation to any financial year;
- and any such determination has effect accordingly.
- (2) Where, at any time, a person considers that the Commissioner should make a determination under paragraph (1)(c) in relation to the person in relation to a petroleum project or projects in relation to a financial year or financial years, the person may post to or lodge with the Commissioner a request in writing for the making by the Commissioner of a determination under that paragraph.
 - (3) The Commissioner shall consider the request and serve on the person a written notice of the Commissioner's decision on the request.
 - (4) If the person is dissatisfied with the Commissioner's decision on the request, the person may object against the decision in the manner set out in Part IVC of the *Taxation Administration Act 1953*.

55 Operation of Subdivision

Nothing in the provisions of this Act other than this Subdivision or in the *International Tax Agreements Act 1953* shall be taken to limit the operation of this Subdivision.

Subdivision B—Non-arm's length transactions

56 Arm's length transaction

In this Subdivision, *arm's length transaction* means a transaction where the parties to the transaction are dealing with each other at arm's length in relation to the transaction.

57 Non-arm's length receipts

(1) Where:

- (a) under a transaction, a person has derived receipts of a kind referred to in section 23 in relation to a petroleum project;
- (b) the Commissioner, having regard to any connection between the parties to the transaction or to any other relevant circumstances, is satisfied that the transaction is not an arm's length transaction;
- (c) the amount of the receipts is less than the amount (in this subsection referred to as the **increased receipts**) that could reasonably have been expected to have been the amount of those receipts if the transaction had been an arm's length transaction; and
- (d) the Commissioner determines that this subsection should apply in relation to the person in relation to the transaction;

then, for the purposes of the application of this Act in relation to the person in relation to the transaction, the amount of the receipts derived by the person shall be taken to be equal to the increased receipts.

(2) Where:

- (a) under a transaction, a person has not derived receipts of a kind referred to in section 23 in relation to a petroleum project;
- (b) the Commissioner, having regard to any connection between the parties to the transaction or to any other relevant circumstances, is satisfied that the transaction is not an arm's length transaction;
- (c) it could reasonably have been expected that if the transaction had been an arm's length transaction the person would have derived an amount (in this subsection referred to as the **notional receipts**) of receipts of such a kind in relation to the petroleum project; and

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(d) the Commissioner determines that this subsection should apply in relation to the person in relation to the transaction; then, for the purposes of the application of this Act in relation to the person in relation to the transaction, the person shall be taken to have derived under the transaction receipts of the kind referred to in paragraph (c) in relation to the project of an amount equal to the notional receipts.

- (3) This section does not apply to receipts determined under paragraph 24(1)(d).

58 Non-arm's length expenditure

Where:

- (a) under a transaction, a person has incurred eligible real expenditure in relation to a petroleum project;
 - (b) the Commissioner, having regard to any connection between the parties to the transaction or to any other relevant circumstances is satisfied that the transaction was not an arm's length transaction;
 - (c) the amount of the expenditure referred to in paragraph (a) was more than the amount (in this section referred to as the *reduced expenditure*) that could reasonably have been expected to have been the amount of that expenditure if the transaction were an arm's length transaction; and
 - (d) the Commissioner determines that this section should apply in relation to the person in relation to the transaction;
- then, for the purposes of the application of this Act in relation to the person in relation to the transaction, the amount of the expenditure referred to in paragraph (a) shall be taken to be equal to the reduced expenditure.

Division 7—Functional currency

58A Objects of this Division

The objects of this Division are:

- (a) to allow a person whose accounts are kept solely or predominantly in a particular foreign currency (the *functional currency*) to calculate:
 - (i) the person's taxable profits; and
 - (ii) certain other amounts;by reference to the functional currency; and
- (b) to allow companies that:
 - (i) are in a designated company group; and
 - (ii) whose accounts are kept solely or predominantly in a particular foreign currency (the *functional currency*);to calculate:
 - (iii) their taxable profits; and
 - (iv) certain other amounts;by reference to the functional currency.

58B Person may elect to be bound by the functional currency rules

- (1) A person may elect to be bound by the functional currency rules for the purposes of this Act, with effect from the start of:
 - (a) if the election was made by the person within 30 days after the day on which the *Tax Laws Amendment (2009 Measures No. 3) Act 2009* received the Royal Assent—the financial year beginning on 1 July 2009; or
 - (aa) if the election was made by the person within 30 days after the commencement of Schedule 1 to the *Petroleum Resource Rent Tax Assessment Amendment Act 2012*—1 July 2012; or
 - (b) in any other case—the financial year following the one in which the person made the election.
- (2) An election under subsection (1) must be in writing.

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- (3) An election under subsection (1) continues in effect until a withdrawal of the election takes effect (see section 58L).

Designated company group—deemed election etc.

- (4) If:
- (a) a person has made an election under subsection (1); and
 - (b) at the time when the person made the election, the person was the head company of a designated company group; and
 - (c) the election is in effect for a financial year; and
 - (d) when the election took effect, the person was the head company of a designated company group; and
 - (e) immediately before the end of the financial year, the person is the head company of a designated company group (the ***current designated company group***);
- then:
- (f) each other company that was in the current designated company group immediately before the end of the financial year is taken to have made an election under subsection (1); and
 - (g) an election covered by paragraph (f):
 - (i) is taken to have been in effect for the financial year; and
 - (ii) supersedes any previous election made by the other company that was in effect for the financial year.

- (5) If:
- (a) a person has made an election under subsection (1); and
 - (b) at the time when the person made the election, the person was the head company of a designated company group; and
 - (c) the election is in effect for a financial year; and
 - (d) during the financial year, the person ceased to be the head company of the designated company group; and
 - (e) immediately before the end of the financial year, another company is the head company of the designated company group;
- then:

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- (f) the company covered by paragraph (e) is taken to have made an election under subsection (1); and
 - (g) an election covered by paragraph (f):
 - (i) is taken to have been in effect for the financial year; and
 - (ii) supersedes any previous election made by the company that was in effect for the financial year; and
 - (h) each other company that was in the designated company group immediately before the end of the financial year is taken to have made an election under subsection (1); and
 - (i) an election covered by paragraph (h):
 - (i) is taken to have been in effect for the financial year; and
 - (ii) supersedes any previous election made by the other company that was in effect for the financial year.
- (6) If:
- (a) immediately before the end of a financial year, a person is the head company of a designated company group; and
 - (b) the person is not taken, under subsection (5), to have made an election under subsection (1) that is in effect for the financial year; and
 - (c) the person has not made an election under subsection (1) that:
 - (i) is in effect for the financial year; and
 - (ii) under subsection (4), results in each other company that was in the designated company group immediately before the end of the financial year being taken to have made an election under subsection (1); and
 - (d) a company that was in the designated company group immediately before the end of the financial year has made an election under subsection (1); and
 - (e) the election covered by paragraph (d) is in effect for the financial year;
- the company covered by paragraph (d) is taken to have withdrawn the election covered by paragraph (d) with effect from the start of the financial year.

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58C Applicable foreign currency

- (1) For the purposes of this Act, if:
- (a) a person has made an election under section 58B (other than an election taken to have been made as a result of the application of subsection 58B(4) or paragraph 58B(5)(h) to a designated company group); and
 - (b) the election is in effect for a financial year;
the person's *applicable functional currency* for the financial year is the sole or predominant foreign currency in which:
 - (c) if the person is the head company of a designated company group—the person kept the person's accounts immediately before the end of the financial year; or
 - (d) otherwise—the person kept the person's accounts at the time when the person made the election.

Designated company group

- (2) For the purposes of this Act, if:
- (a) a person is taken to have made an election under section 58B as a result of the application of subsection 58B(4) or paragraph 58B(5)(h) to a designated company group; and
 - (b) the election is in effect for a financial year;
the person's *applicable functional currency* for the financial year is the sole or predominant currency in which the head company of the designated company group kept its accounts immediately before the end of the financial year.

58D Basic translation rules

- (1) If:
- (a) a person has made an election under section 58B; and
 - (b) that election is in effect for a financial year;
- the following rules apply:
- (c) first, for the purpose of working out the taxable profit of the person of the financial year in relation to a petroleum project:

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- (i) an amount that is not in the applicable functional currency is to be translated into the applicable functional currency; and
 - (ii) the definition of *foreign currency* in section 2 does not apply; and
 - (iii) the applicable functional currency is taken not to be a foreign currency; and
 - (iv) Australian currency and any other currency (except the applicable functional currency) are taken to be foreign currencies;
- (d) second, the taxable profit of the person of the financial year in relation to the petroleum project is to be translated into Australian currency;
- (e) third, for the purpose of working out a credit to which the person is entitled under section 46 in relation to the financial year, an amount of excess closing-down expenditure is to be translated into Australian currency.

Examples of an amount

- (2) The following are examples of an amount:
- (a) an amount of an expense;
 - (b) an amount of an obligation;
 - (c) an amount of a liability;
 - (d) an amount of a receipt;
 - (e) an amount of a payment;
 - (f) an amount of consideration;
 - (g) a value.

58E Translation rule—assessable receipt

If:

- (a) a person derives an assessable receipt in relation to a petroleum project; and
- (b) the receipt is not in the applicable functional currency; and

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(c) the receipt was derived when an election made by the person under section 58B was in effect;
the receipt is to be translated into the applicable functional currency at the exchange rate applicable at the time when the receipt was derived.

58F Translation rule—eligible real expenditure

If:

- (a) a person incurs eligible real expenditure in relation to a petroleum project; and
- (b) the expenditure is not in the applicable functional currency; and
- (c) the expenditure was incurred when an election made by the person under section 58B was in effect;

the expenditure is to be translated into the applicable functional currency at the exchange rate applicable at the time the expenditure was incurred.

58G Translation rule—transfer of entire entitlement to assessable receipts

If:

- (a) section 48 applies in relation to a transaction; and
- (b) a person is a purchaser (within the meaning of section 48) in relation to the transaction; and
- (c) the person is taken, under section 48, to have derived or incurred an amount; and
- (d) the transfer time (within the meaning of section 48) occurred when an election made by the person under section 58B was in effect; and

(e) the amount is not in the applicable functional currency;
the amount is to be translated into the applicable functional currency at the exchange rate applicable at the transfer time (within the meaning of section 48).

58H Translation rule—transfer of part of entitlement to assessable receipts

If:

- (a) section 48A applies in relation to a transaction; and
 - (b) a person is a purchaser (within the meaning of section 48A) in relation to the transaction; and
 - (c) the person is taken, under section 48A, to have derived or incurred an amount; and
 - (d) the transfer time (within the meaning of section 48A) occurred when an election made by the person under section 58B was in effect; and
 - (e) the amount is not in the applicable functional currency;
- the amount is to be translated into the applicable functional currency at the exchange rate applicable at the transfer time (within the meaning of section 48A).

58J Translation of taxable profit, or excess closing-down expenditure, into Australian currency

(1) If:

- (a) paragraph 58D(1)(d) requires the translation of the taxable profit of a person of a financial year in relation to a petroleum project; or
- (b) paragraph 58D(1)(e) requires the translation of an amount of excess closing-down expenditure for the purpose of working out a credit to which a person is entitled under section 46 in relation to a financial year;

that taxable profit or excess closing-down expenditure, as the case may be, is to be translated using:

- (c) if the person elects to use an exchange rate that is an average of all the exchange rates during the financial year—that exchange rate; or
- (d) if the person elects to use the exchange rate applicable on the last day of the financial year—that exchange rate.

(2) An election under paragraph (1)(c) or (d):

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- (a) must be in writing; and
- (b) is irrevocable.

Default election

- (3) If:
- (a) either:
 - (i) paragraph 58D(1)(d) requires the translation of the taxable profit of a person of a financial year in relation to a petroleum project; or
 - (ii) paragraph 58D(1)(e) requires the translation of an amount of excess closing-down expenditure for the purpose of working out a credit to which a person is entitled under section 46 in relation to a financial year; and
 - (b) the person does not make an election under paragraph (1)(c) or (d) of this section in relation to the financial year;
- the person is taken to have made an election under paragraph (1)(c) of this section in relation to the financial year.

Continuity of election

- (4) If:
- (a) a person has made an election under section 58B; and
 - (b) that election is in effect for 2 or more consecutive financial years; and
 - (c) the person made an election under paragraph (1)(c) of this section in relation to the first of those financial years;
- the person is taken to have made an election under paragraph (1)(c) of this section in relation to each remaining financial year.
- (5) If:
- (a) a person has made an election under section 58B; and
 - (b) that election is in effect for 2 or more consecutive financial years; and
 - (c) the person made an election under paragraph (1)(d) of this section in relation to the first of those financial years;

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the person is taken to have made an election under paragraph (1)(d) of this section in relation to each remaining financial year.

Designated company group—deemed election under paragraph (1)(c) etc.

(6) If:

- (a) a person has made an election under paragraph (1)(c) in relation to a financial year; and
- (b) at the time when the person made the election, the person was the head company of a designated company group; and
- (c) immediately before the end of the financial year, the person is the head company of a designated company group (the ***current designated company group***);

then:

- (d) each other company that was in the current designated company group immediately before the end of the financial year is taken to have made an election under paragraph (1)(c) in relation to the financial year; and
- (e) an election covered by paragraph (d):
 - (i) is taken to have been in effect for the financial year; and
 - (ii) supersedes any previous election made by the other company that was in effect for the financial year.

(7) If:

- (a) a person has made an election under paragraph (1)(c); and
- (b) at the time when the person made the election, the person was the head company of a designated company group; and
- (c) the election is in effect for a financial year; and
- (d) during the financial year, the person ceased to be the head company of the designated company group; and
- (e) immediately before the end of the financial year, another company is the head company of the designated company group;

then:

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- (f) the company covered by paragraph (e) of this subsection is taken to have made an election under paragraph (1)(c); and
 - (g) an election covered by paragraph (f) of this subsection:
 - (i) is taken to have been in effect for the financial year; and
 - (ii) supersedes any previous election made by the company that was in effect for the financial year; and
 - (h) each other company that was in the designated company group immediately before the end of the financial year is taken to have made an election under paragraph (1)(c); and
 - (i) an election covered by paragraph (h) of this subsection:
 - (i) is taken to have been in effect for the financial year; and
 - (ii) supersedes any previous election made by the other company that was in effect for the financial year.
- (8) If:
- (a) immediately before the end of a financial year, a person is the head company of a designated company group; and
 - (b) the person is not taken, under subsection (7), to have made an election under paragraph (1)(c) that is in effect for the financial year; and
 - (c) the person has not made an election under paragraph (1)(c) that:
 - (i) relates to the financial year; and
 - (ii) under subsection (6), results in each other company that was in the designated company group immediately before the end of the financial year being taken to have made an election under paragraph (1)(c); and
 - (d) a company that was in the designated company group immediately before the end of the financial year has made an election under paragraph (1)(c) in relation to the financial year;
- the election covered by paragraph (c) of this subsection is taken not to have been in effect for the financial year.

Designated company group—deemed election under paragraph (1)(d) etc.

(9) If:

- (a) a person has made an election under paragraph (1)(d) in relation to a financial year; and
- (b) at the time when the person made the election, the person was the head company of a designated company group; and
- (c) immediately before the end of the financial year, the person is the head company of a designated company group (the ***current designated company group***);

then:

- (d) each other company that was in the current designated company group immediately before the end of the financial year is taken to have made an election under paragraph (1)(d) in relation to the financial year; and
- (e) an election covered by paragraph (d):
 - (i) is taken to have been in effect for the financial year; and
 - (ii) supersedes any previous election made by the other company that was in effect for the financial year.

(10) If:

- (a) a person has made an election under paragraph (1)(d); and
- (b) at the time when the person made the election, the person was the head company of a designated company group; and
- (c) the election is in effect for a financial year; and
- (d) during the financial year, the person ceased to be the head company of the designated company group; and
- (e) immediately before the end of the financial year, another company is the head company of the designated company group;

then:

- (f) the company covered by paragraph (e) of this subsection is taken to have made an election under paragraph (1)(d); and
- (g) an election covered by paragraph (f) of this subsection:
 - (i) is taken to have been in effect for the financial year; and

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- (ii) supersedes any previous election made by the company that was in effect for the financial year; and
 - (h) each other company that was in the designated company group immediately before the end of the financial year is taken to have made an election under paragraph (1)(d); and
 - (i) an election covered by paragraph (h) of this subsection:
 - (i) is taken to have been in effect for the financial year; and
 - (ii) supersedes any previous election made by the other company that was in effect for the financial year.
- (11) If:
- (a) immediately before the end of a financial year, a person is the head company of a designated company group; and
 - (b) the person is not taken, under subsection (10), to have made an election under paragraph (1)(d) that is in effect for the financial year; and
 - (c) the person has not made an election under paragraph (1)(d) that:
 - (i) relates to the financial year; and
 - (ii) under subsection (9), results in each other company that was in the designated company group immediately before the end of the financial year being taken to have made an election under paragraph (1)(d); and
 - (d) a company that was in the designated company group immediately before the end of the financial year has made an election under paragraph (1)(d) in relation to the financial year;
- the election covered by paragraph (c) of this subsection is taken not to have been in effect for the financial year.

58K Special translation rules—events that happened before the current election took effect

Certain expenditure incurred on the day when section 58B election takes effect

- (1) If:
-

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- (a) a person has made an election under section 58B (the *current election*) with effect from the start of a particular financial year; and
- (b) any of the following subparagraphs applies:
 - (i) under subsection 33(3), an amount is taken to be class 1 augmented bond rate general expenditure incurred by the person in relation to a petroleum project on the first day of the financial year;
 - (ii) under subsection 34(3), an amount is taken to be class 1 augmented bond rate exploration expenditure incurred by the person in relation to a petroleum project on the first day of the financial year;
 - (iii) under subsection 34A(4), an amount is taken to be class 2 augmented bond rate general expenditure incurred by the person on the first day of the financial year;
 - (iv) under subsection 35C(5), an amount is taken to be resource tax expenditure incurred by the person in relation to a petroleum project on the first day of the financial year;
 - (v) under subsection 35D(3) or (4), an amount is taken to be acquired exploration expenditure incurred by the person in relation to a petroleum project on the first day of the financial year;
 - (vi) under subsections 35E(1) and (1B), or under subsection 35E(3), an amount is taken to be starting base expenditure incurred by the person in relation to a petroleum project on the first day of the financial year;
 - (vii) under Division 1 of Part 3 of Schedule 2, an amount is the starting base amount that the person has in relation to an interest in a petroleum project; and
- (c) as a result of the current election, section 58D requires that the amount be translated into the applicable functional currency;

the amount is to be translated into the applicable functional currency at the exchange rate applicable when the current election took effect.

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*Class 2 augmented bond rate exploration expenditure, class 2
GDP factor expenditure and transferable exploration expenditure*

- (2) For the purpose of working out:
- (a) the class 2 augmented bond rate exploration expenditure; or
 - (b) the class 2 GDP factor expenditure; or
 - (c) the transferable exploration expenditure;
- that a person is taken to have incurred in a financial year in relation to a petroleum project, if:
- (d) the person has made an election (the **current election**) under section 58B; and
 - (e) the current election is in effect for the financial year; and
 - (f) section 58D requires that an amount of expenditure be translated into the applicable functional currency; and
 - (g) the expenditure was actually incurred before the current election took effect;
- the expenditure is to be translated into the applicable functional currency at the exchange rate applicable when the current election took effect.

58L Withdrawal of election

- (1) If:
- (a) a person has made an election under section 58B (other than an election taken to have been made as a result of the application of subsection 58B(4) or paragraph 58B(5)(h) to a designated company group); and
 - (b) the person's applicable functional currency has ceased to be the sole or predominant currency in which the person keeps the person's accounts;
- the person may withdraw the election with effect from immediately after the end of the financial year in which the person withdraws the election.
- (2) A withdrawal must be in writing.

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- (3) Withdrawing an election does not prevent the person from making a fresh election under section 58B.

Designated company groups—deemed withdrawal of election etc

- (4) If:
- (a) a person withdraws an election under section 58B with effect from immediately after the end of the financial year in which the person withdraws the election; and
 - (b) at the time when the withdrawal is made, the person is the head company of a designated company group;
- each other company in the designated company group is taken to have withdrawn the other company's section 58B election with effect from immediately after the end of the financial year.

