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Ruling Compendium – TR 2008/10

A compendium of responses to the issues raised by external parties to Draft Taxation Ruling TR 2008/D4 Petroleum resource rent tax: application of Petroleum Resource Rent Tax Assessment Regulations 2005 to an integrated gas-to-liquid operation.

This compendium of comments has been edited to maintain the anonymity of entities that commented on the draft ruling.

Summary of issues raised and responses

Issue No.	Issue raised	Tax Office Response/Action taken
1.	The application of the PRRT provisions to Gas to Liquid (GTL) projects (including LNG activities) is fundamental in assessing the impact of the regime on such projects.	Noted.
2.	Due to the complexity of the methodology and the format in which the PRRTA Regulations are outlined in the draft ruling, it is recommended that, at this stage, a final ruling not be issued. It is also recommended that consultation is held with industry and professional bodies to ensure that any final ruling adequately takes into account the views of taxpayers.	A one-day workshop was held in Perth WA on Thursday, 5 September 2008, to discuss areas of uncertainty or disagreement with the draft ruling.
3.	Such consultation should include representation from Treasury and the Department of Resources, Energy and Tourism to ensure that any final provisions clearly meet the policy intent of the methodology that has been agreed between all parties.	The workshop held in Perth on 5 September 2008 was attended by PRRT taxpayers, Treasury, the Department of Resources, Energy and Tourism, APPEA, the accounting associations, Australian Government Solicitor and the Tax Office.
4.	Consideration should be given to whether a draft ruling specifically dealing with each provision in the Regulations is required or whether a ruling or interpretative decisions on specific issues is more appropriate to address identified areas of uncertainty. While some items of clarification may have been sought by individual parties, the general view of the Regulation is that it is relatively self explanatory.	Based on enquiries made by PRRT taxpayers on the application of the PRRTA Regulations to determine the RPM price to their prospective integrated GTL operations, the Commissioner considered it appropriate to set out his draft considered views in a draft ruling on the way in which, in his opinion, the PRRTA Regulations apply to determine the RPM price in relation to a typical integrated GTL operation.

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	There may be a stronger basis for addressing issues that arise in particular integrated GTL operations by way of Private Rulings rather than a public ruling. If it is concluded that a ruling is required, a step by step comparison of the provisions contained in the draft ruling with the Regulation to ensure a consistent treatment is applied should take place. As advised previously, this should involve the respective policy agencies.	The Commissioner's perspective, as outlined at the NTLG, is that it is inappropriate for new law to be accompanied by a plethora of rulings. Clarity on the common case is to be intuitively found in the law and in the EM and Second Reading Speeches and other extrinsic material. Generally, no great level of risk aversion is necessary for taxpayers who take a reasonable approach. A public ruling dealing point by point with each provision in the Regulations is not appropriate. However where experience has demonstrated particular questions on which uncertainty, or difficulty in interpretation and application have arisen, the Commissioner seeks to give all taxpayers the benefit of the clarification which some have required. The public ruling will reduce the administration costs for the Tax Office and compliance costs for the petroleum industry. In addition, the Tax Office will help those planning integrated GTL operations if the Commissioner's views can be made known before any integrated GTL operations subject to the PRRTA Regulations commit to commence production on any different interpretation. A number of Australian integrated GTL operations that will be subject to the PRRTA Regulations are likely to come on board in the next decade. At the workshop held in Perth on 5 September 2008, it was concluded that a public ruling that provides a step-by-step guide on how the PRRTA Regulations apply would not be necessary as the Explanatory Statement (Select Legislative Instrument 2005 No. 329) itself provides a step by step explanation of the provisions contained in the PRRTA Regulations.
5.	Can further comments be submitted on the draft ruling and will the Tax Office issue another draft ruling before finalising the ruling	The 5 September 2008 workshop delegates were advised that further comments on the draft ruling would be accepted for two weeks after the workshop. The delegates were also advised that a final ruling would not be issued before APPEA's views on whether a public ruling should be issued had been considered. Given the comments received before and at the workshop and the limited nature of the changes suggested and proposed to be made, a revised draft ruling was circulated to the workshop delegates with two weeks for further comment, along with a preliminary draft of this Compendium of Comments. The Ruling as finalised and this Compendium have had the benefit of this additional opportunity for comment.