58M Special translation rules—events that happened before the withdrawal of an election took effect

Certain expenditure incurred on the day when section 58B election takes effect

- (1) If:
- (a) a person withdraws an election under section 58B with effect from immediately after the end of a financial year; and
 - (b) the person does not make a fresh election under section 58B with effect from the start of the next financial year; and
 - (c) any of the following subparagraphs applies:
 - (i) under subsection 33(3), an amount is taken to be class 1 augmented bond rate general expenditure incurred by the person in relation to a petroleum project on the first day of the next financial year;
 - (ii) under subsection 34(3), an amount is taken to be class 1 augmented bond rate exploration expenditure incurred by the person in relation to a petroleum project on the first day of the next financial year;

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- (iii) under subsection 34A(4), an amount is taken to be class 2 augmented bond rate general expenditure incurred by the person on the first day of the next financial year;
- (iv) under subsection 35C(5), an amount is taken to be resource tax expenditure incurred by the person in relation to a petroleum project on the first day of the next financial year;
- (v) under subsection 35D(3) or (4), an amount is taken to be acquired exploration expenditure incurred by the person in relation to a petroleum project on the first day of the next financial year;
- (vi) under subsections 35E(1) and (1B), or under subsection 35E(3), an amount is taken to be starting base expenditure incurred by the person in relation to a petroleum project on the first day of the next financial year;
- (vii) under Division 1 of Part 3 of Schedule 2, an amount is the starting base amount that the person has in relation to an interest in a petroleum project; and

(d) section 10 requires that the amount be translated into Australian currency;

the amount is to be translated into Australian currency at the exchange rate applicable at the start of the next financial year.

Class 2 augmented bond rate exploration expenditure, class 2 GDP factor expenditure and transferable exploration expenditure

- (2) For the purpose of working out:
- (a) the class 2 augmented bond rate exploration expenditure; or
 - (b) the class 2 GDP factor expenditure; or
 - (c) the transferable exploration expenditure;
- that a person is taken to have incurred in a financial year in relation to a petroleum project, if:
- (d) a person withdraws an election under section 58B with effect from immediately after the end of an earlier financial year; and

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- (e) the person has not made an election under section 58B with effect from the start of an intervening financial year; and
- (f) section 10 requires that an amount of expenditure be translated into Australian currency; and
- (g) the expenditure was actually incurred before the withdrawal of the election took effect;

the expenditure is to be translated into Australian currency at the exchange rate applicable at the start of the next financial year after that earlier financial year.

Division 8—Consolidated groups

58N Choice to consolidate

- (1) A head company of a consolidated group or a MEC group or a provisional head company of a MEC group may, in writing, choose to apply this Division in relation to the group.
- (2) However, subsection (1) does not apply if a notice has not been given to the Commissioner under section 703-58, 719-76 or 719-78 of the *Income Tax Assessment Act 1997* in relation to the group.
- (3) The choice is not valid unless it is in the approved form, and the head company or the provisional head company gives it to the Commissioner:
 - (a) within 21 days after making the choice; or
 - (b) within such further period as the Commissioner allows.
- (4) The choice is irrevocable, and:
 - (a) has effect on and after the day the choice is made; and
 - (b) does not have effect after the consolidated group or MEC group ceases to exist.

Note: The head company's interests in petroleum projects just before a consolidated group or MEC group ceases to exist would be transferred at the time the group ceases to exist: see section 58R.

58P Single entity rule

- (1) If a person:
 - (a) is a subsidiary member of the consolidated group or MEC group for any period in which the choice is in effect; and
 - (b) holds an interest in an onshore petroleum project;the person and any other subsidiary member of the group that holds an interest in the project are taken, for the purposes covered by subsection (2), to be parts of the head company or provisional head company of the group, rather than separate persons, during that period.

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Note: Despite the single entity rule, a subsidiary member of the group is jointly and severally liable for a liability of the head company: see section 721-10 of the *Income Tax Assessment Act 1997*.

- (2) The purposes covered by this subsection are:
- (a) working out, for the purposes of this Act, the head company's or provisional head company's interests, and any subsidiary member's interests, in onshore petroleum projects for any financial year in which any of the period occurs or any later financial year; and
 - (b) working out any tax that is payable in relation to such an interest for any such financial year; and
 - (c) working out assessable receipts and deductible expenditure arising in relation to such an interest for any such financial year; and
 - (d) working out the head company's or provisional head company's notional tax amount, and any subsidiary member's notional tax amount, in relation to an instalment period in any such financial year; and
 - (e) working out excess closing-down expenditure arising in relation to such an interest.

Examples: The following are some examples of consequences of the single entity rule:

- (a) a subsidiary member's interest in an onshore petroleum project becomes a part of the head company's or provisional head company's aggregated interest in the project;
- (b) a subsidiary member's assessable receipts and deductible expenditure relating to the interest are inherited by the head company or provisional head company along with the interest;
- (c) a subsidiary member's liability to pay tax in relation to a period before becoming a member of the group (and any interest charges associated with such a liability) remains a liability of the subsidiary member and does not become a liability of the head company or provisional head company.

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58Q Interests taken to be transferred to head company etc. on joining

If, because of the application of section 58P, a person is taken at a particular time to start being part of the head company or provisional head company, section 48 applies as if, at that time:

- (a) each of the person's interests in onshore petroleum projects just before that time had been transferred to the head company or provisional head company; and
- (b) the head company or provisional head company had given the consideration referred to in paragraph 48(1A)(c).

58R Interests taken to be transferred to leaving entity on leaving

(1) If:

- (a) at a particular time, a person stops being taken, because of section 58P, to be part of the head company or provisional head company; and
- (b) the entitlement comprising the person's interest in an onshore petroleum project just after that time is all of the entitlement comprising the company's interest in the project just before that time;

section 48 applies as if, at that time, the person's interest in the project just after that time had been transferred from the company under a transaction of a kind referred to in subsection 48(1A), and as if the person had given the consideration referred to in paragraph 48(1A)(c).

(2) If:

- (a) at a particular time, a person stops being taken, because of section 58P, to be part of the head company or provisional head company; and
- (b) the entitlement comprising the person's interest in an onshore petroleum project just after that time is part, but not all, of the entitlement comprising the company's interest in the project just before that time;

section 48A applies as if, at that time, the person's interest in the project just after that time had been transferred from the company under a transaction of a kind referred to in subsection 48A(1), and as if the person had given the consideration referred to in paragraph 48A(1)(b).

58RA Interests taken to be transferred when combined with offshore interests

(1) If:

- (a) after a person's interest in an onshore petroleum project is taken to be transferred to the head company or provisional head company, the project becomes part of a combined project of which another petroleum project that is not an onshore petroleum project is also a part; and
- (b) the entitlement comprising the person's interest in the project just after that time is all of the entitlement comprising the company's interest in the project just before that time;

section 48 applies as if, at that time, the person's interest in the project just after that time had been transferred from the company under a transaction of a kind referred to in subsection 48(1A), and as if the person had given the consideration referred to in paragraph 48(1A)(c).

(2) If:

- (a) after a person's interest in an onshore petroleum project is taken to be transferred to the head company or provisional head company, the project becomes part of a combined project of which another petroleum project that is not an onshore petroleum project is also a part; and
- (b) the entitlement comprising the person's interest in the project just after that time is part, but not all, of the entitlement comprising the company's interest in the project just before that time;

section 48A applies as if, at that time, the person's interest in the project just after that time had been transferred from the company under a transaction of a kind referred to in subsection 48A(1), and

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as if the person had given the consideration referred to in paragraph 48A(11)(b).

58S Acquisition of consolidated group by another consolidated group etc.

If a member of a consolidated group or MEC group (the *relinquishing group*) becomes a member of another consolidated group or MEC group (the *acquiring group*) at a particular time (the *acquisition time*):

- (a) first apply subsection 58R(1) or (2) (as the case requires) in relation to the member ceasing to be a member of the relinquishing group as if section 58P did not apply in relation to the member just after the acquisition time; and
- (b) then apply section 58Q in relation to the member becoming a member of the acquiring group as if section 58P did not apply in relation to the member just before the acquisition time.

58T Effect of choice to continue group after shelf company becomes new head company

- (1) If a company (the *interposed company*) chooses under subsection 615-30(2) of the *Income Tax Assessment Act 1997* that a consolidated group is to continue in existence at and after the time referred to in that subsection as the completion time, for the purposes of this Act:
 - (a) the group is taken not to have ceased to exist under subsection 703-5(2) of that Act because the company referred to in subsection 615-30(2) of that Act as the original entity ceases to be the head company of the group; and
 - (b) the interposed company is taken to have become the head company of the consolidated group at the completion time; and
 - (c) the original entity is taken to have ceased to be the head company at that time.

Note: A further result is that the original entity is taken to have become a subsidiary member of the group at that time.

- (2) For the purposes referred to in subsection 58P(2) in relation to a year of tax ending after the completion time, everything that happened in relation to the original entity before the completion time:
- (a) is taken to have happened in relation to the interposed company instead of in relation to the original entity; and
 - (b) is taken to have happened in relation to the interposed company instead of what would (apart from this section) be taken to have happened in relation to the interposed company before that time;
- as if, at all times before the completion time, the interposed company had been the original entity, and the original entity had been the interposed company.

Note: This section treats the original entity and the interposed company as having in effect exchanged identities throughout the period before the completion time, but without affecting any of the original entity's other attributes.

58U Effect of change of head company or provisional head company of a MEC group

- (1) For the purposes referred to in subsection 58P(2) in relation to a year of tax:
- (a) if:
 - (i) a company (the *old head company*) is the head company of a MEC group at the end of an income year (within the meaning of the *Income Tax Assessment Act 1997*); and
 - (ii) a different company (the *new head company*) is the head company of the group at the start of the next income year (the *transition time*); or
 - (b) if:
 - (i) a company (also the *old head company*) is the provisional head company of a MEC group just before a

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cessation event (within the meaning of that Act)
happens to the company; and

- (ii) a different company (also the *new head company*) is the provisional head company of the group just after that cessation event (also the *transition time*);

everything that happened in relation to the old head company before the transition time is taken to have happened in relation to the new head company instead, as if the new head company had been the old head company at all times before the transition time.

Note 1: This section treats the new head company as having in effect assumed the identity of the old head company throughout the period before the transition time, but without affecting any of the other attributes of the old head company.

Note 2: A further result is that the old head company is taken to have become a subsidiary member of the group at the transition time.

- (2) However, this section does not apply in relation to a year of tax ending on or before the transition time.

58V Effect of group conversions involving MEC groups

- (1) This section applies if, at a particular time (the *conversion time*):
- (a) a consolidated group (the *new group*) is created from a MEC group (the *old group*); or
 - (b) a MEC group (the *new group*) is created from a consolidated group (the *old group*).
- (2) For the purposes referred to in subsection 58P(2) in relation to a year of tax ending after the conversion time:
- (a) the new group is taken to be a continuation of the old group; and
 - (b) the old group is taken not to have ceased to exist for the purposes of subsection 58N(4); and
 - (c) everything that happened in relation to the head company of the old group before the conversion time is taken instead to have happened in relation to:

- (i) if the head company of the old group is the same entity as the head company of the new group—that entity in its role as head company of the new group; or
 - (ii) otherwise—the head company of the new group (as if the head company of the new group had been the head company of the old group at all times before the conversion time).
- (3) If this section applies because a MEC group is created from a consolidated group, references in paragraph (2)(c) to the head company of the new group are taken to be references to the head company or the provisional head company of the new group.

58W Subsidiary members that are trusts

If a subsidiary member of a consolidated group or MEC group is a trust, this Division applies to the subsidiary member as if it were a person.

Part VI—Returns and assessments

Division 1—Returns

59 Annual returns

- (1) Where a person derives assessable receipts in a year of tax in relation to a petroleum project, the person shall, unless the person has furnished a return or returns under section 60 in relation to the project in relation to the year of tax, furnish to the Commissioner a return in relation to the project in relation to the year of tax not later than 60 days after the end of the year of tax or such later date as the Commissioner allows.
- (2) A return under subsection (1) shall:
 - (a) be in the approved form;
 - (b) be furnished in accordance with the regulations;
 - (c) be signed by or on behalf of the person furnishing the return;
 - (d) specify, in relation to the petroleum project and the year of tax concerned, the assessable receipts and deductible expenditure of the person; and
 - (e) contain such other information as is required for the due completion of the form of return.
- (3) A return under this section in relation to a petroleum project must be accompanied by a copy of any notice given to the person under subsection 48(3) or 48A(11) in relation to the project:
 - (a) since the person last gave the Commissioner a return under this section or section 60 in relation to the project; or
 - (b) if the person has not previously given a return to the Commissioner under this section or section 60 in relation to the project—since the person acquired an entitlement to derive assessable receipts in relation to the project.

Note 1: Subdivision 388-B in Schedule 1 to the *Taxation Administration Act 1953* applies to approved forms under this section.

Note 2: Under Divisions 357 to 360 in Schedule 1 to the *Taxation Administration Act 1953*, the Commissioner may make a ruling about the application of this Act as it affects a person's tax liability.

60 Other returns

- (1) Where the Commissioner, by notice in writing served on a person, requires the person to furnish to the Commissioner a return in relation to a petroleum project in relation to a year of tax, the person shall furnish the return to the Commissioner, whether or not the person has furnished, or was required to furnish, a return under section 59 or this section in relation to the project in relation to the year of tax.
- (2) A return under subsection (1) shall:
 - (aa) be in the approved form; and
 - (a) be furnished in the manner and within the time required by the Commissioner in the notice; and
 - (b) specify, in relation to the petroleum project and the year of tax concerned, the assessable receipts and deductible expenditure of the person; and
 - (c) contain such other information as is required in the notice.
- (3) A return under this section in relation to a petroleum project must be accompanied by a copy of any notice given to the person under subsection 48(3) or 48A(11) in relation to the project:
 - (a) since the person last gave the Commissioner a return under this section or section 59 in relation to the project; or
 - (b) if the person has not previously given a return to the Commissioner under this section or section 59 in relation to the project—since the person acquired an entitlement to derive assessable receipts in relation to the project.

Note: Subdivision 388-B in Schedule 1 to the *Taxation Administration Act 1953* applies to approved forms under this section.

Division 2—Assessments (general)

61 Making assessments

The Commissioner must, from returns and any other information in the Commissioner's possession, make an assessment of the amount of a person's taxable profit (or that a person has no taxable profit) in relation to a year of tax and a petroleum project, and of the tax payable on that amount (or that no tax is payable).

Note: For starting base assessments, see clause 23 of Schedule 2.

62 Self-assessment

- (1) This section applies if:
 - (a) at a particular time, a person gives a return to the Commissioner in relation to a year of tax and a petroleum project; and
 - (b) before that time, no return has been given, and no assessment has been made, in relation to the person, the year of tax and the project.
- (2) The Commissioner is taken to have made an assessment of the amount of the person's taxable profit (or that the person has no taxable profit) in relation to the year of tax and the project, and of the tax payable on that amount (or that no tax is payable), in accordance with what the person specified in the return.
- (3) The assessment is taken to have been made on the day the return is given to the Commissioner.
- (4) On and after the day the Commissioner is taken to have made the assessment, the return is taken to be a notice of the assessment:
 - (a) under the hand of the Commissioner; and
 - (b) given to the person on the day the Commissioner is taken to have made the assessment.

63 Default assessments

- (1) The Commissioner may make an assessment of the amount of a person's taxable profit (or that a person has no taxable profit) upon which, in the opinion of the Commissioner, tax is payable by the person, and of the amount of that tax (or that no tax is payable), if:
 - (a) the person makes default in giving a return to the Commissioner; or
 - (b) the Commissioner is not satisfied with the person's return; or
 - (c) the person has not given a return to the Commissioner, and the Commissioner has reason to believe that the person is liable to pay tax.
- (2) As soon as practicable after an assessment under subsection (1) is made, the Commissioner must give notice in writing of the assessment to the person.

64 Reliance on information in returns and statements

- (1) The Commissioner may accept (in whole or in part) the following for the purposes of making an assessment in relation to a person, a year of tax and a petroleum project:
 - (a) a statement in a return of the assessable receipts, deductible expenditure or transferable exploration expenditure in relation to the project;
 - (b) any other statement in the return, or otherwise, made by or on behalf of the person.
- (2) In determining whether an assessment is correct, any determination, opinion or judgment of the Commissioner made, held or formed in connection with the consideration of an objection against the assessment is taken to have been made, held or formed when the assessment was made.

65 Validity of assessments

The validity of an assessment is not affected by a failure to comply with this Act.

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66 Objections to assessments

- (1) A person who is dissatisfied with an assessment made in relation to the person may object against it in the manner set out in Part IVC of the *Taxation Administration Act 1953*.
- (2) A person cannot object against an assessment ascertaining that no tax is payable by the person in relation to a year of tax and a petroleum project, unless the person is seeking an increase in the person's tax liability.

Division 3—Assessments (amendment)

67 Amendment of assessments

- (1) The Commissioner may amend an assessment in relation to a person within 4 years after the day on which notice of the assessment was given to the person.

Note 1: If a person's return is taken to be an assessment under section 62, the Commissioner is taken to have given a notice of assessment to the person on the day the person gave the return to the Commissioner: see subsection 62(4).

Note 2: The amendment period may be extended: see sections 69, 70 and 71.

- (2) In addition, the Commissioner may amend an assessment at any time:
- (a) if he or she is of the opinion there has been fraud or evasion;
or
 - (b) to give effect to a decision on a review or appeal; or
 - (c) as a result of an objection, or pending a review or appeal; or
 - (d) to give effect to a determination under paragraph 53(1)(c); or
 - (e) to take account of the operation of subsection 5(4), 20(8), 45A(3), 45B(3) or 45C(6).

Note: The Commissioner may also amend an assessment at any time to give effect to a starting base assessment, see subclause 23(6) of Schedule 2.

- (3) As soon as practicable after the Commissioner amends an assessment in relation to a person, the Commissioner must give notice in writing of the amended assessment to the person.

Note: This section applies to assessments even if no tax is payable: see the definition of *assessment* in section 2.

68 Amended assessments taken to be assessments

An amended assessment is taken to be an assessment for the purposes of this Act, except as otherwise provided.

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69 Amending amended assessments

Limit on amending amended assessments under subsection 67(1)

- (1) The Commissioner cannot amend an amended assessment under subsection 67(1) if the period mentioned in that subsection in relation to the original assessment concerned has ended.

Note: The Commissioner may amend amended assessments at any time if subsection 67(2) applies.

Refreshed amendment period for amending amended assessments

- (2) The Commissioner may amend an amended assessment (the **earlier amended assessment**), to increase a person's liability in relation to a particular, within 4 years after the day the Commissioner gave the person notice of the earlier amended assessment, if:
- (a) the earlier amended assessment reduced the person's liability in relation to the particular; and
 - (b) the Commissioner accepted a statement made by the person in making the earlier amended assessment.
- (3) The Commissioner may also amend an amended assessment (the **earlier amended assessment**), to reduce a person's liability in relation to a particular, within 4 years after the day the Commissioner gave the person notice of the earlier amended assessment, if:
- (a) the earlier amended assessment increased the person's liability in relation to the particular; or
 - (b) the earlier amended assessment reduced the person's liability in relation to the particular, but paragraph (2)(b) does not apply.
- (4) The Commissioner cannot amend an assessment under subsection (3) in relation to a particular if the Commissioner has previously amended an assessment under subsection (2) in relation to that particular.

Note 1: The earlier amended assessment may be an amendment of the original assessment or of a previous amendment of the original assessment.

Note 2: The Commissioner may amend the earlier amended assessment at any time if subsection 67(2) applies.

Note 3: The amendment period mentioned in this section may be extended under section 70.

70 Extended periods for amendment—taxpayer applications and private rulings

Taxpayer applications

- (1) The Commissioner may amend an assessment in relation to a person after the end of the limited amendment period if the person applied for the amendment in the approved form before the end of the period.

Private rulings

- (2) The Commissioner may amend an assessment in relation to a person after the end of the limited amendment period if:
 - (a) the person applied for a private ruling under Division 359 in Schedule 1 to the *Taxation Administration Act 1953* before the end of the period; and
 - (b) the Commissioner made a private ruling under that Division; and
 - (c) the amendment gives effect to the ruling.

- (3) In this section:

limited amendment period, for the amendment of an assessment, means the period mentioned in subsection 67(1) or 69(2) or (3) for the amendment of the assessment.