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6.	How will any final ruling be modified in the likely event of additions to the Regulations? For example, the provisions will need to be revisited and modified to incorporate changes associated with emissions permit trading and third party activities. This could lead to significant re-writes of the ruling.	Where the final ruling requires modification because of legislative or interpretative changes, for example changes taking account of decisions of courts or tribunals, the ruling will be modified to incorporate those changes. Normal Tax Office procedures will be followed when making the changes which, depending on the circumstances, may require an addendum to the ruling, an additional ruling or determination, or a substantial rewrite of the ruling and which will take appropriate time accordingly. Taxpayers can advise of areas in which they consider a ruling needs modification because of legislative or interpretative change.
7.	The draft ruling contains scientific statements. Is the Tax Office taking a scientific position in the draft ruling?	The Tax Office role is to administer the PRRTA Regulations which, for the purpose of determining the RPM price for the project sales gas of an integrated GTL operation, contain scientific definitions. For the purposes of the ruling the Tax Office has used illustrations of particular scientific and technical situations, but considers that the Regulations will apply according to the actual scientific and factual position in relation to any particular integrated GTL project. The Tax Office would obtain external advice if a scientific question in relation to a particular project needed to be resolved.
8.	What is the scope of 'sales gas' when it overlaps with other marketable petroleum commodities?	The Tax Office view is that project natural gas includes the gaseous heavy fractions such as those which may be included in condensate and impurities present in the petroleum (natural gas) from the integrated GTL project from which the sales gas that will be processed into project liquid will be produced. The cost of removing the gaseous condensate and impurities from the project natural gas to produce project sales gas is included in the cost-plus component of the RPM price. The condensate produced from heavy fractions extracted in this process constitutes a marketable petroleum commodity and is not included in the project sales gas which is itself a marketable petroleum commodity. Where project sales gas is processed into another product (for example, LPG) that would otherwise be capable of being a marketable petroleum commodity, the product produced from project sales gas does not constitute a marketable petroleum commodity to that extent and is not again subject to PRRT. (Refer to paragraphs 57 and 96 of the final ruling. There is further discussion on this topic below.)

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9.	How are over and under lifts accounted for under the PRRTA Regulations?	Over and under lifts are not relevant to determine the RPM price as the definition of <i>PLVal</i> in regulation 23 of the PRRTA Regulations is the total market value of the project liquid produced in the year of tax. The project liquid is produced, whether or not lifted in the year. Refer to paragraph 96 of the final ruling.
10.	In the context of an integrated GTL operation, the RPM and the PRRTA Regulations are designed to calculate the assessable receipts derived for PRRT purposes at the point that 'sales gas' becomes an excluded commodity. Gaseous condensate is not within the definition of sales gas at the ring fence (the PRRT taxing point) and therefore the regulations can have no application. Gaseous condensate is not petroleum (natural gas) from which sales gas will be produced and processed into LNG. Rather, at best, gaseous condensate is petroleum (natural gas) from which condensate is produced. While 'petroleum (natural gas)' may include gaseous condensate (a point for which there is no clarity of definition), it is irrelevant as it does not have the necessary nexus with the sales gas at the ring fence. The ATO's inclusion of gaseous condensate within the definition of sales gas results in the regulations then determining the 'value' of the sales gas at the ring fence to determine the PRRT liability.	The purpose of the PRRTA Regulations is to provide a framework to determine the assessable receipts for PRRT purposes in relation to sales gas of an integrated GTL operation at the point where those receipts arise (commonly referred to as the PRRT taxing point or the ring fence). That project sales gas is to be used for processing into a liquefied product in the integrated GTL operation. Where there is no 'advanced pricing arrangement' or 'comparable uncontrolled price', the Regulations use an RPM method to work out a notional arm's length transfer price at that point. This RPM framework is a simplified pricing model and the steps in the calculation of an RPM price do not always follow accounting concepts, standards or records. Refer to paragraphs 5 to 11 of the final ruling. Gaseous condensate is not typically part of the sales gas for which assessable receipts are determined at the ring fence. However, gaseous condensate constitutes petroleum that is recovered in a gaseous state and is 'petroleum (natural gas)'. Pursuant to subregulation 4(2) of the PRRTA Regulations, the 'petroleum (natural gas)' from which project sales gas that will be processed into liquefied product is to be produced is project natural gas. The RPM framework works out the assessable receipts in relation to the project sales gas by working out an amount that covers those costs that relate to the recovery and processing of the project natural gas into project sales gas as the cost-plus component of the RPM price. It also works out an amount that reduces the market value of the project liquid by those costs that relate to producing the project liquid from the project sales gas as the netback component of the RPM price. Essentially the RPM price averages the cost-plus and netback components. The processes necessary for the production of project sales gas from project natural gas include the recovery and transport of the project natural gas and the processes necessary to produce project sales gas from the project natural gas. These processes include removal of many things from the project natural gas, including gaseous condensate.