71 Extended periods for amendment—Federal Court orders and taxpayer consent

- (1) This section applies if:
 - (a) the Commissioner has started to examine the affairs of a person in relation to an assessment; and

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- (b) the Commissioner has not completed the examination before the end of the limited amendment period, or that period as extended under this section.
- (2) The limited amendment period is extended for an additional period if:
- (a) on an application by the Commissioner before the end of the limited amendment period (or that period as extended under this section), the Federal Court of Australia orders the extension for the additional period; or
 - (b) before the end of the limited amendment period (or that period as extended under this section):
 - (i) the Commissioner requests the person to consent to the extension of the limited amendment period; and
 - (ii) the person, by notice in writing, consents to the extension for the additional period.
- (3) The Federal Court of Australia may order an extension of the limited amendment period under paragraph (2)(a) only if the Court is satisfied that it was not reasonably practicable, or that it was inappropriate, for the Commissioner to complete the examination within the limited amendment period (or that period as extended under this section), because of:
- (a) any action taken by the person; or
 - (b) any failure of the person to take action that would have been reasonable for the person to take.
- (4) The limited amendment period may be extended more than once under this section.
- (5) In this section:
- limited amendment period***, for the amendment of an assessment, means the period mentioned in subsection 67(1) or 69(2) or (3) for the amendment of the assessment.

72 Refund of overpaid amounts

- (1) If, because of an amendment of an assessment, a person's liability (the *earlier liability*) to tax or a related charge is reduced, the amount by which the tax or charge is so reduced is taken never to have been payable for the purposes of:
- (a) section 85 (which applies the general interest charge); and
 - (b) Division 280 in Schedule 1 to the *Taxation Administration Act 1953* (which applies the shortfall interest charge).

Note: The general interest charge is worked out under Division 1 of Part IIA of the *Taxation Administration Act 1953*.

- (2) The Commissioner must refund or apply the amount of any tax overpaid in accordance with Divisions 3 and 3A of Part IIB of the *Taxation Administration Act 1953*.
- (3) However, if a later amendment of the assessment is made and all or some of the person's earlier liability in relation to a particular is reinstated, subsection (1) is taken not to have applied, or not to have applied to the extent that the earlier liability is reinstated.

Note: If the amendment of an assessment results in an increase in a person's tax liability, the person is liable to pay shortfall interest charge on the amount of the increase: see Division 280 in Schedule 1 to the *Taxation Administration Act 1953*.

Part VIII—Collection and recovery of tax

Division 1—General

82 When tax and shortfall interest charge payable

Self-assessment and default assessment

- (1) Tax assessed in relation to a year of tax in accordance with an assessment under Division 2 of Part VI in relation to a person is due and payable by the person on the 60th day after the end of the year of tax.

Amended assessments

- (2) Tax assessed in relation to a year of tax in accordance with an amended assessment in relation to a person is due and payable on the later of the following days:
 - (a) the 21st day after the day on which the Commissioner gives the person notice of the amended assessment;
 - (b) the 60th day after the end of the year of tax.

Shortfall interest charge

- (3) Shortfall interest charge payable by a person in relation to an assessment is due and payable on the 21st day after the day on which the Commissioner gives the person notice of the amount of the charge.

Note 1: The Commissioner may defer the time at which tax or the shortfall interest charge is, or would become, due and payable: see section 255-10 in Schedule 1 to the *Taxation Administration Act 1953*.

Note 2: For provisions about collection and recovery of tax or the shortfall interest charge, see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

85 Unpaid tax and charges

- (1) A person is liable to pay the general interest charge on any amount of any of the following that remains unpaid after the time by which payment is due:
- (a) tax the person is liable to pay;
 - (b) shortfall interest charge the person is liable to pay in relation to tax;
 - (c) instalment transfer interest charge the person is liable to pay in relation to an instalment of tax.

Note: The general interest charge is worked out under Part IIA of the *Taxation Administration Act 1953*.

- (2) The person is liable to pay the general interest charge for each day in the period that:
- (a) started at the beginning of the day by which the tax, shortfall interest charge or instalment transfer interest charge was due to be paid; and
 - (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the tax, shortfall interest charge or instalment transfer interest charge;
 - (ii) general interest charge on any of the tax, shortfall interest charge or instalment transfer interest charge.

92 Person in receipt or control of money of non-resident

- (1) A person who has authority to receive, control or dispose of money belonging to a non-resident who is liable to an amount of tax or related charge shall, when required by the Commissioner by notice in writing served on the person, pay the amount of tax or charge and, by force of this section, is, when so required:
- (a) authorised and required to retain from time to time any money that comes to the person on behalf of the non-resident or so much of it as is sufficient to pay the amount of tax or charge payable by the non-resident;

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- (b) made personally liable for the amount of tax or charge after it becomes payable to the extent of any amount so retained, or which should have been so retained, under paragraph (a); and
 - (c) indemnified for all payments that the person makes pursuant to this section.
- (2) For the purposes of subsection (1), a person who is liable to pay money to a non-resident shall be deemed to be a person who has the control of money belonging to the non-resident, and all money due by the person to the non-resident shall be deemed to be money that comes to the person on behalf of the non-resident.
- (3) Where the Commonwealth, a State or Territory, or an authority of the Commonwealth, a State or Territory, has the receipt, control or disposal of money belonging to a non-resident, this section (other than paragraph (1)(b)) applies to and in relation to the Commonwealth, the State or the Territory, or the authority of the Commonwealth, of the State or of the Territory, as the case may be, in the same manner as it applies to and in relation to any other person.

Division 2—Collection by instalments

93 Interpretation

- (1) In sections 58P, 85, 92 and 109, but not in any other section of this Act, *tax* includes an instalment of tax payable under this Division.
- (2) The ascertainment of the notional tax amount, or the amount of any instalment of tax, in accordance with this Division shall not be deemed to be an assessment within the meaning of any of the provisions of this Act.
- (3) All amounts of instalments of tax shall be calculated to the nearest dollar.

94 Liability to pay instalments of tax

For the purpose of securing generally the more expeditious collection of tax, a person is liable to pay, in accordance with this Division, 3 instalments of tax in respect of each year of tax of the person in relation to a petroleum project, being a year of tax commencing on or after 1 July 1987.

95 When instalment of tax is payable

Subject to this Division, the 3 instalments of tax payable in respect of a year of tax of a person in relation to a petroleum project are due and payable respectively on 21 October, 21 January and 21 April in the year of tax concerned.

Note: For provisions about collection and recovery of an instalment of tax, see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

96 Amount of instalment of tax

The amount payable by a person as an instalment of tax is the notional tax amount in relation to the instalment period in relation to the instalment.

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97 Notional tax amount

- (1) Subject to subsection (2), the notional tax amount of a person, in relation to a petroleum project and an instalment period in a year of tax, is the amount worked out in accordance with the formula:

Current period liability – Previous period liability

where:

Current period liability means the amount worked out under subsection (1A).

Previous period liability means the amount worked out under subsection (1B).

- (1A) For the purposes of subsection (1), the current period liability is an amount equal to the tax that would be payable by the person in relation to the petroleum project if:
- (a) the instalment period were the year of tax; and
 - (aa) without limiting paragraph (a)—any instalment transfers in relation to the instalment period were annual transfers in relation to the year of tax; and
 - (b) the amounts that were taken by subsections 33(3), 34(3), 34A(4), 35(3), 35C(5), 35D(3) and (4), 35E(3) and 36(1) (including because of section 48) to be incurred by the person in relation to the project on the first day of the year of tax were instead only the instalment percentages of those amounts; and
 - (c) the amounts that would, for the purposes of Schedule 1, be the incurred exploration expenditure amounts in relation to financial years before the year of tax were instead only the instalment percentages of those amounts.

Note: Division 3A of Part V may require or permit the transfer (by **instalment transfer**) of transferable exploration expenditure in relation to instalment periods: see section 45E.

- (1AA) If the whole or a part of the assessable petroleum receipts that would be taken into account in working out the current period liability were determined under paragraph 24(1)(d), (e) or (f) (the

special calculation provisions), then, in calculating the current period liability under subsection (1A):

- (a) any assessable petroleum receipts determined under the special calculation provisions are to be excluded; and
 - (b) the amount worked out in accordance with the regulations in respect of those assessable petroleum receipts is to be included.
- (1B) For the purposes of subsection (1), the previous period liability is an amount equal to the sum of the notional tax amounts (if any) worked out under subsection (1) in relation to the person, the petroleum project and any earlier instalment periods in the year of tax.
- (1C) If the petroleum project is a combined project, the references in paragraph (1A)(b) and subsection (1B) to the project are to be read as including references to the pre-combination projects in relation to the project.
- (2) Where:
- (a) a person has not furnished information under section 98 in relation to an instalment of tax; or
 - (b) the Commissioner is not satisfied with the information furnished by a person under section 98 in relation to an instalment of tax;

the Commissioner may determine that the notional tax amount of the person in respect of the period to which the instalment of tax relates is such amount that, in the opinion of the Commissioner, might reasonably be expected to be the notional tax amount, ascertained in accordance with subsection (1), of the person in respect of the instalment period.

- (3) As soon as practicable after a determination is made under subsection (2) in relation to a person, the Commissioner shall cause notice of the determination to be served on the person.

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98 Instalment statement

- (1) Where a person is liable to pay an instalment of tax in respect of an instalment period, the person shall, not later than the date on which the instalment is due and payable or such later date as the Commissioner allows, furnish, in accordance with the approved form, such information relating to the basis of the calculation of that instalment as is required by the form.
- (2) Subsection (1) does not apply in relation to an instalment of tax that a person is liable to pay in respect of an instalment period where the amount of the instalment in relation to the instalment period and in relation to each preceding instalment period (if any) is nil.

98A Instalment transfer interest charge—liability

Situation in which charge applies

- (1) Subject to subsections (2) and (3), this section applies to a person (the **liable person**) in relation to an amount of expenditure (the **instalment transfer excess**) if:
 - (a) an instalment transfer of the amount in relation to an instalment period in a year of tax is made:
 - (i) by the liable person to a petroleum project under section 45A (as the section applies because of section 45E); or
 - (ii) to the liable person in relation to a petroleum project under section 45B (as the section applies because of section 45E); and
 - (b) an annual transfer, in relation to the year of tax, of the amount to the same project, or to the liable person in relation to the same project, cannot be made because of the application of clause 22 or 31 of Schedule 1 (whether or not there is any other reason preventing such an annual transfer).

Note 1: This section may apply separately to a person in relation to 2 or more instalment transfers in the same year of tax, even if the same instalment transfer amount is transferred between the same projects or

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companies by each instalment transfer (as allowed under subsection 45E(6)).

Note 2: If a transfer is made by the Commissioner under section 45C because of a failure of a person to make a transfer as required by section 45A or 45B, the transfer is taken to be a transfer by the person under section 45A or 45B (as the case requires): see subsection 45C(4).

Instalment transfer excess—offsets

- (2) The amount of the instalment transfer excess (as it would be apart from this subsection), in relation to a petroleum project, is reduced by:
- (a) an amount equal to so much of the excess as must be applied or transferred to reduce or eliminate any person's taxable profit in relation to any petroleum project and the year of tax; and
 - (b) any amount of expenditure that must be transferred, by annual transfer in relation to the year of tax, to the project, or to the liable person in relation to the project, because the excess cannot be transferred as mentioned in paragraph (1)(b).
- (3) This section does not apply if the instalment transfer excess is reduced to zero (or a negative amount) by the operation of subsection (2).

Liability to pay charge

- (4) The liable person is liable to pay a charge (the ***instalment transfer interest charge***) on the instalment transfer excess for each day in the following period (the ***instalment transfer charge period***) in the year of tax:
- (a) if the instalment period to which the excess relates is the first instalment period in the year—the period:
 - (i) starting at the start of the day on which instalments of tax are due and payable for the first instalment period in the year; and

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- (ii) ending immediately before the day on which instalments of tax are due and payable in relation to the second instalment period in the year;
- (b) if the instalment period to which the excess relates is the second instalment period in the year—the period:
 - (i) starting at the start of the day on which instalments of tax are due and payable for the second instalment period in the year; and
 - (ii) ending immediately before the day on which instalments of tax are due and payable in relation to the third instalment period in the year;
- (c) if the instalment period to which the excess relates is the third instalment period in the year—the period:
 - (i) starting at the start of the day on which instalments of tax are due and payable for the third instalment period in the year; and
 - (ii) ending immediately before the day on which tax is due and payable in relation to the year of tax.

Note 1: For when instalments of tax are payable, see section 95. For when tax is payable in relation to the year of tax, see section 82.

Note 2: For the amount of the charge, see section 98B. For when the charge is payable, see section 98C. For remission of the charge, see section 98D.

Charge payable even if person has transferred interest in project

- (5) Despite sections 48 and 48A, the liable person remains liable for the full amount of the instalment transfer interest charge even if the liable person enters into a transaction that has the effect, after the end of the instalment period, of transferring part or all of the liable person's entitlement to derive assessable receipts in relation to the project.

Statement about charge

- (6) The liable person must, on or before the 60th day after the end of the year of tax, give the Commissioner information, in the

Section 98B

approved form, for use in working out the instalment transfer interest charge.

Note: Subdivision 388-B in Schedule 1 to the *Taxation Administration Act 1953* applies to approved forms under this section.

(7) In this section:

first instalment period, in a year of tax, means the instalment period ending at the end of September in that year.

second instalment period, in a year of tax, means the instalment period ending at the end of December in that year.

third instalment period, in a year of tax, means the instalment period ending at the end of March in that year.

98B Instalment transfer interest charge—amount

- (1) The instalment transfer interest charge on an amount of instalment transfer excess, for a day in an instalment transfer charge period, is worked out by multiplying the rate worked out under subsection (2) by the sum of the following amounts:
- (a) the instalment transfer tax; and
 - (b) the instalment transfer interest charge payable on the excess for the previous days in the instalment transfer charge period.
- (2) The rate is:

$$\frac{\text{Base interest rate for the day}}{\text{Number of days in the calendar year}}$$

(3) In this section:

base interest rate, for a day, has the meaning given by section 8AAD of the *Taxation Administration Act 1953*.

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instalment transfer tax is the amount worked out by multiplying the instalment transfer excess by the rate at which tax is imposed by the *Petroleum Resource Rent Tax (Imposition—General) Act 2012* in relation to the year of tax in which the instalment period to which the excess relates occurred.

98C Instalment transfer interest charge—notification and payment

Notice of charge payable

- (1) The Commissioner must give a liable person a notice stating the amount of instalment transfer interest charge that the liable person is liable to pay for an instalment transfer charge period.
- (3) A notice given by the Commissioner under this section is prima facie evidence of the matters stated in the notice.

Note: See also section 350-10 in Schedule 1 to the *Taxation Administration Act 1953*.

When payment is due

- (4) An amount of instalment transfer interest charge that the liable person is liable to pay is due and payable on the 21st day after the day on which the Commissioner gives the liable person notice of the amount of the charge under this section.

Note: The Commissioner may defer the time at which the charge is, or would become, due and payable: see section 255-10 in Schedule 1 to the *Taxation Administration Act 1953*.

98D Instalment transfer interest charge—remission

Remitting the charge

- (1) The Commissioner may remit the whole or a part of an amount of instalment transfer interest charge that a liable person is liable to pay if the Commissioner considers it fair and reasonable to do so.

Reasons for not remitting

- (2) The Commissioner must give the liable person a written statement of the reasons for a decision not to remit an amount of instalment transfer interest charge that the liable person is liable to pay, if the liable person requests the Commissioner, in the approved form, to remit the amount.

Note 1: Section 25D of the *Acts Interpretation Act 1901* sets out rules about the contents of a statement of reasons.

Note 2: Subdivision 388-B in Schedule 1 to the *Taxation Administration Act 1953* applies to approved forms under this section.

Objecting against remission decision

- (3) The liable person may object, in the manner set out in Part IVC of the *Taxation Administration Act 1953*, against a decision of the Commissioner not to remit an amount of instalment transfer interest charge that the liable person is liable to pay.

99 Application of payments of instalments of tax

Where:

- (a) a person has paid an amount in respect of an instalment of tax in respect of a year of tax, in relation to a petroleum project (including in the case of a combined project any pre-combination project in relation to the project); and
- (b) an assessment has been made of the amount of tax payable by the person in respect of the year of tax in relation to the project;

the Commissioner shall credit the amount so paid in payment successively of:

- (c) any tax payable by the person in respect of the year of tax in respect of the petroleum project, whether or not that tax is due for payment; and

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- (d) any other liability to the Commonwealth of the person entitled to the credit arising under or by virtue of this Act or any other Act of which the Commissioner has the general administration;

and shall refund to the person so much of the amount as is not credited.

100 Unpaid instalments

- (1) If, on the date on which tax becomes due and payable by a person in respect of a year of tax in relation to a petroleum project, the whole or a part of an amount payable as an instalment of tax in respect of that year of tax in relation to the project (including in the case of a combined project any pre-combination project in relation to the project) has not been paid and there is no other instalment in respect of that year of tax in relation to the project the whole or a part of which has not been paid:
 - (a) where no part of the tax in respect of that year of tax has been paid—so much (if any) of the amount unpaid in respect of that instalment as exceeds the amount of that tax ceases on that date to be payable;
 - (b) where part only of the tax in respect of that year of tax has been paid—so much (if any) of the amount unpaid in respect of that instalment as exceeds the amount of that tax that has not been paid ceases on that date to be payable; or
 - (c) where the whole of the tax in respect of that year of tax has been paid—the amount unpaid in respect of that instalment ceases on that date to be payable.
- (2) If, on the date on which tax becomes due and payable by a person in respect of a year of tax in relation to a petroleum project, there are 2 or more instalments of tax in respect of that year of tax in relation to the project (including in the case of a combined project any pre-combination project in relation to the project) the whole or a part of each of which has not been paid:
 - (a) where no part of the tax in respect of that year of tax has been paid or part only of that tax has been paid—the Commissioner may determine that the whole or any part of

- all or any of the amounts unpaid in respect of those instalments shall cease on that date to be payable; or
- (b) where the whole of the tax in respect of that year of tax has been paid—each of the amounts unpaid in respect of those instalments ceases on that date to be payable.
- (3) In making a determination for the purposes of subsection (2), the Commissioner shall have regard to:
- (a) the extent (if any) to which the sum of the amounts unpaid in respect of the instalments of tax referred to in that subsection exceeds the amount of the tax referred to in that subsection that has not been paid; and
- (b) any other relevant matters.
- (4) Where, by reason of the making of a determination by the Commissioner under subsection (2), the amount payable by a person as an instalment has been reduced or an instalment is not payable, the Commissioner shall cause to be served on the person a notice in writing specifying the reduced amount as the amount that is payable as the instalment or stating that the instalment is not payable, as the case may be.

Part X—Miscellaneous

106A Review of certain decisions

A person who is dissatisfied with a decision made under this Act or the regulations in relation to the person, being a decision that is prescribed for the purposes of this section, may object against it in the manner set out in Part IVC of the *Taxation Administration Act 1953*.

109 Agents and trustees

- (1) The following provisions of this section apply in relation to a person (in this section referred to as the *representative*) who, as agent or trustee, derives assessable receipts in relation to a petroleum project.
- (2) The representative:
 - (a) shall furnish returns in relation to the assessable receipts; and
 - (b) is liable to any tax or related charge payable in respect of the assessable receipts;but only in the capacity of agent or trustee, as the case requires, and each such return shall be separate and distinct from any other return furnished or lodged by the representative.
- (3) The representative is, by force of this section:
 - (a) authorised and required to retain from time to time any money that comes to the representative in the capacity as agent for the other person or trustee of the trust estate, or so much of it as is sufficient to pay the amount of tax or charge;
 - (b) made personally liable for the amount of tax or charge after it becomes payable to the extent of any amount that the representative is required to retain under paragraph (a); and
 - (c) indemnified for all payments that the representative makes pursuant to this section.

- (4) For the purposes of ensuring payment of the amount of tax or charge, the Commissioner has the same remedies against attachable property of any kind vested in, under the control or management of, or in the possession of, the representative as the Commissioner would have against the property of any other person in respect of an amount of tax or related charge payable by the other person.
- (5) This section does not apply to a trustee of a trust in relation to any period during which the trust:
- (a) is a subsidiary member of a consolidated group or a MEC group; and
 - (b) is taken, under section 58P, to be part of the head company or provisional head company of the group for the purposes covered by subsection 58P(2).

112 Records to be kept and preserved

- (1) A person shall:
- (a) keep records that record and explain all transactions and other acts engaged in by the person or any other person that are relevant for the purpose of ascertaining the person's liability under this Act; and
 - (b) retain those records for a period of 7 years after the completion of the transactions or acts to which they relate.
- (2) A person who is required by this section to keep records shall keep the records:
- (a) in writing in the English language or so as to enable the records to be readily accessible and convertible into writing in the English language; and
 - (b) so as to enable the person's liability under this Act to be readily ascertained.
- (2A) An offence under subsection (1) or (2) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

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- (3) Nothing in this section shall be taken to require a person (in this subsection referred to as the *record keeper*) to keep a record of information relating to a transaction or act engaged in by another person if:
- (a) where the transaction or act was entered into or done under an arrangement to which the record keeper was a party:
 - (i) the record keeper made all reasonable efforts:
 - (A) to ascertain whether the transaction had been entered into or the act had been done; and
 - (B) to obtain the information; and
 - (ii) did not know, and could not reasonably be expected to have known, the information;
 - (b) in any other case—the record keeper did not know, and could not reasonably be expected to have known, the information.

Note: A defendant bears an evidential burden in relation to the matters in subsection (3), see subsection 13.3(3) of the *Criminal Code*.

- (4) Nothing in this section shall be taken to require a person to retain records where:
- (a) the Commissioner has notified the person that retention of the records is not required; or
 - (b) the person is a company that has gone into liquidation and been finally dissolved.

Note: A defendant bears an evidential burden in relation to the matters in subsection (4), see subsection 13.3(3) of the *Criminal Code*.

Penalty: 30 penalty units.

Note 1: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

Note 2: There is an administrative penalty if you do not keep or retain records as required by this section: see section 288-25 in Schedule 1 to the *Taxation Administration Act 1953*.

113 Service on partnerships and associations

Service, whether by post or otherwise, of a notice or document on a member of a partnership or on a member of the committee of

management of an unincorporated association or other body of persons shall be deemed, for the purposes of this Act, to constitute service of the notice or other document on each member of the partnership or each member of the association or other body of persons, as the case may be.

114 Regulations

The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act;

and, in particular, may make regulations prescribing penalties not exceeding a fine of 5 penalty units for offences against the regulations.

Schedule 1—Provisions relating to incurring and transfer of exploration expenditure on or after 1 July 1990

Sections 2, 35A, 35B, 45A, 45B and 45D

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Part 1—Interpretation

1 Defined terms

In this Schedule:

ABR expenditure year, in relation to a petroleum project, means the financial year in which the relevant pre-commencement day occurred or a later financial year.

augmented bond rate, in relation to a financial year, means the long-term bond rate in relation to the financial year plus 1.15.

exploration right means an exploration permit or a retention lease.

financial year means the financial year starting on 1 July 1990 or a later financial year.

finishing day means:

- (a) in relation to a petroleum project—the first day on which there is no longer in force any production licence in relation to the project; or
- (b) in relation to an exploration permit or retention lease—the day on which the permit or lease ceases to be in force.

GDP expenditure year, in relation to a petroleum project, means a financial year that ended before the first ABR expenditure year in relation to the project.

incurred exploration expenditure amount, in relation to a petroleum project that is not a combined project and in relation to a financial year, means the sum of the following:

- (a) any amounts of exploration expenditure (other than designated frontier expenditure) actually incurred by the person in the financial year in relation to the project;

- (b) any amounts of uplifted frontier expenditure that the person is taken by section 36C to have incurred in the financial year in relation to the project;
- (c) any amounts of expenditure that the person is taken by subparagraph 48(1)(a)(ia) or paragraph 48A(5)(c) to have incurred in the financial year in relation to the project.

Note: The effect of subsections 35A(2), 35B(2) and 45D(3) must be taken into account when working out an incurred exploration expenditure amount.

incurred exploration expenditure amount, in relation to a petroleum project that is a combined project and in relation to a financial year, means the sum of the following:

- (a) any amounts of:
 - (i) exploration expenditure (other than designated frontier expenditure) actually incurred by the person; and
 - (ii) uplifted frontier expenditure that the person is taken by section 36C to have incurred;
in the financial year in relation to the project (not being amounts incurred before the project combination certificate in relation to the project came into force);
- (b) any amounts of expenditure that the person is taken by subparagraph 48(1)(a)(ia) or paragraph 48A(5)(c) to have incurred in the financial year in relation to the project;
- (c) if the project combination certificate came into force during the financial year:
 - (i) any amounts of exploration expenditure (other than designated frontier expenditure) actually incurred by the person in the financial year; and
 - (ii) any amounts of uplifted frontier expenditure that the person is taken by section 36C to have incurred in the financial year; and
 - (iii) any amounts of exploration expenditure that the person is taken by section 48 or 48A to have incurred in the financial year;in relation to the pre-combination projects.

Schedule 1 Provisions relating to incurring and transfer of exploration expenditure on or after 1 July 1990

Part 1 Interpretation

Clause 1

Note: The effect of subsections 35A(2), 35B(2) and 45D(3) must be taken into account when working out an incurred exploration expenditure amount.

relevant pre-commencement day, in relation to a petroleum project, means:

- (a) if the petroleum project is not a combined project, the Bass Strait project or the North West Shelf project—the day occurring 5 years before the earlier of the following:
 - (i) the day specified in the production licence notice in relation to the project;
 - (ii) the day the production licence was issued in relation to the project; or
- (b) if the petroleum project is a combined project—the day occurring 5 years before the earlier of the following:
 - (i) the earliest day specified in a production licence notice in relation to a pre-combination project in relation to the project;
 - (ii) the earliest day a production licence was issued in relation to a pre-combination project in relation to the project; or
- (c) if the petroleum project is the Bass Strait project or the North West Shelf project—the day occurring 5 years before the earlier of the following:
 - (i) the earliest day specified in a production licence notice in relation to the project;
 - (ii) the earliest day a production licence was issued in relation to the project.

starting day means:

- (a) in relation to a petroleum project other than a combined project, the Bass Strait project or the North West Shelf project—the day on which the exploration permit to which the production licence comprising the project is related was granted; or
- (b) in relation to a combined project—the earliest of the days that, but for the issue of the project combination certificate,

- would have been starting days in relation to such of the pre-combination projects as were not combined projects; or
- (c) in relation to the Bass Strait project—the day on which the Bass Strait exploration permit was granted; or
 - (ca) in relation to the North West Shelf project—the earlier of the day on which the exploration permit known as WA-1-P was granted and the day on which the exploration permit known as WA-28-P was granted; or
 - (d) in relation to an exploration right that is an exploration permit—the day on which the exploration permit was granted; or
 - (e) in relation to an exploration right that is a retention lease—the day on which the exploration permit to which the retention lease is related was granted.

4 Amounts to be worked out to nearest dollar

Amounts worked out under this Schedule are to be worked out to the nearest dollar.

Schedule 1 Provisions relating to incurring and transfer of exploration expenditure on or after 1 July 1990

Part 1A Special rules relating to the transfer of certain expenditure

Clause 4A

Part 1A—Special rules relating to the transfer of certain expenditure

4A Certain Greater Sunrise expenditure is not transferable

Despite paragraphs 7(b), 8(5)(c), 11(b), 12(4)(c) and 18(3)(e) of this Schedule and subclauses 18(1) and 18(2) of this Schedule, amounts of exploration expenditure incurred in relation to the Western Greater Sunrise area before 6 March 2003 are not transferable under section 45A, 45B or 45C.

4B Greater Sunrise transferable exploration expenditure must be adjusted

Transfers from a Greater Sunrise project

- (1) If, in relation to a year of tax, transferable exploration expenditure is transferred from a Greater Sunrise project to a petroleum project other than a Greater Sunrise project, the amount of that expenditure for the purposes of the other petroleum project is taken to be the amount worked out using the following formula:

$$\frac{\text{Amount transferred} \times \text{Apportionment percentage figure}}{100}$$

where:

amount transferred means the amount transferred, in relation to the year of tax, from the Greater Sunrise project before that amount is reduced by the operation of this subclause.

apportionment percentage figure has the meaning given by subsection 2C(2).

Transfers to a Greater Sunrise project

- (2) If, in relation to a year of tax, transferable exploration expenditure is transferred to a Greater Sunrise project from a petroleum project other than a Greater Sunrise project, the amount of that expenditure for the purposes of the Greater Sunrise project is taken to be the amount worked out using the following formula:

$$\frac{\text{Amount transferred} \times 100}{\text{Apportionment percentage figure}}$$

where:

amount transferred means the amount transferred, in relation to the year of tax, from the project other than the Greater Sunrise project before that amount is increased by the operation of this subclause.

apportionment percentage figure has the meaning given by subsection 2C(2).

4C Certain onshore or North West Shelf expenditure is not transferable

Despite paragraphs 7(b), 8(5)(c), 11(b), 12(4)(c) and 18(3)(e) of this Schedule and subclauses 18(1) and 18(2) of this Schedule, amounts of exploration expenditure incurred, before 1 July 2012, in relation to:

- (a) an onshore petroleum project; or
 - (b) the North West Shelf project;
- are not transferable under section 45A, 45B or 45C.

Schedule 1 Provisions relating to incurring and transfer of exploration expenditure on or after 1 July 1990

Part 2 Class 2 augmented bond rate exploration expenditure and transferable exploration expenditure

Clause 5

Part 2—Class 2 augmented bond rate exploration expenditure and transferable exploration expenditure

5 Interpretation

In this Part:

notional taxable profit, in relation to a person, a petroleum project and a financial year, means the amount (if any) that would be the taxable profit in relation to the person, the project and the financial year if:

- (a) the person had not incurred any class 2 augmented bond rate exploration expenditure, class 2 GDP factor expenditure, resource tax expenditure, acquired exploration expenditure, starting base expenditure or closing-down expenditure in relation to the project and the financial year; and
- (b) any expenditure transferred:
 - (i) to the project in relation to the financial year under section 45A; or
 - (ii) to the person in relation to the project and the financial year under section 45B;had not been transferred.

6 Matters dealt with in this Part

- (1) This Part deals with:
 - (a) the calculation of the amount of class 2 augmented bond rate exploration expenditure that a person is taken to have incurred in a financial year in relation to a petroleum project; and
 - (b) the calculation of the amount of expenditure incurred by the person in relation to the project in ABR expenditure years

that is transferable from the project in relation to the financial year.

In this Part, the financial year is called the *assessable year*.

- (2) For the avoidance of doubt, the assessable year may be a financial year starting after the finishing day in relation to the petroleum project.

7 What happens if there is no notional taxable profit

If there is no notional taxable profit in relation to the person, the petroleum project and the assessable year:

- (a) the person is taken not to have incurred any class 2 augmented bond rate exploration expenditure in relation to the project and the assessable year; and
- (b) all the expenditure included in the incurred exploration expenditure amounts for the ABR expenditure years is transferable by the person in relation to the assessable year.

8 What happens if there is a notional taxable profit

- (1) This clause applies if there is a notional taxable profit in relation to the person, the petroleum project and the assessable year.
- (2) For the purposes of this clause, the available exploration expenditure amount for the assessable year equals the incurred exploration expenditure amount in relation to the assessable year.
- (3) For the purposes of this clause, the available exploration expenditure amount for an ABR expenditure year before the assessable year is worked out as follows:
- (a) if the ABR expenditure year is the financial year immediately before the assessable year—multiply the incurred exploration expenditure amount in relation to the ABR expenditure year by the augmented bond rate for the ABR expenditure year;
- (b) if the ABR expenditure year is an earlier financial year—work out, in relation to the ABR expenditure year and each

Schedule 1 Provisions relating to incurring and transfer of exploration expenditure on or after 1 July 1990

Part 2 Class 2 augmented bond rate exploration expenditure and transferable exploration expenditure

Clause 8

later financial year ending before the assessable year, an amount in accordance with the formula:

Exploration expenditure amount \times Augmented bond rate

where:

Exploration expenditure amount means:

- (i) in making the calculation in relation to the ABR expenditure year—the incurred exploration expenditure amount in relation to the ABR expenditure year; or
- (ii) in making the calculation in relation to one of the later financial years—the amount calculated under this paragraph in relation to the immediately preceding financial year for the purpose of working out the available exploration expenditure amount for the ABR expenditure year.

Augmented bond rate means the augmented bond rate in relation to the financial year in relation to which the calculation is being made;

- (c) if paragraph (a) applies—the available exploration expenditure amount for the ABR expenditure year is the amount worked out under that paragraph;
 - (d) if paragraph (b) applies—the available exploration expenditure amount for the ABR expenditure year is the amount worked out under that paragraph in relation to the most recent of the later financial years referred to in paragraph (b).
- (4) If the total of the available exploration expenditure amounts for the assessable year and the previous ABR expenditure years is less than or equal to the notional taxable profit:
- (a) the person is taken to have incurred an amount of class 2 augmented bond rate exploration expenditure in the assessable year in relation to the project equal to the total of those available exploration expenditure amounts; and
 - (b) that class 2 augmented bond rate exploration expenditure is attributable to all the expenditure included in the incurred

-
- exploration expenditure amounts for the assessable year and the previous ABR expenditure years; and
- (c) none of the expenditure included in the incurred exploration expenditure amounts for the assessable year and the previous ABR expenditure years is transferable by the person in relation to the assessable year.
- (5) If the total of the available exploration expenditure amounts for the assessable year and the previous ABR expenditure years exceeds the notional taxable profit:
- (a) the person is taken to have incurred an amount of class 2 augmented bond rate exploration expenditure in the assessable year in relation to the project equal to the notional taxable profit; and
- (b) the expenditure to which that class 2 augmented bond rate exploration expenditure is attributable is to be worked out in accordance with whichever of subclauses (6) and (7) is applicable; and
- (c) the expenditure included in the incurred exploration expenditure amounts for the assessable year and the previous ABR expenditure years that is not expenditure to which that class 2 augmented bond rate exploration expenditure is attributable is transferable by the person in relation to the assessable year.
- (6) If:
- (a) class 2 augmented bond rate exploration expenditure is taken to be incurred by subclause (5); and
- (b) the available exploration expenditure amount for the earliest of the ABR expenditure years for which there is such an amount equals or exceeds the notional taxable profit;
- the class 2 augmented bond rate exploration expenditure is attributable to so much of the expenditure included in the incurred exploration expenditure amount for that ABR expenditure year as, if it had been the only expenditure included in that amount, would

Schedule 1 Provisions relating to incurring and transfer of exploration expenditure on or after 1 July 1990

Part 2 Class 2 augmented bond rate exploration expenditure and transferable exploration expenditure

Clause 8

have made the available exploration expenditure amount for that ABR expenditure year equal the notional taxable profit.

(7) If:

- (a) class 2 augmented bond rate exploration expenditure is taken to be incurred by subclause (5); and
- (b) the notional taxable profit exceeds the available exploration expenditure amount for the earliest of the ABR expenditure years for which there is such an amount;

the following provisions have effect:

- (c) add amounts in accordance with the following rules:
 - (i) start with the available exploration expenditure amount for the earliest of the ABR expenditure years for which there is such an amount and add to that, in order starting with the next earliest ABR expenditure year, the available exploration expenditure amounts for the later ABR expenditure years;
 - (ii) if adding the available exploration expenditure amount for an ABR expenditure year would make the total exceed the notional taxable profit, add only so much of that amount as makes the total equal the notional taxable profit and do not add the available exploration expenditure amount for any later ABR expenditure year;
- (d) the class 2 augmented bond rate expenditure is attributable to:
 - (i) all the expenditure included in the incurred exploration expenditure amounts for each ABR expenditure year in relation to which the whole available exploration expenditure amount was added in accordance with subparagraphs (c)(i) and (ii); and
 - (ii) if, under those subparagraphs, part only of the available exploration expenditure amount for an ABR expenditure year was added—so much of the expenditure included in the incurred exploration expenditure amount for that ABR expenditure year as, if it had been the only expenditure included in that amount, would have made

the available exploration expenditure amount for that
ABR expenditure year equal the added part.

Schedule 1 Provisions relating to incurring and transfer of exploration expenditure on or after 1 July 1990

Part 3 Class 2 GDP factor expenditure and transferable exploration expenditure

Clause 9

Part 3—Class 2 GDP factor expenditure and transferable exploration expenditure

9 Interpretation

In this Part:

notional taxable profit, in relation to a person, a petroleum project and a financial year, means the amount (if any) that would be the taxable profit in relation to the person, the project and the financial year if:

- (a) the person had not incurred any class 2 GDP factor expenditure, resource tax expenditure, acquired exploration expenditure, starting base expenditure or closing-down expenditure in relation to the project and the financial year; and
- (b) any expenditure transferred:
 - (i) to the project in relation to the financial year under section 45A; or
 - (ii) to the person in relation to the project and the financial year under section 45B;had not been transferred.

10 Matters dealt with in this Part

- (1) This Part deals with:
 - (a) the calculation of the amount of class 2 GDP factor expenditure that a person is taken to have incurred in a financial year in relation to a petroleum project; and
 - (b) the calculation of the amount of expenditure incurred by the person in relation to the project in GDP expenditure years that is transferable from the project in relation to the financial year.

In this Part, the financial year is called the *assessable year*.

- (2) For the avoidance of doubt, the assessable year may be a financial year starting after the finishing day in relation to the petroleum project.

11 What happens if there is no notional taxable profit

If there is no notional taxable profit in relation to the person, the petroleum project and the assessable year:

- (a) the person is taken not to have incurred any class 2 GDP factor expenditure in relation to the assessable year and the project; and
- (b) all the expenditure included in the incurred exploration expenditure amounts for the GDP expenditure years is transferable by the person in relation to the assessable year.

12 What happens if there is a notional taxable profit

- (1) This clause applies if there is a notional taxable profit in relation to the person, the petroleum project and the assessable year.
- (2) For the purposes of this clause, the available exploration expenditure amount for a GDP expenditure year is worked out as follows:
 - (a) work out, in relation to the GDP expenditure year and each later financial year ending before the assessable year, an amount in accordance with the formula:

Exploration expenditure amount \times GDP factor

where:

Exploration expenditure amount means:

- (i) in making the calculation in relation to the GDP expenditure year—the incurred exploration expenditure amount in relation to the GDP expenditure year; or
- (ii) in making the calculation in relation to one of the later financial years—the amount calculated under this paragraph in relation to the immediately preceding financial year for the purpose of working out the

Schedule 1 Provisions relating to incurring and transfer of exploration expenditure on or after 1 July 1990

Part 3 Class 2 GDP factor expenditure and transferable exploration expenditure

Clause 12

available exploration expenditure amount for the GDP expenditure year;

GDP factor means the GDP factor in relation to the financial year in relation to which the calculation is being made;

- (b) the available exploration expenditure amount for the GDP expenditure year is the amount worked out under paragraph (a) in relation to the most recent of the later financial years referred to in that paragraph.
- (3) If the total of the available exploration expenditure amounts for the GDP expenditure years is less than or equal to the notional taxable profit:
- (a) the person is taken to have incurred an amount of class 2 GDP factor expenditure in the assessable year in relation to the project equal to the total of those available exploration expenditure amounts; and
 - (b) that class 2 GDP factor expenditure is attributable to all the expenditure included in the incurred exploration expenditure amounts for the GDP expenditure years; and
 - (c) none of the expenditure included in the incurred exploration expenditure amounts for the GDP expenditure years is transferable by the person in relation to the assessable year.
- (4) If the total of the available exploration expenditure amounts for the GDP expenditure years exceeds the notional taxable profit:
- (a) the person is taken to have incurred an amount of class 2 GDP factor expenditure in the assessable year in relation to the project equal to the notional taxable profit; and
 - (b) the expenditure to which that class 2 GDP factor expenditure is attributable is to be worked out in accordance with whichever of subclauses (5) and (6) is applicable; and
 - (c) the expenditure included in the incurred exploration expenditure amounts for the GDP expenditure years that is not expenditure to which that class 2 GDP factor expenditure is attributable is transferable by the person in relation to the assessable year.

(5) If:

- (a) class 2 GDP factor expenditure is taken to be incurred by subclause (4); and
- (b) the available exploration expenditure amount for the earliest of the GDP expenditure years for which there is such an amount equals or exceeds the notional taxable profit;

the class 2 GDP factor expenditure is attributable to so much of the expenditure included in the incurred exploration expenditure amount for that GDP expenditure year as, if it had been the only expenditure included in that amount, would have made the available exploration expenditure amount for that GDP expenditure year equal the notional taxable profit.