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		The removal of condensate from project natural gas does not itself give rise to a phase point at which the ratio of project product to total product changes. The removal of condensate from project natural gas is a necessary requirement in order to produce project sales gas. The PRRTA Regulations treat these costs as costs incurred in producing project sales gas. The PRRTA Regulations also provide for the apportionment of costs where an integrated GTL operation involves activities which process project product, that is, the project natural gas, the project sales gas or the project liquid, and also process other petroleum product. Where an integrated GTL operation processes only project natural gas which includes gaseous condensate, there is no processing of project natural gas that is also processing other petroleum product. Consequently the conditions for apportionment of costs are not satisfied and the costs of removing the condensate from project natural gas are part of the costs of producing project sales gas from the project natural gas and are included in the cost-plus component of the RPM price. In effect, the PRRTA Regulations provide that notwithstanding that condensate is itself a marketable commodity, the 'included' cost of removing condensate from project natural gas is included in the cost-plus component of the RPM price of the project sales gas. The apportionment of costs between project product and other petroleum commodities is discussed in more detail from paragraph 72 in the final ruling. The PRRTAA does not assess condensate according to its cost and does not double count by including the same costs in assessable receipts twice, once in relation to project sales gas and once in relation to condensate.
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11.	The main purpose of the above definitions is for calculating energy coefficients to be applied in the cost-plus to in effect calculate a fully absorbed cost. In calculating a fully absorbed cost, the starting point is products for which you are valuing. The starting point of the RPM analysis is the project sales gas that is subject to PRRT at the ring fence point. In this regard, the calculation of the cost-plus price should exclude costs attributable to natural gas that will form MPCs other than the project sales gas. This approach should result in a cost-plus price that is representative of the minimum price that the upstream stage of an integrated GTL operation would sell its sales gas for in order to cover its upstream costs, without being contaminated by costs associated with the production of other MPCs, for example other project product, domestic gas sales, LPGs and gaseous condensate.	The Explanatory Statement (Select Legislative Instrument 2005 No. 329)* states that the cost-plus price is the calculated minimum price that the upstream stage of an integrated GTL operation sells its sales gas for in order to cover its upstream costs as defined. The Tax Office view is that 'upstream costs as defined' are the upstream costs that are included as components of the cost-plus calculation as defined by the PRRTA Regulations. Such costs include the full 'included' cost of removing things included in project natural gas so as to produce project sales gas, whether the things removed are themselves marketable or valuable (as marketable petroleum commodities, or otherwise) or not. Refer to paragraph 78 of the final ruling. It could be argued that under absorption costing principles, the calculation of the minimum price for project sales gas could include a reasonable apportionment of the cost of producing it between the project sales gas and any other things of value arising in the process. Any such method would require a basis for apportionment and would raise questions as to how much of any particular cost properly related to project sales gas and how much to something else. In principle, this would need to reflect engineering questions and questions about capital and operational cost. The PRRTA Regulations do not provide a mechanism to apportion such costs in such a way. Rather, the Regulations take a set account of all costs so far as they are costs of an integrated GTL operation, apportioning those costs between those relating to project natural gas, project sales gas or project liquid and those relating only to other petroleum or petroleum products according to relative energy content. The Regulations ignore some costs which are included in deductible expenditure under the PRRTAA, and do not seek to apportion any costs to any products that do not have energy content.
12.	Such an interpretation based on the nexus with the ring fence product would therefore also be consistent with identifying products not subject to PRRT in the hands of the taxpayer, such as non project product or alternatively other products such as domestic sales gas which are not subject to the RPM.	The PRRTA Regulations differentiate between costs incurred in producing project sales gas from project natural gas and in producing project liquid from project sales gas, and costs incurred in producing domestic gas or other non-project petroleum product from petroleum (natural gas). They do not take account of any products that are not petroleum products. The PRRTA Regulations provide for certain costs incurred in producing project sales gas to be included in the cost-plus component of the RPM price while costs incurred

* Select Legislative Instrument 2005 No. 329 (Attachment 1, introduction, page 2 paragraph 3)