(6) If:

- (a) class 2 GDP factor expenditure is taken to be incurred by subclause (4); and
- (b) the notional taxable profit exceeds the available exploration expenditure amount for the earliest of the GDP expenditure years for which there is such an amount;

the following provisions have effect:

- (c) add amounts in accordance with the following rules:
 - (i) start with the available exploration expenditure amount for the earliest of the GDP expenditure years for which there is such an amount and add to that, in order starting with the next earliest GDP expenditure year, the available exploration expenditure amounts for the later GDP expenditure years;
 - (ii) if adding the available exploration expenditure amount for a GDP expenditure year would make the total exceed the notional taxable profit, add only so much of that amount as makes the total equal the notional taxable profit and do not add the available exploration expenditure amount for any later GDP expenditure year;
- (d) the class 2 GDP factor expenditure is attributable to:
 - (i) all the expenditure included in the incurred exploration expenditure amounts for each GDP expenditure year for

Schedule 1 Provisions relating to incurring and transfer of exploration expenditure on or after 1 July 1990

Part 3 Class 2 GDP factor expenditure and transferable exploration expenditure

Clause 12

which the whole available exploration expenditure amount was added in accordance with subparagraphs (c)(i) and (ii); and

- (ii) if, under those subparagraphs, part only of the available exploration expenditure amount for a GDP expenditure year was added—so much of the expenditure included in the incurred exploration expenditure amount for that GDP expenditure year as, if it had been the only expenditure included in that amount, would have made the available exploration expenditure amount for that GDP expenditure year equal the added part.

Part 4—Transferable exploration expenditure not incurred in relation to a project

13 Matters dealt with in this Part

- (1) Subject to subclause (2), this Part deals with the calculation of the amount of expenditure incurred by a person in relation to an exploration permit or retention lease that is transferable from the permit or lease in relation to a financial year. In this Part, the financial year is called the *assessable year*.
- (1A) For the avoidance of doubt, the assessable year may, subject to subclause (2), be a financial year starting after the finishing day in relation to the exploration permit or retention lease.
- (2) This Part does not apply to an exploration permit or retention lease in relation to a financial year if a production licence derived from the permit or lease was actually in force at any time during the financial year.

14 Assumptions on which amounts to be worked out

Amounts worked out under this Part in relation to the exploration permit or retention lease and a period (including a financial year) are to be worked out on the assumptions that:

- (a) a production licence derived from the permit or lease was in force at all times during the period; and
- (b) the petroleum project to which that production licence was related consisted only of that production licence.

In this Part, the petroleum project referred to in paragraph (b) is called the *notional project*.

Schedule 1 Provisions relating to incurring and transfer of exploration expenditure on or after 1 July 1990

Part 4 Transferable exploration expenditure not incurred in relation to a project

Clause 15

15 Non-transferable expenditure

(1) For the purposes of this Part, if:

- (a) the person incurred exploration expenditure, or is taken to have incurred uplifted frontier expenditure, in relation to the notional project in a financial year; and
- (b) the total amount of assessable receipts derived by the person in relation to the notional project in the financial year equals or exceeds the total amount of deductible expenditure actually incurred by the person in relation to the notional project in the financial year;

the total of the amounts of exploration expenditure (other than designated frontier expenditure), and uplifted frontier expenditure, is taken to be non-transferable expenditure incurred by the person in relation to the notional project.

(2) For the purposes of this Part, if:

- (a) the total amount of deductible expenditure actually incurred by the person in relation to the notional project in a financial year exceeds the total amount of assessable receipts derived by the person in relation to the notional project and the financial year; and
- (b) the total of:
 - (i) any amounts of exploration expenditure (other than designated frontier expenditure) actually incurred by the person; and
 - (ii) any amounts of uplifted frontier expenditure taken to be incurred by the person in respect of designated frontier expenditure actually incurred by the person;

in relation to the notional project in the financial year exceeds the excess referred to in paragraph (a) by an amount (the ***non-transferable amount***);

so much of the expenditure as equals the non-transferable amount is taken to be non-transferable expenditure incurred by the person in relation to the notional project.

(3) If:

- (a) subclause (2) applies; and
 - (b) the oldest amount of any exploration expenditure (other than designated frontier expenditure) incurred, or any uplifted frontier expenditure taken to be incurred, by the person in the financial year equals or exceeds the non-transferable amount; the non-transferable expenditure consists of so much of that oldest amount as equals the non-transferable amount.
- (4) If:
- (a) subclause (2) applies; but
 - (b) subclause (3) does not apply;
- the following provisions have effect:
- (c) add amounts in accordance with the following rules:
 - (i) start with the oldest amount of any exploration expenditure (other than designated frontier expenditure) incurred, or any uplifted frontier expenditure taken to be incurred, by the person in the financial year;
 - (ii) add to that, in order starting with the next oldest amount, each of the other amounts incurred, or taken to be incurred, by the person in the financial year;
 - (iii) if adding an amount of expenditure would make the total exceed the non-transferable amount, add only so much of the amount as makes the total equal the non-transferable amount and do not add any later amount of expenditure;
 - (d) the non-transferable expenditure consists of the amounts of expenditure added together in accordance with paragraph (c).

16 Amounts to be worked out

Work out, in relation to the person, the exploration permit or retention lease and the assessable year, the following amounts:

- (a) the total of the assessable receipts derived by the person in relation to the notional project during the period starting on 1 July 1990 and ending at the end of the assessable year;

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Part 4 Transferable exploration expenditure not incurred in relation to a project

Clause 17

- (b) the total of the deductible expenditure actually incurred by the person in relation to the notional project during the period starting on 1 July 1990 and ending at the end of the assessable year;
- (c) the total of:
 - (i) any amounts of exploration expenditure (other than designated frontier expenditure) actually incurred by the person; and
 - (ii) any amounts of uplifted frontier expenditure taken to be incurred by the person in respect of designated frontier expenditure actually incurred by the person;in relation to the notional project during the period starting on 1 July 1990 and ending at the end of the assessable year;
- (d) the amount worked out under paragraph (c), less the total of the amounts of non-transferable expenditure incurred by the person in relation to the notional project during the period starting on 1 July 1990 and ending at the end of the assessable year.

In this Part, the amount worked out under paragraph (a) is called the ***notional assessable receipts***, the amount worked out under paragraph (b) is called the ***notional deductible expenditure***, the amount worked out under paragraph (c) is called the ***notional exploration expenditure*** and the amount worked out under paragraph (d) is called the ***reduced notional exploration expenditure***.

Note: the effect of subsection 45D(3) must be taken into account when working out the notional deductible expenditure and the notional exploration expenditure.

17 What happens if the notional assessable receipts equal or exceed the notional deductible expenditure

If, in relation to the person, the exploration permit or retention lease and the assessable year, the notional assessable receipts equal or exceed the notional deductible expenditure, none of the expenditure included in the notional exploration expenditure is transferable by the person in relation to the assessable year.

18 What happens if the notional deductible expenditure exceeds the notional assessable receipts

- (1) If, in relation to the person, the exploration permit or retention lease and the assessable year:
 - (a) the notional deductible expenditure exceeds the notional assessable receipts; and
 - (b) the excess equals or exceeds the notional exploration expenditure;all the expenditure included in the reduced notional exploration expenditure is transferable by the person in relation to the assessable year.
- (2) If, in relation to the person, the exploration permit or retention lease and the assessable year:
 - (a) the notional deductible expenditure exceeds the notional assessable receipts; and
 - (b) the excess (in this subclause called the *notional loss*) is less than the notional exploration expenditure; and
 - (c) the oldest amount of expenditure included in the reduced notional exploration expenditure equals or exceeds the notional loss;so much of that oldest amount as equals the notional loss is transferable by the person in relation to the assessable year.
- (3) If, in relation to the person, the exploration permit or retention lease and the assessable year:
 - (a) the notional deductible expenditure exceeds the notional assessable receipts; and
 - (b) the excess (in this subclause called the *notional loss*) is less than the notional exploration expenditure; and
 - (c) the notional loss exceeds the oldest amount of expenditure included in the reduced notional exploration expenditure;the following provisions have effect:
 - (d) add amounts in accordance with the following rules:

Schedule 1 Provisions relating to incurring and transfer of exploration expenditure on or after 1 July 1990

Part 4 Transferable exploration expenditure not incurred in relation to a project

Clause 18

- (i) start with the oldest amount of expenditure included in the reduced notional exploration expenditure and add to that, in order starting with the next oldest amount, each of the other amounts included in the reduced notional exploration expenditure;
- (ii) if adding an amount of expenditure would make the total exceed the notional loss, add only so much of the amount as makes the total equal the notional loss and do not add any later incurred amount of expenditure;
- (e) the expenditure added in accordance with subparagraphs (d)(i) and (ii) is transferable by the person in relation to the assessable year.

Part 5—General rules relating to transfer of exploration expenditure

19 Interpretation

In this Part:

notional taxable profit, in relation to a person, a petroleum project and a financial year, means the amount (if any) that would be the taxable profit in relation to the person, the project and the financial year if:

- (a) all deductible expenditure in relation to the person, the project and the financial year were taken into account; and
- (b) any expenditure transferred:
 - (i) to the project in relation to the financial year under section 45A; or
 - (ii) to the person in relation to the project and the financial year under section 45B;had not been transferred.

20 Matters dealt with in this Part

This Part sets out the rules relating to the transfer by a person of transferable exploration expenditure from a petroleum project or an exploration right to another petroleum project in relation to a financial year. In this Part, the project or right from which the expenditure is transferred is called the **transferring entity**, the project to which the expenditure is transferred is called the **receiving project** and the financial year is called the **transfer year**.

Note: Special rules apply in relation to the transfer of Greater Sunrise exploration expenditure: see Part 1A of this Schedule.

Schedule 1 Provisions relating to incurring and transfer of exploration expenditure on or after 1 July 1990

Part 5 General rules relating to transfer of exploration expenditure

Clause 21

21 Rule—must be a notional taxable profit in relation to receiving project

The person may only transfer the expenditure to the receiving project in relation to the transfer year if there is a notional taxable profit in relation to the person, the receiving project and the transfer year.

22 Rule—person must have held interests in relation to transferring entity and receiving project

- (1) Subject to subclauses (2), (2AA), (2AB), (2A), (3) and (4), the person may only transfer the expenditure to the receiving project in relation to the transfer year if:
 - (a) the person held an interest in relation to the transferring entity at all times from the beginning of the financial year in which the expenditure was incurred to the end of the transfer year; and
 - (b) the person held an interest in relation to the receiving project at all times from the beginning of the financial year in which the expenditure was incurred to the end of the transfer year.
- (2) Subclause (1) does not require the person to have held an interest in relation to the transferring entity at a time before the starting day in relation to the transferring entity.

(2AA) If:

- (a) the person started (whether or not for the first time) to hold an interest in relation to the transferring entity during the financial year in which the expenditure was incurred; and
- (b) the expenditure was incurred after the time (the *farm-in time*) when the person started to hold the interest; and
- (c) the expenditure was actually incurred by the person (rather than taken by section 48 or 48A to have been incurred by the person);

subclause (1) does not require the person to have held an interest in relation to the transferring entity before the farm-in time.

(2AB) If:

- (a) at a time (the *cessation time*) after the expenditure was incurred and on or after 1 July 1993, the person ceased to hold any interest in relation to the transferring entity; and
 - (b) the cessation did not occur because of a transaction to which section 48 applies;
subclause (1) does not require the person to have held an interest in relation to the transferring entity at a time after the cessation time.
- (2A) Subclause (1) does not require the person to have held an interest in relation to the transferring entity at a time after the finishing day in relation to the transferring entity.
- (3) If the starting days in relation to the transferring entity and the receiving project occurred in the same financial year, subclause (1) does not require the person to have held an interest in relation to the receiving project at a time before the starting day in relation to the receiving project.
- (4) If the starting day in relation to the receiving project occurred in a later financial year than the financial year in which the expenditure was incurred:
- (a) paragraph (1)(b) does not apply in relation to the transfer of the expenditure; and
 - (b) the person may only transfer the expenditure if (in addition to the requirement in paragraph (1)(a)):
 - (i) the exploration permit by reference to which the starting day in relation to the receiving project is determined was granted to the person; and
 - (ii) the person held an interest in relation to the receiving project at all times from the starting day in relation to the receiving project to the end of the transfer year.
- (5) For the purposes of subclause (1) but without limiting that subclause, the person is taken to hold an interest in relation to the transferring entity or the receiving project during a period if:

Schedule 1 Provisions relating to incurring and transfer of exploration expenditure on or after 1 July 1990

Part 5 General rules relating to transfer of exploration expenditure

Clause 23

- (a) in relation to all times during the period, the person and another person are group companies in relation to each other; and
- (b) at all times during the period, the other person held an interest in relation to the transferring entity or the receiving project, as the case requires.

However, this subclause does not apply unless, at the time of the transfer referred to in subclause (1), the person holds an interest in both the transferring entity and the receiving project.

23 Rule—transfer to project with most recent production licence

If the expenditure was incurred before the transfer year, the person may not transfer the expenditure to the receiving project in relation to the transfer year if:

- (a) there is another petroleum project to which the expenditure could be transferred in relation to the transfer year under section 45A; and
- (b) the other project includes a production licence that was granted more recently than the production licence or licences included in the receiving project.

24 Rule—restriction on transfer of ABR expenditure

The person may not transfer the expenditure to the receiving project in relation to the transfer year if:

- (a) the expenditure was incurred in an ABR expenditure year in relation to the receiving project; and
- (b) there is other expenditure that the person could transfer to the receiving project in relation to the transfer year under section 45A; and
- (c) that other expenditure was incurred in an earlier ABR expenditure year in relation to the receiving project.

25 Rule—restriction on transfer of GDP expenditure

The person may not transfer the expenditure to the receiving project in relation to the transfer year if:

- (a) the expenditure was incurred in a GDP expenditure year in relation to the receiving project; and
- (b) there is other expenditure that the person could transfer to the receiving project in relation to the transfer year under section 45A; and
- (c) that other expenditure was incurred in:
 - (i) an ABR expenditure year in relation to the receiving project; or
 - (ii) an earlier GDP expenditure year in relation to the receiving project.

26 Rule—total transferred not to exceed notional taxable profit

The total amount of expenditure transferred by the person under section 45A to the receiving project in relation to the transfer year must not exceed the notional taxable profit in relation to the person, the receiving project and the transfer year.

Note: because of subsection 45D(2), some transfers of expenditure are taken to be transfers of amounts compounded in accordance with Part 7 of this Schedule.

Schedule 1 Provisions relating to incurring and transfer of exploration expenditure on or after 1 July 1990

Part 6 Rules relating to transfer of exploration expenditure between group companies

Clause 27

Part 6—Rules relating to transfer of exploration expenditure between group companies

27 Interpretation

In this Part:

notional taxable profit, in relation to a company, a petroleum project and a financial year, means the amount (if any) that would be the taxable profit in relation to the company, the project and the financial year if:

- (a) all deductible expenditure in relation to the company, the project and the financial year were taken into account; and
- (b) all expenditure to be transferred by the company to the project in relation to the financial year under section 45A had been transferred; and
- (c) any expenditure transferred to the company in relation to the project and the financial year under section 45B had not been transferred.

28 Situations to which this Part applies

This Part applies if:

- (a) a number of companies are group companies in relation to each other and a financial year; and
- (b) there is unused transferable exploration expenditure, within the meaning of section 45B, in relation to some of the companies and the financial year.

In this Part, each of the companies in relation to which there is unused transferable exploration expenditure is called a **loss company**, each of the other companies is called a **profit company** and the financial year is called the **transfer year**.

29 Matters dealt with in this Part

This Part sets out the rules relating to the transfer by a loss company of transferable exploration expenditure from a petroleum project or an exploration right to a profit company in relation to a petroleum project and the transfer year. In this Part, the project or right from which the expenditure is transferred is called the *transferring entity* and the project in relation to which the expenditure is transferred is called the *receiving project*.

Note: Special rules apply in relation to the transfer of Greater Sunrise exploration expenditure: see Part 1A of this Schedule.

30 Rule—must be a notional taxable profit in relation to profit company and receiving project

The loss company may only transfer the expenditure to the profit company in relation to the receiving project and the transfer year if there is a notional taxable profit in relation to the profit company, the receiving project and the transfer year.

31 Rule—continuity of interest within company group

Main rule

- (1) The loss company may transfer the expenditure to the profit company in relation to the receiving project and the transfer year only if:
 - (a) from the start of the financial year in which the expenditure was actually incurred, until the end of the transfer year—the company which held the receiving interest at any particular time was, at that time:
 - (i) a group company in relation to the company which held the loss interest at that time; or
 - (ii) unless the time is at the end of the transfer year—the company which held the loss interest at that time; and
 - (b) when the expenditure was actually incurred:

Schedule 1 Provisions relating to incurring and transfer of exploration expenditure on or after 1 July 1990

Part 6 Rules relating to transfer of exploration expenditure between group companies

Clause 31

- (i) unless section 41 applies to the expenditure—the company which actually incurred the expenditure held the loss interest in the transferring entity; or
- (ii) if section 41 applies to the expenditure—the company taken under subparagraph 41(1)(a)(ii) to have made the payment of the expenditure held the loss interest in the transferring entity.

Receiving project or transferring entity not in existence at particular time

- (2) For the purposes of subclause (1):
 - (a) if the starting day for the receiving project was after the start of the financial year in which the expenditure was incurred—during the period from the start of that year until the start of the starting day, the company which held the receiving interest at the start of the starting day is taken to have held the receiving interest; and
 - (b) if the finishing day for the receiving project was before the end of the transfer year—during the period from the start of the finishing day until the end of the transfer year, the profit company is taken to have held the receiving interest; and
 - (c) if the starting day for the transferring entity was after the start of the financial year in which the expenditure was incurred—during the period from the start of that year until the start of the starting day, the company which held the loss interest at the start of the starting day is taken to have held the loss interest; and
 - (d) if the finishing day for the transferring entity was before the end of the transfer year—during the period from the start of the finishing day until the end of the transfer year, the loss company is taken to have held the loss interest.
- (2A) If:
 - (a) at a time (the *cessation time*) after the expenditure was incurred and on or after 1 July 1993, the loss company ceased to hold any interest in relation to the transferring entity; and

(b) the cessation did not occur because of a transaction to which section 48 applies;
subclause (1) does not require the loss company to have held an interest in relation to the transferring entity at a time after the cessation time.

Starting day for receiving project in later financial year than when expenditure actually incurred

- (3) If the starting day for the receiving project was in a later financial year than the financial year in which the expenditure was incurred, the loss company may transfer the expenditure only if (in addition to the other requirements of this clause) the company which held the receiving interest at the start of the starting day was the company which had been granted the exploration permit by reference to which the starting day is determined.

Definitions

- (4) In this clause:

loss interest means an interest held in the transferring entity by the loss company:

- (a) at the end of the transfer year; or
- (b) if the finishing day for the transferring entity was before the end of the transfer year—immediately before the start of the finishing day.

receiving interest means an interest held in the receiving project by the profit company:

- (a) at the end of the transfer year; or
- (b) if the finishing day for the receiving project was before the end of the transfer year—immediately before the start of the finishing day.

Schedule 1 Provisions relating to incurring and transfer of exploration expenditure on or after 1 July 1990

Part 6 Rules relating to transfer of exploration expenditure between group companies

Clause 32

32 Rule—transfer to project with most recent production licence

If the expenditure was incurred before the transfer year, the loss company may not transfer the expenditure to the profit company in relation to the receiving project and the transfer year if:

- (a) the expenditure could be transferred in relation to the transfer year under section 45B to:
 - (i) the profit company in relation to another petroleum project; or
 - (ii) another profit company in relation to another petroleum project; and
- (b) the other project includes a production licence that was granted more recently than the production licence or licences included in the receiving project.

33 Rule—restriction on transfer of ABR expenditure

The loss company may not transfer the expenditure to the profit company in relation to the receiving project and the transfer year if:

- (a) the expenditure was incurred in an ABR expenditure year in relation to the receiving project; and
- (b) there is other expenditure that the loss company, or another loss company, could transfer to the profit company in relation to the receiving project and the transfer year under section 45B; and
- (c) the other expenditure was incurred in an earlier ABR expenditure year in relation to the receiving project.

34 Rule—restriction on transfer of GDP expenditure

The loss company may not transfer the expenditure to the profit company in relation to the receiving project and the transfer year if:

- (a) the expenditure was incurred in a GDP expenditure year in relation to the receiving project; and

- (b) there is other expenditure that the loss company, or another loss company, could transfer to the profit company in relation to the receiving project and the transfer year under section 45B; and
- (c) the other expenditure was incurred in:
 - (i) an ABR expenditure year in relation to the receiving project; or
 - (ii) an earlier GDP expenditure year in relation to the receiving project.

35 Rule—total transferred not to exceed notional taxable profit

The total amount of transferable expenditure transferred under section 45B to the profit company in relation to the receiving project and the transfer year must not exceed the notional taxable profit in relation to the profit company, the receiving project and the transfer year.

Note: because of subsection 45D(2), some transfers of expenditure are taken to be transfers of amounts compounded in accordance with Part 7 of this Schedule.

Part 7—Compounding of transferred amounts

36 Matters dealt with in this Part

This Part applies if:

- (a) a person transfers an amount of expenditure:
 - (i) to a petroleum project in relation to a financial year under section 45A; or
 - (ii) to a company in relation to a petroleum project and a financial year under section 45B; and
- (b) the expenditure was incurred in an earlier financial year; and provides for the compounding of the amount transferred. In this Part, the financial year in relation to which the amount is transferred is called the *transfer year*.

37 What happens if expenditure was incurred in an ABR expenditure year

- (1) If the financial year in which the expenditure was incurred:
 - (a) is an ABR expenditure year in relation to the petroleum project; and
 - (b) is the financial year immediately before the transfer year; then, for the purposes of subsection 45D(2), the transfer is taken to be of the amount worked out by multiplying the amount actually transferred by the augmented bond rate for the ABR expenditure year.
- (2) If the financial year in which the expenditure was incurred:
 - (a) is an ABR expenditure year in relation to the project; but
 - (b) is not the financial year immediately before the transfer year; the following provisions apply:
 - (c) work out, in relation to the ABR expenditure year and each later financial year ending before the transfer year, an amount in accordance with the formula:

Transferred amount \times Augmented bond rate

where:

Transferred amount means:

- (i) in making the calculation in relation to the ABR expenditure year—the amount of expenditure actually transferred; and
- (ii) in making the calculation in relation to a later financial year—the amount calculated under this paragraph in relation to the expenditure and the immediately preceding financial year;

Augmented bond rate means the augmented bond rate in relation to the financial year in relation to which the calculation is being made;

- (d) for the purposes of subsection 45D(2), the transfer is taken to be of the amount worked out under paragraph (c) in relation to the expenditure and the financial year immediately before the transfer year.

38 What happens if expenditure was incurred in a GDP expenditure year

If the financial year in which the expenditure was incurred is a GDP expenditure year the following provisions apply:

- (a) work out, in relation to the GDP expenditure year and each later financial year ending before the transfer year, an amount in accordance with the formula:

Transferred amount \times GDP factor

where:

Transferred amount means:

- (i) in making the calculation in relation to the GDP expenditure year—the amount of expenditure actually transferred; and
- (ii) in making the calculation in relation to a later financial year—the amount calculated under this paragraph in

Schedule 1 Provisions relating to incurring and transfer of exploration expenditure on or after 1 July 1990

Part 7 Compounding of transferred amounts

Clause 38

relation to the expenditure and the immediately preceding financial year;

GDP factor means the GDP factor in relation to the financial year in relation to which the calculation is being made;

- (b) for the purposes of subsection 45D(2), the transfer is taken to be of the amount worked out under paragraph (a) in relation to the expenditure and the financial year immediately before the transfer year.

Schedule 2—Starting base for onshore petroleum projects and the North West Shelf project

Note: See sections 35D and 35E.

Part 1—Preliminary

1 Object of this Schedule

The object of this Schedule is to recognise the value, when resource tax reforms were announced on 2 May 2010, of:

- (a) onshore petroleum projects; and
- (b) the North West Shelf project;

by allowing certain amounts to be included in the deductible expenditure for the projects.

2 Definitions

In this Schedule:

accounting standard has the same meaning as in the *Corporations Act 2001*.

arrangement has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

auditing standard has the same meaning as in the *Corporations Act 2001*.

CGT asset has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

cost base has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

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Part 1 Preliminary

Clause 2

depreciating asset has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

entity has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

hold, in relation to a starting base asset, has the meaning given by clause 11.

interim expenditure, in relation to a person's starting base asset relating to a petroleum project, has the meaning given by clause 15.

market value has a meaning affected by Subdivision 960-S of the *Income Tax Assessment Act 1997*.

mining, quarrying or prospecting information has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

project activity: a thing done is a **project activity** in relation to a petroleum project if it is done in carrying on or providing the operations, facilities and other things (including services and amenities) of a kind referred to in section 37 or 38 in relation to the project.

starting base return means a return of the kind referred to in clause 22, that complies with all the requirements of that clause and section 388-75 in Schedule 1 to the *Taxation Administration Act 1953*.

Part 2—Choosing a valuation approach

3 Choosing a valuation approach

- (1) A person may choose the valuation approach for:
 - (a) an interest that, on 30 June 2013, the person holds in an onshore petroleum project or the North West Shelf project; or
 - (b) an interest that the person may in the future hold in such a project, if:
 - (i) the project does not exist at the time the person makes the choice; and
 - (ii) the production licence to which the project would relate would, if it later came into existence, be derived from an exploration permit or retention lease in which the person held an interest at that time.
- (2) The choice is not valid unless the person gives to the Commissioner a valid starting base return.
- (3) The choice must specify whether the person has chosen:
 - (a) the book value approach; or
 - (b) the market value approach; or
 - (c) the look-back approach.

Note 1: The book value approach and the market value approach affect a person's starting base amount under Part 3, through the valuation of starting base assets under Division 3 of that Part and the way in which interim expenditure is taken into account under Division 4 of that Part.

Note 2: There is no starting base amount if the look-back approach applies, but expenditure incurred before 1 July 2012 may be eligible real expenditure: see subsections 45(2), (4) and (5).
- (4) The choice is irrevocable after:
 - (a) 30 August 2013; or

Schedule 2 Starting base for onshore petroleum projects and the North West Shelf project

Part 2 Choosing a valuation approach

Clause 4

(b) if, under paragraph 22(2)(c), the Commissioner allows further time for the person to give a starting base return—after that time elapses.

(5) The choice applies to:

- (a) the year of tax commencing on 1 July 2012; and
- (b) all later years of tax.

Note: Making a choice obliges the person to give to the Commissioner a starting base return under clause 22.

4 Restriction on specifying the book value approach

(1) The choice cannot specify the book value approach unless:

- (a) during the 18 months preceding 2 May 2010, a person who held in that period:
 - (i) the interest in the onshore petroleum project or the North West Shelf project; or
 - (ii) if that interest did not exist in that period—an interest in the exploration permit or retention lease mentioned in subparagraph 3(1)(b)(ii);prepared a financial report relating to the interest in accordance with accounting standards; and
- (b) the report relates to a financial period that ended in the 18 months preceding 2 May 2010; and
- (c) the report has been audited in accordance with auditing standards.

(2) If, during the 18 months preceding 2 May 2010, the person was a part of a consolidated entity (within the meaning of the *Corporations Act 2001*), for the purposes of paragraph (1)(a), treat any financial report for the consolidated entity, relating to the interest, as a report that the person prepared.

5 The valuation approach for starting base assets

The valuation approach for an interest in an onshore petroleum project or the North West Shelf project is the approach specified in a choice under clause 3 relating to:

- (a) the interest; or
- (b) an interest in an exploration permit or retention lease from which the production licence to which the project relates is derived.

Schedule 2 Starting base for onshore petroleum projects and the North West Shelf project

Part 3 Starting base amounts

Division 1 Starting base amounts

Clause 6

Part 3—Starting base amounts

Division 1—Starting base amounts

6 When a person has a *starting base amount*

A person has a *starting base amount* in relation to an interest in a petroleum project if:

- (a) the project is an onshore petroleum project or is the North West Shelf project; and
- (b) the person holds the interest; and
- (c) either:
 - (i) the production licence relating to the project existed at the start of 1 July 2012; or
 - (ii) there existed at that time an exploration permit, or a retention lease, from which is derived the production licence to which the project relates; and
- (d) the look-back approach is not the valuation approach for the interest under Part 2; and
- (e) there are one or more starting base assets relating to the interest.

Note: In order for a starting base asset to relate to an interest in a petroleum project, the production licence relating to the project, or the retention lease or exploration permit from which it is derived, must have existed just before 2 May 2010: see clause 10.

7 The amount of the starting base amount

- (1) If, under Part 2, the book value approach is the valuation approach for an interest in an onshore petroleum project or the North West Shelf project, the amount of the starting base amount relating to the interest is the sum of:
 - (a) the book values, worked out under Division 3, of all the starting base assets, relating to the interest, to which subclause (3) applies; and

- (b) the adjusted interim expenditure amounts relating to the interest, worked out under clause 16.
- (2) If, under Part 2, the market value approach is the valuation approach for an interest in an onshore petroleum project or the North West Shelf project, the amount of the starting base amount relating to the interest is the sum of:
- (a) unless clause 8 applies—the market values, worked out under Division 3, of all the starting base assets, relating to the interest, to which subclause (3) applies; and
 - (b) if clause 8 applies—the amount worked out under subclause 8(2); and
 - (c) the amounts of interim expenditure incurred in relation to the interest.
- (3) This subclause applies to a starting base asset if, at all times between 2 May 2010 and 30 June 2012, the person holding the asset simultaneously held:
- (a) the interest in the project; or
 - (b) if, for some or all of that period, the project did not exist—an interest in a retention lease, or in an exploration permit, from which the production licence to which the project relates is derived.

Note: This subclause allows for a transfer of the starting base asset between 2 May 2010 and 30 June 2012, if it matches a transfer of the interest.

8 Alternative valuation method for coal seam gas projects

- (1) This clause applies if:
- (a) under Part 2, the market value approach is the valuation approach for an interest in an onshore petroleum project; and
 - (b) the project includes a known reserve of coal seam gas; and
 - (c) either:
 - (i) the interest, or another interest in the project, was acquired, by any person, between 1 July 2007 and 2 May 2010; or

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Clause 8

- (ii) a company that held the interest, or another interest in the project, was acquired, by any person, between 1 July 2007 and 2 May 2010; and
 - (d) the person who chose the market value approach in relation to the interest (the *interest holder*) chooses under subclause (4) of this clause to apply the alternative valuation method for coal seam gas projects.
- (2) For the purposes of paragraph 7(2)(b), the amount worked out under this subclause is:

$$\$0.60 \times \left(\text{Estimated reserves} - \text{Production since estimate} \right)$$

where:

estimated reserves is:

- (a) if paragraph (b) does not apply—the most recent approved estimate, made before 2 May 2010, of the proved, probable and possible reserves of coal seam gas for the project, expressed in gigajoules; or
- (b) if the interest holder does not hold the entire interest in the project—the portion of that estimate, expressed in gigajoules, of those reserves that reflects the interest holder's interest in the project.

production since estimate is:

- (a) if paragraph (b) does not apply—the amount of coal seam gas produced from the project, expressed in gigajoules, between the day on which that approved estimate was made and 2 May 2010; or
 - (b) if the interest holder does not hold the entire interest in the project—the portion of that production, expressed in gigajoules, that reflects the interest holder's interest in the project.
- (3) To be an approved estimate for the purposes of subclause (2), an estimate of the proved, probable and possible reserves of coal seam gas for the project must have been:

- (a) determined in accordance with the requirements of the document known as the Petroleum Resources Management System, issued by the Society of Petroleum Engineers, as in force at the time the estimate was made; and
 - (b) independently certified as being determined in accordance with the requirements of that document as so in force.
- (4) The interest holder may choose to apply the alternative valuation method for coal seam gas projects.
- (5) The choice is not valid unless the interest holder gives it to the Commissioner:
- (a) in the approved form; and
 - (b) on or before 30 August 2013, or within a further time that the Commissioner allows.
- (6) The choice is irrevocable, and applies to:
- (a) the year of tax commencing on 1 July 2012; and
 - (b) all later years of tax.
- (7) For the purposes of paragraph (1)(c):
- (a) a person holding an interest in the project is taken to have acquired the interest if, and when, the person is taken to have acquired that interest for the purposes of clause 18; and
 - (b) a company holding an interest in the project is taken to have been acquired if, and when, the company is taken to have been acquired for the purposes of that clause.

9 Reducing the starting base amount

- (1) Despite clause 7, a starting base amount under that clause is reduced by the sum of all the reductions (if any) required by subclauses (2) and (3) of this clause in relation to any starting base assets to which the starting base amount relates.

Schedule 2 Starting base for onshore petroleum projects and the North West Shelf project

Part 3 Starting base amounts

Division 1 Starting base amounts

Clause 9

Use etc. that is not related to project activities

- (2) Reduce the starting base amount to the extent (if any) that the amount relates to a starting base asset that, during the starting base period relating to the asset, was used, or being constructed for use, for a purpose other than carrying on project activities relating to the petroleum project.

Use etc. that equates to excluded expenditure

- (3) Reduce the starting base amount (or, if that amount is reduced under subclause (2), that amount as so reduced) to the extent (if any) that the amount:
- (a) relates to a starting base asset that, during the starting base period relating to the asset, was used, or being constructed for use, for carrying on project activities relating to the petroleum project; but
 - (b) would have been excluded expenditure if it had been an amount of expenditure that the person holding the interest in the project incurred.
- (4) However, subclause (3) does not apply if:
- (a) under Part 2, the market value approach is the valuation approach for the person's starting base assets relating to the petroleum project; and
 - (b) the amount would have been excluded expenditure only because of paragraph 44(e), (f) or (g).

Note: Subclause (4) ensures that a starting base amount in relation to an interest in a petroleum project is not reduced under the market value approach.

Starting base period

- (5) The **starting base period** in relation to a starting base asset is a period, between 2 May 2010 and 1 July 2012:
- (a) during which a person held both the asset and the interest in the project; and

- (b) during which the asset was, for any purpose, used or being constructed for use.

Schedule 2 Starting base for onshore petroleum projects and the North West Shelf project

Part 3 Starting base amounts

Division 2 Starting base assets

Clause 10

Division 2—Starting base assets

10 Meaning of *starting base asset*

- (1) Property, or a legal or equitable right that is not property, is a ***starting base asset*** relating to an interest in an onshore petroleum project or the North West Shelf project if:
 - (a) either of the following existed just before 2 May 2010:
 - (i) the production licence relating to the project, or (if the project is a combined project) a pre-combination project in relation to the project;
 - (ii) a retention lease, or exploration permit, from which the production licence is derived; and
 - (b) on 2 May 2010, the property or right was used, or being constructed for use, in carrying on project activities relating to the project (or pre-combination project); and
 - (c) the look-back approach is not the valuation approach for the interest under Part 2.
- (2) Despite subclause (1):
 - (a) if, under Part 2, the book value approach is the valuation approach for the interest in the petroleum project, the following are not ***starting base assets***:
 - (i) rights and interests constituting the petroleum project;
 - (ii) mining, quarrying or prospecting information, or rights to such information;
 - (iii) goodwill; and
 - (b) property, or a legal or equitable right, is not, and is taken never to have been, a ***starting base asset*** if:
 - (i) a valid choice has not been made under clause 3 specifying the valuation approach for the interest; or
 - (ii) a valid starting base return that covers the property or right has not been given to the Commissioner.

- (3) If, under Part 2, the market value approach is the valuation approach for the person's starting base assets relating to the interest in the petroleum project, treat:
- (a) any mining, quarrying or prospecting information; or
 - (b) any rights to such information;
- as property, or a legal or equitable right, for the purposes of subclause (1).
- (4) Despite subclause (1), something cannot become a starting base asset relating to an interest in a petroleum project that relates to a particular production licence if:
- (a) the production licence is derived from a particular retention lease or exploration permit; and
 - (b) the thing has already become a starting base asset relating to an interest in another petroleum project; and
 - (c) the production licence to which the other project relates:
 - (i) came into force between 2 May 2010 and 30 June 2012; and
 - (ii) is derived from that retention lease or exploration permit.
- (4A) Despite subclause (1), something cannot become a starting base asset relating to an interest in a petroleum project that relates to a particular production licence if:
- (a) the production licence is derived from a particular exploration permit; and
 - (b) a retention lease that is related to the exploration permit came into force between 2 May 2010 and 30 June 2012; and
 - (c) the production licence is not derived from the retention lease.
- Note: For the relationship between production licences, exploration permits and retention leases, see section 4.
- (5) This Schedule applies to any improvement to, or any fixture on, land as if it were an asset separate from the land, whether the improvement or fixture is removable or not.

Schedule 2 Starting base for onshore petroleum projects and the North West Shelf project

Part 3 Starting base amounts

Division 2 Starting base assets

Clause 11

11 Holding a starting base asset

- (1) A person *holds* a starting base asset relating to an onshore petroleum project or the North West Shelf project if:
 - (a) the asset is a depreciating asset that the person holds (within the meaning of section 40-40 of the *Income Tax Assessment Act 1997*); or
 - (b) the person would hold the asset (within the meaning of that section) if it were a depreciating asset.
- (2) However, a person who is entitled to the interest in a petroleum project is taken to hold the rights and interests constituting the interest in the project.

Division 3—Valuation of starting base assets

12 The book value of a starting base asset

- (1) If, under Part 2, the book value approach is the valuation approach for an interest in an onshore petroleum project or the North West Shelf project, the book value of a starting base asset relating to the interest is the book value under subclause (2) or (3).
- (2) If:
 - (a) the value of the asset is recorded in the accounts from which the most recent audited financial report before 2 May 2010 was prepared; and
 - (b) the financial report relates to a financial period that ended in the 18 months preceding that day;the book value of the asset is as follows:

$$\text{Accepted value} \times \left(\frac{\text{Long term bond rate for the valuation period}}{+ 1.05} \right)^n$$

where:

accepted value is:

- (a) the value recorded in those accounts, unless paragraph (b) applies; or
- (b) if that value is inconsistent with an auditor's report on the financial report—a value that is consistent with the auditor's report.

long term bond rate for the valuation period is the long term bond rate for the valuation period under subclause (4).

n is the number of days in that valuation period, divided by 365.

- (3) However, the initial book value of the asset is zero if the value of the asset is not recorded as mentioned in subclause (2).

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Part 3 Starting base amounts

Division 3 Valuation of starting base assets

Clause 13

- (4) The valuation period for the asset is the period:
- (a) starting:
 - (i) on the day the financial report mentioned in paragraph (2)(a) was prepared, unless subparagraph (ii) of this paragraph applies; or
 - (ii) if the value of the asset recorded in the accounts from which the financial report was produced is inconsistent with an auditor's report on the financial report—on the day of the auditor's report; and
 - (b) ending at the end of 30 June 2012.

13 The market value of a starting base asset

- (1) If, under Part 2, the market value approach is the valuation approach for an interest in an onshore petroleum project or the North West Shelf project, the market value of a starting base asset relating to the interest is the market value of the asset on 1 May 2010.
- (2) However, if the asset is a right or interest constituting the interest in the project, in working out its market value for the purposes of this section, disregard any liability of the person to make any payments, of a kind known as private override royalty payments, relating to:
- (a) petroleum recovered from:
 - (i) the production licence area in relation to the project; or
 - (ii) an exploration permit area for an exploration permit from which the production licence to which the project relates is derived; or
 - (iii) a retention lease area for a retention lease from which the production licence to which the project relates is derived; or
 - (b) marketable petroleum commodities produced from such petroleum.

14 Partial disposal of a starting base asset before 1 July 2012

- (1) The book value under clause 12, or the market value under clause 13, of a starting base asset relating to an interest that a person holds in an onshore petroleum project or the North West Shelf project is reduced to the extent (if any) that any of the person's interest in the asset is disposed of during the period:
 - (a) starting on the day provided under subclause (2); and
 - (b) ending at the end of 30 June 2012.
- (2) The period starts:
 - (a) if, under Part 2, the book value approach is the valuation approach for the interest:
 - (i) on the day of the financial report (if any) mentioned in paragraph 12(2)(a) of this Schedule in relation to the accounts in which the value of the asset is recorded; or
 - (ii) if subparagraph (i) of this paragraph does not apply—on 2 May 2010; or
 - (b) if, under Part 2, the market value approach is the valuation approach for the interest—on 2 May 2010.
- (3) Treat, for the purposes of this clause, as a disposal of part of the person's interest in the starting base asset an arrangement that has the effect of transferring to another person part of the benefits or entitlements that the person has in relation to the asset.

Schedule 2 Starting base for onshore petroleum projects and the North West Shelf project

Part 3 Starting base amounts

Division 4 Interim expenditure

Clause 15

Division 4—Interim expenditure

15 Meaning of *interim expenditure*

- (1) An amount of expenditure that a person incurs relating to an interest in an onshore petroleum project or the North West Shelf project is *interim expenditure* relating to the interest to the extent that:
 - (a) the amount:
 - (i) relates to a depreciating asset that is used, or being constructed for use, on 1 July 2012 in carrying on project activities relating to the project; and
 - (ii) is included in the cost of the asset under Subdivision 40-C of the *Income Tax Assessment Act 1997*; and
 - (iii) was incurred during the period starting on the day provided under subclause (3) or (4) and ending at the end of 30 June 2012; or
 - (b) the amount:
 - (i) relates to a CGT asset that is not a depreciating asset and that is used, or being constructed for use, on 1 July 2012 in carrying on project activities relating to the project; and
 - (ii) is included in the cost base of the asset; and
 - (iii) was incurred during the period starting on the day provided under subclause (3) or (4) and ending at the end of 30 June 2012; or
 - (c) the amount:
 - (i) is mining capital expenditure (within the meaning of the *Income Tax Assessment Act 1997*) relating to project activities relating to the project; and
 - (ii) was incurred between 2 May 2010 and 30 June 2012.
- (2) However, if the asset is a CGT asset (but not a depreciating asset), treat the amount of the interim expenditure as not including any

part of the amount that consists of the third element of the cost base under subsection 110-25(4) of the *Income Tax Assessment Act 1997*.