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		in producing domestic gas and other non-project product are not included in working out the RPM price. Refer to paragraph 72 of the final ruling.
13.	If the Tax Office is correct in its view that gaseous condensate is project natural gas, then the gaseous condensate, when actually sold, cannot be a PRRT assessable receipt under section 24(1)(a) to (c) of the PRRTAA as a MPC cannot be produced from another MPC.	Project natural gas does not constitute an MPC as defined in section 2 of the PRRTAA. Consequently, condensate produced from project natural gas has not been produced from another MPC. Nor has it been taxed as project sales gas in a typical case (and, if it is taxed to some extent, it will not be taxed again because it will to that extent be produced from another MPC and so will not be an MPC). At the moment that any condensate produced from project natural gas becomes an excluded commodity, there will be an assessable petroleum receipt in relation to it pursuant to section 24 of the PRRTAA. Refer to paragraph 66 of the final ruling.
14.	If the cost-plus component of the RPM includes costs attributable to gaseous condensate on the basis that it falls within the definition of project natural gas, the gas transfer price and therefore PRRT assessable receipts from project sales gas will be greater than would otherwise be the case if these costs were excluded.	The RPM price using the residual pricing method will necessarily be higher to the extent that costs are included in calculating the cost-plus price, and will necessarily be lower to the extent that costs are included in calculating the netback price. Where the RPM price using the residual pricing method is higher the assessable receipts for the project sales gas to which the RPM applies are higher accordingly.
15.	In a typical integrated GTL operation, gaseous condensate is removed from the gas stream prior to liquefaction of project sales gas and is combined with liquid condensate recovered earlier in the project.	Sales gas for conversion into project liquid must have been processed so as to be suitable for that use (sub paragraph (d)(1) of the definition, sales gas, section 2 of the PRRTAA). Such sales gas will not include anything that would block or hinder the liquefaction process for which it is actually intended, so processing will have to have removed anything of that kind. Consequently condensate (and any heavier fraction which could be included in condensate) is generally removed from project natural gas prior to the production of project sales gas. Condensate or a heavy fraction that is removed from project natural gas and is combined with condensate recovered earlier in the project will give rise to assessable petroleum receipts when the condensate (or what is produced from it) becomes an excluded commodity. Refer to paragraph 66 of the final ruling. Several lighter gases (eg LPG gases) including ethane, propane and butane are included within the definition of sales gas for conversion into project liquid. When liquefied they are included in project liquid. They will not give rise to a separate assessable receipt when made into other products than LNG from the sales gas that already became an excluded commodity. Refer to paragraph 96

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		of the final ruling.
16.	The gaseous condensate has effectively been taxed 1.5 times under the PRRTAA. First as part of condensate sales and again as a component in determining (and inflating) the RPM price for project sales gas (the dividing by 2 in the RPM formula achieves the 0.5).	The value of the gaseous condensate is certainly not included in assessable receipts one and a half times. The Regulations do not include the value of gaseous condensate in the RPM price using the residual pricing method. They include only the cost of separating gaseous condensate from the project natural gas as part of the cost-plus price component. That cost is no more than a very small part of the market value of the condensate and does not include significant costs of transport and storage of the condensate after it is separated. That cost is a cost of producing the project sales gas from the project natural gas and is part of the cost-plus price component. No part of the value of gaseous condensate is included as part of the netback component in working out the RPM price. Refer to paragraph 78 of the final ruling.
17.	If gaseous condensate forms PRRT assessable receipts as part of condensate sales, then the PRRTA Regulations need to be amended to avoid double taxation created by such interpretations.	The Regulations use simple rules to work out what costs and to what extent they form part of the cost-plus and the netback price components of the RPM price using the residual pricing method. Some costs included can be analysed more exactly as relating somewhat to other marketable petroleum products, or to other sources of value; and some costs excluded from the RPM calculation can be analysed as relating to project product. Nevertheless the Regulations only produce assessable receipts for project sales gas, and do not include any assessable receipts for other marketable petroleum commodities.
18.	While in our strong view, the Commissioner has erred in his interpretation, if the Commissioner's interpretation is maintained, the PRRTA Regulations will need to be amended to correct the anomaly.	The RPM framework is a simplified pricing model and the steps in the calculation of an RPM price do not always follow accounting concepts, standards or records. Refer to paragraph 10 of the final ruling.
19.	With reference to paragraph 60 of the draft ruling and to the definition of sales gas in section 2 of the PRRTAA, the sales gas is the whole substance – not the individual chemical components as alluded to in the draft ruling.	Sales gas as defined in section 2 of the PRRTAA is a substance that may be a mixture, not just the individual chemical components that make up the substance. The definition applies on the basis of characteristics of the substance, not of any components considered in isolation. The final ruling confirms at paragraphs 55 and 61 that the hydrocarbons referred to can readily be part of a sales gas mixture. These paragraphs have been updated to provide additional clarity that sales gas is a substance, and essentially to accept the substance of this comment.