Start of the expenditure period

- (3) If, under Part 2, the book value approach is the valuation approach for the interest in the petroleum project, the period starts:
- (a) if subclause (5) applies to the asset:
 - (i) on the day of the financial report (if any) mentioned in paragraph 12(2)(a) of this Schedule in relation to the accounts in which the value of the asset is recorded; or
 - (ii) if subparagraph (i) of this paragraph does not apply—on 2 May 2010; or
 - (b) otherwise—on the first day, before the end of 30 June 2012, from which the person held the asset at all times until the end of 30 June 2012.

Example: The person bought an asset on 1 January 2011 and sold it on 1 May 2011. The person bought the asset again on 1 June 2011 and still held it at the end of 30 June 2012.

The expenditure incurred in buying the asset the first time (on 1 January 2011) is not interim expenditure, because the person did not hold the asset until the end of 30 June 2012, as required by paragraph (3)(b).

The expenditure incurred in buying the asset the second time (on 1 June 2011) is interim expenditure (if it is covered by paragraph (1)(a)), because the person held the asset until the end of 30 June 2012.

- (4) If, under Part 2, the market value approach is the valuation approach for the interest in the petroleum project, the period starts:
- (a) if subclause (5) applies to the asset—on 2 May 2010; or
 - (b) otherwise—on the first day, before the end of 30 June 2012, from which the person held the asset at all times until the end of 30 June 2012.

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Part 3 Starting base amounts

Division 4 Interim expenditure

Clause 16

- (5) This subclause applies to an asset if, at all times between 2 May 2010 and 30 June 2012, the person holding the asset simultaneously held:
- (a) the interest in the project; or
 - (b) if, for some or all of that period, the project did not exist—an interest in a retention lease, or in an exploration permit, from which the production licence to which the project relates is derived.
- (6) For the purposes of subclauses (3) to (5), an amount of expenditure to which paragraph (1)(c) applies is taken to be an asset that the person incurring the expenditure holds from the day the expenditure was incurred until the day on which the person ceases to hold the interest in the project.

Excluded expenditure

- (7) Despite subclause (1), the amount is not *interim expenditure* to the extent (if any) that the amount would have been excluded expenditure if it had been incurred after 1 July 2012.

16 Adjusted interim expenditure amounts

- (1) If:
- (a) under Part 2, the book value approach is the valuation approach for an interest in an onshore petroleum project or the North West Shelf project; and
 - (b) a person holding an interest in the project incurred an amount of interim expenditure relating to the interest;
- there is an adjusted interim expenditure amount relating to the interest.
- (2) The adjusted interim expenditure amount is as follows:

$$\text{Amount of the interim expenditure} \times \left(\frac{\text{Long term bond rate for the interim valuation period}}{1.05} \right)^n$$

where:

long term bond rate for the interim valuation period is the long term bond rate for the interim valuation period under subclause (3).

n is the number of days in the interim valuation period, divided by 365.

- (3) The interim valuation period for an amount of interim expenditure is the period:
- (a) starting on the day on which the person holding the interest in the petroleum project incurred the amount; and
 - (b) ending at the end of 30 June 2012.

17 Partial disposal of an asset before 1 July 2012

- (1) If:
- (a) a person incurs interim expenditure relating to an interest that a person holds in an onshore petroleum project or the North West Shelf project; and
 - (b) the interim expenditure relates to a depreciating asset or a CGT asset; and
 - (c) any of the person's interest in the asset is disposed of between 2 May 2010 and 1 July 2012;
- the amount of the interim expenditure is taken to be reduced to the extent the person's interest in the asset is disposed of.
- (2) Treat, for the purposes of this clause, as a disposal of part of the person's interest in the asset an arrangement that has the effect of transferring to another person part of the benefits or entitlements that the person has in relation to the asset.

Part 4—The look-back approach

Note: Section 45 deals generally with when eligible real expenditure may be incurred in relation to onshore petroleum projects and the North West shelf project, including under the look-back approach. This Part deals with some specific issues under the look-back approach, in particular issues relating to the costs of acquiring projects.

18 Expenditure incurred in acquiring interests in petroleum projects

Interests acquired between 1 July 2007 and 2 May 2010

- (1) If:
 - (a) under Part 2, the look-back approach is the valuation approach for an interest in an onshore petroleum project or the North West Shelf project; and
 - (b) during the period between 1 July 2007 and 2 May 2010, either or both of the following events occurred:
 - (i) a person acquired the interest;
 - (ii) if the person holding the interest is a company—the person was acquired by another company;the starting base expenditure, in relation to the last such event to occur in relation to the interest during that period, includes the expenditure (*acquisition expenditure*) referred to in subsection (2).
- (2) The acquisition expenditure is whichever of the following is applicable:
 - (a) the expenditure incurred by the person in acquiring the interest;
 - (b) the expenditure incurred by the other company in making the acquisition.
- (3) Despite subclause (1), the starting base expenditure in relation to the project does not include acquisition expenditure to the extent (if any) that the acquisition expenditure reflects the value of things that are not project activities relating to the project.

- (4) Despite subclause (1), the starting base expenditure in relation to the project does not include acquisition expenditure to the extent that the expenditure relates to an acquired exploration expenditure amount.
- (5) Acquisition expenditure included under subclause (1) in the starting base expenditure is taken, for the purposes of this Act, to have been incurred on 2 May 2010.
- (5A) For the purposes of subclause (1), if the person disposed of part of the interest during the period between 1 July 2007 and 2 May 2010:
 - (a) the acquisition is taken to be an acquisition of so much (the ***remaining part***) of the interest as the person holds immediately after the last such partial disposal to take place during that period; and
 - (b) the acquisition expenditure is taken to be so much of the expenditure referred to in paragraph (2)(a) or (b) as is attributable to the remaining part of the interest.

Interests acquired before 1 July 2007

- (6) If, under Part 2, the look-back approach is the valuation approach for an interest in an onshore petroleum project or the North West Shelf project, the eligible real expenditure incurred by the person holding the interest does not include:
 - (a) if the person acquired the interest before 1 July 2007—expenditure (***acquisition expenditure***) incurred by the person in acquiring the interest; or
 - (b) if the person is a company that was acquired by another company before 1 July 2007—expenditure (***acquisition expenditure***) incurred by the other company in making the acquisition.

Acquisitions

- (7) For the purposes of this clause and clause 19:

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Part 4 The look-back approach

Clause 18

- (a) the person holding an interest in an onshore petroleum project or the North West Shelf project is taken to have acquired the interest if and only if:
 - (i) in a case where the project existed on 2 May 2010—the person purchased the interest; or
 - (ii) in a case where the project did not exist on 2 May 2010—the person purchased the exploration permit or retention lease from which the production licence to which the project relates is derived, or purchased an interest in the exploration permit or retention lease; and
 - (b) the acquisition is taken to have occurred when the transaction was first entered into that, when complete, had the effect of transferring the interest, or the permit or lease; and
 - (c) except for the purposes of subclause (6) of this clause, the acquisition expenditure relating to the acquisition includes any expenditure the person incurred, at any time, in acquiring the interest:
 - (i) during the period between 1 July 2007 and 2 May 2010; or
 - (ii) under an agreement entered into during the period between 1 July 2007 and 2 May 2010.
- (8) For the purposes of this clause and clause 19:
- (a) a company is taken to have been acquired by another company if and only if the company became a subsidiary of the other company; and
 - (b) the acquisition is taken to have occurred when:
 - (i) the transaction that, when complete, had the effect of the first company becoming a subsidiary of the other company; or
 - (ii) an agreement to enter into that transaction; was first entered into; and
 - (c) except for the purposes of subclause (6) of this clause, the acquisition expenditure relating to the acquisition includes any expenditure the company incurred, at any time, in acquiring any interest in the other company:

- (i) during the period between 1 July 2007 and 2 May 2010;
or
- (ii) under an agreement entered into during the period
between 1 July 2007 and 2 May 2010.

Note: Section 2B defines a *subsidiary*.

- (9) However, paragraph (8)(c) does not apply to acquisition expenditure to the extent (if any) that the acquisition expenditure reflects the value of things that are not project activities relating to the petroleum project in which the other company holds an interest.

19 Acquired exploration expenditure amounts

- (1) If:
 - (a) under Part 2, the look-back approach is the valuation approach for an interest in an onshore petroleum project or the North West Shelf project; and
 - (b) during the period between 1 July 2007 and 2 May 2010, either or both of the following events occurred:
 - (i) a person acquired the interest;
 - (ii) if the person holding the interest is a company—the person was acquired by another company; and
 - (c) expenditure that:
 - (i) the person holding the interest incurred in acquiring the interest; or
 - (ii) the person making the acquisition of the company holding the interest incurred in making the acquisition; would, apart from subclause 18(4), be included under clause 18 in the starting base expenditure incurred by the person holding the interest;
- the person holding the interest is taken, for the purposes of this Act, to have an acquired exploration expenditure amount in relation to the project equal to the amount of acquisition expenditure allocated to exploration assets and evaluation assets, as recorded in a financial report that satisfies subclause (2).

- (2) The financial report satisfies this subclause if:
-

Schedule 2 Starting base for onshore petroleum projects and the North West Shelf project

Part 4 The look-back approach

Clause 20

- (a) it has been audited; and
 - (b) it was prepared in accordance with:
 - (i) the accounting standards (within the meaning of the *Corporations Act 2001*); or
 - (ii) International Financial Reporting Standard 6, or another international financial reporting standard prescribed by the regulations; and
 - (c) it relates to a period that includes the day on which the acquisition of the interest, or the acquisition of the company, was recognised in accordance with those accounting standards or that reporting standard.
- (3) The acquired exploration expenditure amount is taken, for the purposes of this Act, to be acquired exploration expenditure incurred by the person holding the interest on 2 May 2010.

20 Restriction applying the look-back approach in certain cases

Despite section 45 and clauses 18 and 19, if:

- (a) under Part 2, the look-back approach is the valuation approach for an interest in an onshore petroleum project or the North West Shelf project; and
 - (b) particular expenditure would, apart from this clause, be eligible real expenditure incurred by a person in relation to the project; and
 - (c) either:
 - (i) if the expenditure was incurred between 1 July 2010 and 30 June 2012—the person has not kept and retained records, relating to the expenditure, that would meet the requirements of section 112; or
 - (ii) if the expenditure was incurred between 1 July 2002 and 30 June 2010—the person has not kept and retained records that enable the amount and nature of the expenditure to be reasonably substantiated;
- the eligible real expenditure incurred by the person in relation to the project does not include that expenditure.

21 Certain receipts taken to be assessable receipts

If:

- (a) under Part 2, the look-back approach is the valuation approach for an interest in an onshore petroleum project or the North West Shelf project; and
- (b) between the starting base day under subsection 45(5) and 30 June 2012, the person incurred, in relation to particular property, expenditure that would have been eligible real expenditure incurred by the person in relation to the project if the person were to incur it after 30 June 2012; and
- (c) between that starting base day and 30 June 2012, circumstances arose relating to the property that would have caused an assessable receipt of one of the following kinds to be derived in relation to the property if those circumstances were to arise after 30 June 2012:
 - (i) an assessable property receipt;
 - (ii) an assessable miscellaneous compensation receipt;
 - (iii) an assessable employee amenities receipt;

an amount equal to what would have been the amount of that assessable receipt is taken, for the purposes of this Act, to be an assessable receipt of that kind derived by the person, in relation to the project, in the financial year in which the circumstances arose.

21A Assessable property receipts

(1) Without limiting section 27, if:

- (a) on or after 1 July 2012, consideration is receivable by a person in respect of the disposal, loss or destruction of an asset; and
- (b) the asset was used, or being constructed for use, before 1 July 2012 in carrying on project activities relating to an onshore petroleum project or the North West Shelf project;

the disposal, loss or destruction is taken, for the purposes of that section, to be a disposal, loss or destruction of property in respect of which capital expenditure of the kind referred to in paragraph 27(1)(a) was incurred by the person.

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Part 4 The look-back approach

Clause 21A

- (2) However, if the asset was used, or being constructed for use, before 1 July 2012 only partly in carrying on project activities relating to the project, subclause (1) applies to the disposal, loss or destruction only to the extent that the asset was so used, or being constructed for use.

Part 5—Starting base returns and assessments

22 Starting base returns

- (1) A person must give to the Commissioner a starting base return if the person wishes to choose a valuation approach under clause 3 in relation to a petroleum project.
- (2) A starting base return is not valid unless:
 - (a) it is in the approved form; and
 - (b) it is signed by or on behalf of the person giving the return; and
 - (c) it is given to the Commissioner on or before 30 August 2013, or within a further time that the Commissioner allows.
- (3) Without limiting the information that the approved form may require, the starting base return must provide the following information:
 - (a) the valuation approach chosen under clause 3 in relation to the petroleum project;
 - (b) if the book value approach or market value approach was chosen—the amount of the starting base amount relating to the person's interest in the project;
 - (c) if the look-back approach was chosen—the amount of eligible real expenditure incurred before 1 July 2012 relating to the person's interest in the project.

23 Starting base assessments

- (1) If a person has given to the Commissioner a valid starting base return relating to a petroleum project, the Commissioner is taken to have made, in accordance with what the person specified in the return, an ascertainment (a *starting base assessment*) of:
 - (a) if the book value approach or market value approach is the valuation approach relating to the person's interest in the

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Part 5 Starting base returns and assessments

Clause 23

- project—the amount of the starting base amount relating to the person’s interest in the project; or
- (b) if the look-back approach is the valuation approach relating to the person’s interest in the project—the amount and kind of eligible real expenditure incurred before 1 July 2012 relating to the person’s interest in the project.
- (2) The starting base assessment is taken to have been made on the day the starting base return is given to the Commissioner.
- (3) On and after the day the Commissioner is taken to have made the starting base assessment, the return is taken to be a notice of the starting base assessment:
- (a) under the hand of the Commissioner; and
- (b) given to the person on the day the Commissioner is taken to have made the starting base assessment.
- (4) The starting base assessment is taken, from the time it is made, to be an assessment for the purposes of:
- (a) section 65 (validity of assessments); and
- (b) subsection 66(1) (objections to assessments); and
- (c) Division 3 of Part VI (amendment of assessments); and
- (d) section 350-10 in Schedule 1 to the *Taxation Administration Act 1953* (evidence).
- (5) Without limiting subclause (4), from the first time an assessment (a **general assessment**) is made of the person’s taxable profit (or that the person has no taxable profit), in relation to the project and a year of tax commencing on or after 1 July 2012:
- (a) the starting base assessment is taken, for the purposes of this Act, to form part of the general assessment; and
- (b) any objection against the general assessment under section 66 must not relate to matters to which the starting base assessment relates; and
- (c) any amendment of the general assessment under Division 3 of Part VI must not relate to matters to which the starting base assessment relates, except to the extent necessary to

give effect to the starting base assessment (including the starting base assessment as amended).

(5A) If:

- (a) section 48 or 48A applies in relation to a transaction that has the effect of transferring a person's entitlement to derive, after the transaction, assessable receipts in relation to a petroleum project; and
- (b) the person is a vendor (within the meaning of section 48 or 48A) in relation to the transaction; and
- (c) before the transaction, a starting base assessment relating to the project was taken (under subclause (1) or (5B) of this clause) to have been made relating to the person;

after the transaction, subclauses (4) and (5) of this clause apply, in relation to a person who is a purchaser (within the meaning of section 48 or 48A) in relation to the transaction, and cease to apply in relation to the vendor, to the extent that the transaction had the effect of transferring that entitlement to the purchaser.

(5B) To the extent that subclauses (4) and (5) apply because of subclause (5A), the starting base assessment is taken to have been made relating to the purchaser, and not the vendor.

(6) Without limiting subsection 67(2), the Commissioner may amend a general assessment at any time to the extent necessary to give effect to the starting base assessment (including the starting base assessment as amended).

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

Endnote 1—About the endnotes

be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Petroleum Resource Rent Tax Assessment Act 1987	142, 1987	18 Dec 1987	15 Jan 1988	
Taxation Laws Amendment (Tax File Numbers) Act 1988	97, 1988	25 Nov 1988	s 29(1): 1 Jan 1989 (s 2(1) and gaz 1988, No S399)	—
Training Guarantee (Administration) Act 1990	60, 1990	16 June 1990	s 43 and 88–95: 31 Oct 1990 (s 2(2) and gaz 1990, No S272) Remainder: 1 July 1990	—
Petroleum Resource Rent Legislation Amendment Act 1991	80, 1991	26 June 1991	1 July 1991	s 32–36 and 44
Taxation Laws Amendment Act (No. 3) 1991	216, 1991	24 Dec 1991	s 113: 1 Mar 1992 (s 2(10) and gaz 1992, No GN7) s 123 and 124: 24 Dec 1991 (s 2(1))	s 114 and 124
Superannuation Guarantee (Consequential Amendments) Act 1992	92, 1992	30 June 1992	1 July 1992	—
Sales Tax Amendment (Transitional) Act 1992	118, 1992	30 Sept 1992	28 Oct 1992	—

Petroleum Resource Rent Tax Assessment Act 1987

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Compilation No. 45

Compilation date: 1/4/19

Registered: 12/4/19

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Corporate Law Reform Act 1992	210, 1992	24 Dec 1992	s 1–3: 24 Dec 1992 s 26(2) and 28(1): 1 Feb 1994 s 29–173 and 177: 23 June 1993 (gaz 1993, No S186) Remainder: 1 Feb 1993 (gaz 1993, No S25)	—
Taxation Laws Amendment Act (No. 5) 1992	224, 1992	24 Dec 1992	s 113–120: 1 July 1991 (s 2(3))	—
Taxation Laws Amendment Act (No. 3) 1993	118, 1993	24 Dec 1993	s 125, 132 and 133: 1 July 1991 (s 2(2)) s 126–128 and 130: 24 Dec 1993 (s 2(1)) s 129 and 131: 1 July 1993 (s 2(3))	s 127(2), 128(2) and 130(2)
Taxation Laws Amendment Act (No. 4) 1994	181, 1994	19 Dec 1994	Sch 1 (items 22–85): 13 Oct 1994 Remainder: 19 Dec 1994	Sch 5 (item 46(10))
Income Tax (International Agreements) Amendment Act 1995	22, 1995	29 Mar 1995	29 Mar 1995	—
Income Tax (Consequential Amendments) Act 1997	39, 1997	17 Apr 1997	Sch 3 (item 110): 1 July 1997	—
Taxation Laws Amendment Act (No. 3) 1999	11, 1999	31 Mar 1999	Sch 1 (items 281–296): 1 July 1999 (s 2(3))	Sch 1 (items 398(1)–(4), 399)

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999	44, 1999	17 June 1999	Sch 7 (items 123–125): 1 July 1999 (s 3(2)(e), (16) and gaz 1999, No S283)	s 3(2)(e) (am by 160, 2000, Sch 4 [item 4])
as amended by				
Financial Sector Legislation Amendment Act (No. 1) 2000	160, 2000	21 Dec 2000	Sch 1 (item 21): 21 Dec 2000 Remainder: 18 Jan 2001	—
Public Employment (Consequential and Transitional) Amendment Act 1999	146, 1999	11 Nov 1999	Sch 1 (item 732): 5 Dec 1999 (s 2(1), (2))	—
A New Tax System (Indirect Tax and Consequential Amendments) Act (No. 2) 1999	177, 1999	22 Dec 1999	Sch 8 (items 7–18): 1 July 2000 (s 2(9))	—
A New Tax System (Tax Administration) Act 1999	179, 1999	22 Dec 1999	Sch 2 (items 48–58): 22 Dec 2009 (s 2(1))	—
A New Tax System (Tax Administration) Act (No. 1) 2000	44, 2000	3 May 2000	Sch 3 (items 39, 40): 1 July 2000 (s 2(9)) Sch 3 (items 41–45): 22 Dec 1999 (s 2(1))	Sch 3 (items 40, 42, 44)
Taxation Laws Amendment Act (No. 3) 2000	66, 2000	22 June 2000	Sch 6: 22 June 2000 (s 2(1))	Sch 6 (item 3)