20.	The whole of the substance which is sales gas must be in a gaseous state at 15°C and 1 Atmosphere. This test does not require an analysis of the thermodynamic characteristics of the individual components of the substance – rather we must analyse the thermodynamic characteristic of the substance as a whole. If the whole of the substance is in a gaseous state at 15°C and 1 Atmosphere it will pass the test in paragraph (1) of the definition of sales gas regardless of the thermodynamic qualities of the individual components of the substance. It is thermodynamically possible for a substance to meet these conditions whilst retaining pentane and above. The analysis in paragraph 60 of the draft ruling does not reflect this.	Sales gas as defined is a substance which, among other things, is in a gaseous state when at 15°C and 1 atmosphere. Paragraph 61 of the final ruling (previously paragraph 60 of the draft ruling) states that pentane and heavier hydrocarbons must be removed from the gaseous mixture before it can meet the definition of sales gas. In an integrated GTL operation, if it is possible that a substance containing some pentane or heavier hydrocarbons or other inclusions can meet all of the conditions contained in the definition of project sales gas which includes the condition that it be suitable to be used as feedstock for the project's intended process of conversion to a liquefied product, then the substance will meet the definition of project sales gas. Paragraph 61 of the final ruling has been updated to reflect this possibility.
21.	The draft ruling states that until <i>'all the heavier hydrocarbons ... have been removed, the gaseous mixture in an integrated GTL operation will not meet the definition of sales gas because it would not yet have been processed to be suitable for liquefaction'</i>. It may be technically possible in an LNG project for the substance to be sent for liquefaction to contain some pentane and heavier hydrocarbons.	Whether a substance produced in an integrated GTL operation meets the definition of project sales gas will depend on the circumstances of the particular integrated GTL operation. If, in relation to a particular integrated GTL operation, a substance containing some pentane or heavier hydrocarbon or other inclusion is suitable for the particular intended liquefaction process and it meets all of the other conditions of the definition of sales gas, then the substance will be project sales gas of that particular integrated GTL operation. Paragraph 61 of the final ruling has been updated to reflect this possibility.
22.	The focus of paragraph 60 of the draft ruling appears to be on sales gas as a feedstock into the liquefaction train (point D in the diagram on page 16 of the draft ruling). However, the ruling does not address why the substance cannot be sales gas at point A (as it is fed into the front end of the 'Removal of impurities' stage) or point C (as it is feed into the 'Pre-cooling for liquefaction' stage)	The diagram after paragraph 46 on page 16 is an example of the possible processing stages and the flows of petroleum in a typical integrated GTL operation, and it was not intended to be viewed as representative of all integrated GTL operations. The example in the form of a simplified diagram is used in the ruling as a means to illustrate how the PRRTA Regulations could apply to a typical GTL operation. Paragraph 44 of the ruling and the diagram after paragraph 46 on page 16 of the ruling have been updated to provide additional clarity. The point at which project sales gas is produced from the project natural gas in a particular integrated GTL operation is the point at which the upstream stage ends and the downstream stage commences. Note that in addition to meeting the other conditions of the definition of project sales gas, the point at which something produced from the project natural gas meets the definition of project sales gas is the point at which the substance is