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
A New Tax System (Tax Administration) Act (No. 2) 2000	91, 2000	30 June 2000	Sch 2 (items 54–56): (s 2(1))	—
Corporations (Repeals, Consequential and Transitional) Act 2001	55, 2001	28 June 2001	s 4–14 and Sch 3 (items 413–415): 15 July 2001 (s 2(3) and gaz 2001, No S285)	s 4–14
Treasury Legislation Amendment (Application of Criminal Code) Act (No. 2) 2001	146, 2001	1 Oct 2001	s 4 and Sch 4 (items 102–115): 15 Dec 2001 (s 2(1))	s 4
Taxation Laws Amendment Act (No. 6) 2001	169, 2001	1 Oct 2001	Sch 1 (items 1–9): 1 Apr 2002 (s 2(3)) Sch 1 (items 10–12, 15): 1 Oct 2001 s 2(1)	Sch 1 (item 15)
Taxation Laws Amendment Act (No. 3) 2003	101, 2003	14 Oct 2003	Sch 5: 14 Oct 2003	—
Greater Sunrise Unitisation Agreement Implementation Act 2004	47, 2004	21 Apr 2004	Sch 2 (items 1–18): 7 Feb 2007	—
Bankruptcy Legislation Amendment Act 2004	80, 2004	23 June 2004	Sch 1 (items 198, 212, 213, 215): 1 Dec 2004 (gaz 2004, No GN34)	Sch 1 (items 212, 213, 215)
Tax Laws Amendment (2004 Measures No. 7) Act 2005	41, 2005	1 Apr 2005	Sch 5 and Sch 10 (items 225–230): 1 Apr 2005	Sch 5 (item 17) and Sch 10 (item 230)

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Offshore Petroleum (Repeals and Consequential Amendments) Act 2006	17, 2006	29 Mar 2006	Sch 2 (items 73–96): 1 July 2008 (s 2(1) item 2)	Sch 2 (items 95, 96)
as amended by				
Offshore Petroleum Amendment (Greenhouse Gas Storage) Act 2008	117, 2008	21 Nov 2008	Sch 3 (item 31AB) and Sch 4 (item 5): (<i>see</i> 117, 2008 below)	—
Petroleum Resource Rent Tax Assessment Amendment Act 2006	78, 2006	30 June 2006	Sch 1 (items 1–10, 12), Sch 2, Sch 3 (items 1, 2, 4–9), Sch 4 (items 1–24, 38) and Sch 5: 1 July 2006 (s 2(1) items 2, 3, 5–11) Sch 3 (item 3): 1 July 2008 (s 2(1) item 4)	Sch 1 (item 12), Sch 2 (items 3, 4), Sch 3 (item 9), Sch 4 (item 38) and Sch 5 (item 23)
Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006	101, 2006	14 Sept 2006	Sch 2 (items 1017, 1041–1043) and Sch 6 (items 1, 6–11): 14 Sept 2006	Sch 6 (items 1, 6–11)
Statute Law Revision Act 2007	8, 2007	15 Mar 2007	Sch 4 (item 22): 15 Mar 2007	—
Offshore Petroleum Amendment (Greater Sunrise) Act 2007	49, 2007	10 Apr 2007	Sch 1 (items 88–94, 97): 1 July 2008 (s 2(1) item 2)	Sch 1 (item 97) (am. by 117, 2008, Sch 3 [item 31AA])
as amended by				
Offshore Petroleum Amendment (Greenhouse Gas Storage) Act 2008	117, 2008	21 Nov 2008	Sch 3 (item 31AA): (<i>see</i> 117, 2008 below)	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Offshore Petroleum Amendment (Greenhouse Gas Storage) Act 2008	117, 2008	21 Nov 2008	Sch 2 (items 59–65), Sch 3 (items 31AA, 31AB, 33–50, 52–54) and Sch 4 (items 5–9): 22 Nov 2008 (s 2(1) items 3, 4, 6)	—
Tax Laws Amendment (2009 Measures No. 3) Act 2009	47, 2009	24 June 2009	Sch 3 (items 1–20): 1 July 2009 Sch 3 (items 21–36): 1 July 2008 Sch 3 (item 37): 12 May 2009	Sch 3 (items 20, 36)
Tax Laws Amendment (2009 Measures No. 4) Act 2009	88, 2009	18 Sept 2009	Sch 5 (items 209–230): 18 Sept 2009 (s 2(1) item 7)	—
Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment Act 2009	102, 2009	8 Oct 2009	Sch 1 (item 68): 9 Oct 2009 (s 2(1) item 4)	—
Tax Laws Amendment (Confidentiality of Taxpayer Information) Act 2010	145, 2010	16 Dec 2010	Sch 2 (items 59, 60): 17 Dec 2010 (s 2(1) item 2)	—
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Sch 2 (items 909, 910) and Sch 3 (items 10, 11): 27 Dec 2011 (s 2(1) items 7, 12)	Sch 3 (items 10, 11)
Tax Laws Amendment (2011 Measures No. 8) Act 2011	136, 2011	29 Nov 2011	Sch 2: 29 Nov 2011 (s 2(1) item 2)	Sch 2 (item 3)

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Petroleum Resource Rent Tax Assessment Amendment Act 2012	18, 2012	29 Mar 2012	Sch 1 (items 1–10, 12–46), Sch 2 (items 1–13), Sch 3, Sch 4, Sch 5 (items 1, 6–12) and Sch 6 (items 1, 2, 9–12): 1 July 2012 (s 2(1) items 2, 4–7, 9–14) Sch 1 (item 11): never commenced (s 2(1) item 3) Sch 2 (items 14–16): 29 Sept 2012 (s 2(1) item 8)	Sch 1 (item 46), Sch 2 (item 13) and Sch 4 (item 17)
Tax and Superannuation Laws Amendment (2013 Measures No. 1) Act 2013	88, 2013	28 June 2013	Sch 7 (items 76–136, 138–166): 1 July 2012 (s 2(1) items 15, 17) Sch 7 (item 137): 29 Sept 2012 (s 2(1) item 16)	—
Tax Laws Amendment (2013 Measures No. 2) Act 2013	124, 2013	29 June 2013	Sch 6: 29 June 2013 (s 2(1) item 1)	Sch 6 (item 11)
Clean Energy Legislation (Carbon Tax Repeal) Act 2014	83, 2014	17 July 2014	Sch 1 (items 316–318, 330): 1 July 2014 (s 2(1) item 2)	Sch 1 (item 330)
Minerals Resource Rent Tax Repeal and Other Measures Act 2014	96, 2014	5 Sept 2014	Sch 1 (items 47–52, 122–124): 30 Sept 2014 (s 2(1) item 2)	Sch 1 (item 122–124)
Tax and Superannuation Laws Amendment (2014 Measures No. 6) Act 2014	133, 2014	12 Dec 2014	Sch 1 (items 30–32): 12 Dec 2014 (s 2(1) item 2)	—

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Treasury Legislation Amendment (Repeal Day) Act 2015	2, 2015	25 Feb 2015	Sch 2 (items 2–4, 73, 88, 89, 95–99 and Sch 4 (item 70, 79): 25 Feb 2015 (s 2(1) items 3, 5, 6) Sch 2 (items 35–38): 1 July 2015 (s 2(1) item 4)	Sch 2 (items 73, 95–99) and Sch 4 (item 79)
as amended by				
Tax and Superannuation Laws Amendment (2015 Measures No. 1) Act 2015	70, 2015	25 June 2015	Sch 6 (item 64): 25 Feb 2015 (s 2(18))	—
Tax and Superannuation Laws Amendment (2016 Measures No. 2) Act 2017	15, 2017	28 Feb 2017	Sch 4 (item 97): 25 Feb 2015 (s 2(1) item 13) Sch 4 (item 98): 1 July 2015 (s 2(1) item 14)	—
Tax and Superannuation Laws Amendment (2014 Measures No. 7) Act 2015	21, 2015	19 Mar 2015	Sch 7 (items 23, 24): 20 Mar 2015 (s 2(1) item 15) Sch 7 (item 44): 1 July 2012 (s 2(1) item 16)	Sch 7 (item 24)
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 478): 5 Mar 2016 (s 2(1) item 2)	—
Statute Law Revision Act (No. 1) 2016	4, 2016	11 Feb 2016	Sch 5 (item 5): 10 Mar 2016 (s 2(1) item 6)	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Treasury Laws Amendment (Fair and Sustainable Superannuation) Act 2016	81, 2016	29 Nov 2016	Sch 10 (items 84, 93): 1 Jan 2017 (s 2(1) item 6)	Sch 10 (item 93)
Offshore Petroleum and Greenhouse Gas Storage Amendment (Petroleum Pools and Other Measures) Act 2017	11, 2017	22 Feb 2017	Sch 2 (items 2, 3): 23 Feb 2017 (s 2(1) item 2)	—
Treasury Laws Amendment (2018 Measures No. 4) Act 2019	8, 2019	1 Mar 2019	Sch 8 (item 14): 1 Apr 2019 (s 2(1) item 11)	—

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Title	am. No. 88, 2013
Part I	
s 1A	ad No 146, 2001
Part II	
s 2	am No 80, 1991; No 216, 1991; No 210, 1992; No 11, 1999; No 146, 1999; No 177, 1999; No 55, 2001; No 169, 2001; No 101, 2003; No 47, 2004; No 41, 2005; No 17, 2006; No 78, 2006; No 101, 2006; No 8, 2007; No 49, 2007; No 117, 2008; No 47, 2009; No 88, 2009; No 102, 2009; No 136, 2011; No 18, 2012; No 88, 2013; No 96, 2014; No 2, 2015
s 2AA	ad No 18, 2012
s 2AB	ad No 96, 2014
s 2AC	ad No 96, 2014
s 2A	ad No 80, 1991 am No 4, 2016
s 2B	ad No 80, 1991 am No 55, 2001; No 78, 2006; No 47, 2009
s 2BA	ad No 47, 2009
s 2C	ad No 47, 2004 am No 49, 2007; No 117, 2008
s 2D	ad No 78, 2006 am No 46, 2011
s 2E	ad No 136, 2011 am No 18, 2012
s 3	am No 17, 2006; No 117, 2008; No 11, 2017
s 4	am No 80, 1991
s 4A	ad No 18, 2012 am No 88, 2013
s 4B	ad No 18, 2012 am No 88, 2013

Endnote 4—Amendment history

Provision affected	How affected
s 4C	ad No 18, 2012 am No 88, 2013
s 5	am No 47, 2009
s 10	rs No 47, 2009 am No 88, 2013
Part III	
s 15	am No 145, 2010
s 17	am No 97, 1988; No 146, 2001; No 78, 2006 rep No 145, 2010
s 18	am No 88, 2009 rep No 145, 2010
Part IV	
s 19	am No 80, 1991; No 101, 2003; No 47, 2009; No 18, 2012
s 20	am No 88, 2009; No 18, 2012; No 88, 2013
Part V	
Division 1	
s 22	rs No 80, 1991 am No 47, 2004; No 18, 2012
Division 2	
s 22B	ad No 177, 1999
s 23	am No 101, 2003; No 47, 2004; No 49, 2007; No 117, 2008; No 18, 2012
s 24	am No 169, 2001; No 101, 2003; No 78, 2006; No 18, 2012
s 24A	ad No 101, 2003 am No 47, 2009
s 26	am No 169, 2001
s 27	am No 78, 2006
s 28	am No 18, 2012; No 83, 2014
s 29A	ad No 18, 2012
s 30	am No 18, 2012
s 31	am No 80, 1991; No 18, 2012
s 31A	ad No 80, 1991

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
s 31AA	ad No 18, 2012
Division 3	
s 31B	ad No 177, 1999
s 32	am No 80, 1991; No 18, 2012
s 33	am No 80, 1991; No 18, 2012
s 34	am No 80, 1991; No 18, 2012
s 34A	ad No 80, 1991 am No 169, 2001; No 17, 2006; No 117, 2008; No 18, 2012
s 35	am No 80, 1991; No 18, 2012; No 21, 2015
s 35A	ad No 80, 1991 am No 18, 2012
s 35B	ad No 80, 1991 am No 18, 2012
s 35C	ad No 18, 2012 am No 88, 2013
s 35D	ad No 18, 2012
s 35E.....	ad No 18, 2012 am No 88, 2013
s 36	am No 80, 1991
s 36A	ad No 41, 2005 am No 17, 2006; No 18, 2012
s 36B	ad No 41, 2005 am No 17, 2006; No 117, 2008; No 47, 2009; No 88, 2009; No 46, 2011; No 18, 2012; No 126, 2015
s 36C	ad No 41, 2005
s 37	am No 101, 2003; No 47, 2009; No 18, 2012; No 124, 2013; No 96, 2014
s 38	am No 101, 2003; No 47, 2009; No 124, 2013
s 39	am No 78, 2006; No 124, 2013
s 40	am No 80, 2004
s 41	am No 101, 2003; No 47, 2009; No 88, 2013; No 124, 2013
s 44	am No 39, 1997; No 177, 1999; No 78, 2006; No 18, 2012; No 83, 2014

Endnote 4—Amendment history

Provision affected	How affected
s 45	rs No 80, 1991; No 18, 2012 am No 88, 2013
Division 3A	
Division 3A	ad No 80, 1991
s 45A	ad No 80, 1991 am No 118, 1993; No 146, 2001; No 41, 2005; No 78, 2006; No 18, 2012
s 45B	ad No 80, 1991 am No 118, 1993; No 146, 2001; No 41, 2005; No 78, 2006; No 18, 2012
s 45C	ad No 80, 1991 am No 41, 2005
s 45D	ad No 80, 1991 am No 18, 2012
s 45E.....	ad No 78, 2006 am No 18, 2012
Division 4	
s 46	am No 47, 2004; No 47, 2009
Division 5	
s 48	am No 224, 1992; No 66, 2000; No 78, 2006; No 18, 2012; No 88, 2013
s 48A	ad No 118, 1993 am No 78, 2006; No 18, 2012; No 88, 2013
Division 6	
Subdivision A	
s 53	am No 216, 1991
s 54	rep No 78, 2006
s 55	am No 22, 1995
Subdivision B	
s 57	am No 169, 2001; No 18, 2012; No 88, 2013
Division 7	
Division 7	ad No 47, 2009
s 58A	ad No 47, 2009
s 58B	ad No 47, 2009

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
	am No 18, 2012; No 88, 2013
s 58C	ad No 47, 2009
	am No 88, 2013
s 58D	ad No 47, 2009
	am No 88, 2013
s 58E.....	ad No 47, 2009
s 58F.....	ad No 47, 2009
	am No 88, 2013
s 58G	ad No 47, 2009
s 58H.....	ad No 47, 2009
s 58J.....	ad No 47, 2009
	am No 88, 2013
s 58K	ad No 47, 2009
	am No 88, 2013
s 58L.....	ad No 47, 2009
	am No 88, 2013
s 58M.....	ad No 47, 2009
	am No 88, 2013
Division 8	
Division 8.....	ad No 18, 2012
s 58N	ad No 18, 2012
	am No 88, 2013
s 58P.....	ad No 18, 2012
	rs No 88, 2013
s 58Q.....	ad No 18, 2012
	am No 88, 2013
s 58R	ad No 18, 2012
	am No 88, 2013
s 58RA.....	ad No 88, 2013
s 58S.....	ad No 18, 2012
s 58T.....	ad No 18, 2012

Endnote 4—Amendment history

Provision affected	How affected
	am No 133, 2014
s 58U	ad No 18, 2012
	am No 88, 2013
s 58V	ad No 18, 2012
	am No 88, 2013
s 58W	ad No 88, 2013
Part VI	
Division 1	
s 59	am No 118, 1993; No 41, 2005; No 78, 2006
s 60	am No 78, 2006
Division 2	
Division 2	rs No 78, 2006
s 61	am No 146, 2001
	rs No 78, 2006
	am No 18, 2012
s 62	rs No 78, 2006
s 63	rs No 78, 2006
s 64	am No 80, 1991
	rs No 78, 2006
s 65	am No 216, 1991; No 181, 1994; No 11, 1999; No 44, 2000
	rs No 78, 2006
s 66	rs No 78, 2006
Division 3	
Division 3	ad No 78, 2006
s 67	rs No 78, 2006
	am No 18, 2012
s 68	rs No 78, 2006
s 69	rs No 78, 2006
s 69A	ad No 216, 1991
	rep No 78, 2006
s 70	rep No 216, 1991

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
	ad No 78, 2006
s 71	rep No 216, 1991
	ad No 78, 2006
s 72	rep No 216, 1991
	ad No 78, 2006
Part VII.....	rep No 216, 1991
ss 73–81.....	rep No 216, 1991
Part VIII	
Division 1	
s 82	rs No 78, 2006
	am No 179, 1999
	rep No 78, 2006
ss 83, 84.....	rep No 179, 1999
s 85	rs No 11, 1999
	am No 78, 2006; No 101, 2006
ss 86, 87.....	rep No 179, 1999
s 88	am No 60, 1990; No 92, 1992; No 118, 1992
	rep No 179, 1999
s 89	rep No 179, 1999
s 90	am No 216, 1991
	rep No 179, 1999
s 91	am No 44, 1999
	rep No 179, 1999
s 92	am No 78, 2006
Division 2	
s 93	am No 44, 2000; No 88, 2013
s 95	am No 44, 2000
s 97	am No 80, 1991; No 169, 2001; No 78, 2006; No 18, 2012; No 88, 2013
s 98	am No 41, 2005
s 98A	ad No 78, 2006
	am No 18, 2012

Endnote 4—Amendment history

Provision affected	How affected
s 98B	ad No 78, 2006 am No 18, 2012
s 98C	ad No 78, 2006; No 2, 2015 am No 81, 2016
s 98D	ad No 78, 2006
Part IX	rep No 2, 2015
s 100A	ad No 91, 2000 rep No 2, 2015
s 101	rep No 2, 2015
s 102	am No 2, 2015 rep No 2, 2015 am No 2, 2015 (amdt never applied (Sch 2 (item 36)))
s 103	rep No 2, 2015
s 104	rep No 2, 2015
Part X	
s 105	rep No 2, 2015
s 106	am No 216, 1991; No 78, 2006 rep No 2, 2015
s 106A	ad No 169, 2001
s 107	am No 91, 2000 rep No 2, 2015
s 108	am No 88, 2009 rep No 2, 2015
s 108A	ad No 88, 2013 rep No 8, 2019
s 109	am No 78, 2006; No 88, 2013
s 110	rep No 179, 1999
s 111	rep No 179, 1999
s 112	am No 91, 2000; No 146, 2001
s 114	am No 78, 2006

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
Schedule 1	
Schedule heading.....	rep No 18, 2012
Schedule 1 heading.....	ad No 18, 2012
Schedule	ad No 80, 1991
	am No 224, 1992; No 118, 1993; No 169, 2001; No 47, 2004; No 41, 2005; No 17, 2006; No 78, 2006; No 117, 2008; No 18, 2012
Schedule 1	am No 88, 2013; No 21, 2015
Schedule 2	
Schedule 2	ad No 18, 2012
Part 1	
c 1.....	ad No 18, 2012
c 2.....	ad No 18, 2012
Part 2	
c 3.....	ad No 18, 2012
	am No 88, 2013
c 4.....	ad No 18, 2012
c 5.....	ad No 18, 2012
	am No 88, 2013
Part 3	
Division 1	
c 6.....	ad No 18, 2012
c 7.....	ad No 18, 2012
	am No 88, 2013
c 8.....	ad No 18, 2012
c 9.....	ad No 18, 2012
Division 2	
c 10.....	ad No 18, 2012
	am No 88, 2013
c 11.....	ad No 18, 2012
Division 3	
c 12.....	ad No 18, 2012

Endnote 4—Amendment history

Provision affected	How affected
c 13.....	ad No 18, 2012
c 14.....	ad No 18, 2012
Division 4	
c 15.....	ad No 18, 2012 am No 88, 2013
c 16.....	ad No 18, 2012
c 17.....	ad No 18, 2012
Part 4	
c 18.....	ad No 18, 2012 am No 88, 2013
c 19.....	ad No 18, 2012 am No 88, 2013
c 20.....	ad No 18, 2012
c 21.....	ad No 18, 2012
c 21A.....	ad No 88, 2013
Part 5	
c 22.....	ad No 18, 2012
c 23.....	ad No 18, 2012 am No 88, 2013; No 2, 2015