		suitable for liquefaction in that integrated GTL project.
23.	The draft ruling appears to state that the costs relating to LPGs (or more precisely propane and butane) form part of the cost-plus calculation of the sales gas within the RPM. My issue is whether the energy content of the LPGs (or more precisely propane and butane) form part of project natural gas and project sales gas. The outcome of whether LPGs do or do not form part of these definitions impacts on the calculation of the relevant energy coefficients which drive the phase based allocation of cost to determine the cost-plus. Is it confirmed that LPGs form part of the energy content of project natural gas and project sales gas?	Propane and butane, being constituents of petroleum recovered in a gaseous state, are considered to be within the meaning of petroleum (natural gas). In an integrated GTL operation, the petroleum (natural gas) from which project sales gas is to be produced is defined as project natural gas. The 'included' costs incurred in processing the project natural gas to produce project sales gas are included in the cost-plus calculation of the RPM price. As propane and butane themselves are in a gaseous state when at a temperature of 15°C and a pressure of one atmosphere, a mixture including them is also ordinarily within the meaning of sales gas as defined in section 2 of the PRRTAA. In an integrated GTL operation, the sales gas will constitute project sales gas to the extent that the sales gas will be processed into liquefied product of any kind. Such liquefied product includes liquefied petroleum gas (LPG) which is also defined in section 2 as a mixture that includes propane and butane, where the propane and butane comprise more than 50% by weight of the mixture, as well as leaner LNG products and liquid ethane, liquid butane and liquid propane. The 'included' costs associated with producing LPG or other liquefied products from project sales gas are included in the net-back price calculation component of the RPM price for the project sales gas. The costs associated with processing propane and butane included in the project natural gas and project sales gas will not give rise to a 'multiple use' based allocation to reduce the costs used in the calculation of the RPM price. Propane and butane that are components of project sales gas will not give rise to separate MPCs that are taxed separately. So far as they are produced from project sales gas that is itself an MPC, they will not be MPCs. Refer to paragraphs 78 and 96 of the final ruling.
24.	The PRRTA Regulations appear to operate such that all of the definitions in effect require the determination of the PRRT ring fence, and the identification of the sales gas and its components at the PRRT taxing point. The precise components of the sales gas at this ring fence point determine all of the definitions with the word 'project' in the RPM regulations.	The point at which marketable petroleum commodities become excluded commodities for PRRT purposes is the point at which assessable receipts in relation to those commodities arise. This is the PRRT taxing point for the commodities, commonly known as the ring fence. In a typical integrated GTL operation, it is the point at which the project sales gas goes on to liquefaction without being sold at arm's length and so at which the project sales gas must be valued for the purpose of determining the assessable receipt for it under the PRRTAA but for the more practicable method provided by the Regulations.

		The word 'project' in project natural gas, project sales gas and project liquid is used to differentiate between the petroleum recovered from the project from which sales gas is to be produced that is to be processed into a liquefied product of the integrated GTL operation (or used up in the process of doing so) and all other petroleum. The costs of processing petroleum (natural gas) that is not project natural gas and sales gas that is not project sales gas and of liquefied product that is not project liquid are excluded from the calculation of the RPM price for project sales gas. The provisions that give effect to this are regulations 6, 7 and 37 of the PRRTA Regulations. Refer to paragraph 72 <i>et seq</i> in the final ruling.
25.	On reading the draft ruling, it was very difficult to determine whether LPGs are (a) taxed as part of the RPM process along with the sales gas or (b) separately taxed from the perspective of a separate sale of LPGs (refer to the following scenarios).	In a typical integrated GTL operation, LPG is part of the project liquid that is produced. The project sales gas that is used to produce the LPG is then taxed on the basis of consideration determined as part of the RPM process. The LPG produced from project sales gas does not constitute a new MPC and it is not separately subject to PRRT from the application of the PRRT to the project sales gas from which it is produced. Refer to paragraph 96 of the final ruling
26.	Scenario A: Where LPGs are mixed with LNG in the final liquid to be shipped to customers to increase the heating value, the combined sales gas flow (including propane and butane) is subject to PRRT at the ring fence point prior to liquefaction and the RPM applies to the whole gas stream. This is based on acceptance of the proposition that the propane and butane is within the project natural gas, project sales gas and within PLVal as the case requires. In this situation the energy content of the sales gas is inclusive of the energy content of the propane and butane in determining the energy coefficients for the relevant phases. The LPGs, that is.. propane and butane in this instance are not otherwise subject to the operation of subparagraphs 24(1)(a), 24(1)(b) or 24(1)(c) of the PRRTAA.	In a typical integrated GTL operation, the act of moving on the project sales gas from its place of production for further processing into project liquid (such as LNG, any LPG, and liquid propane and liquid butane) triggers the need to calculate assessable petroleum receipts for that project sales gas. Consequently, whether LPGs are mixed into LNG in the final liquid to be shipped to customers to increase the heating value or not, the RPM method is applied in the same way to determine the taxable profit of the project sales gas at the ring fence point. As project sales gas constitutes an MPC, its processing into LPG or other liquid products as well as LNG does not give rise to assessable receipts for another MPC or to an additional taxing point. PLVal as defined in subregulation 23(1) of the PRRTA Regulations is the total market value of the project liquid produced in the year of tax. As the project liquid has been produced from project sales gas which is itself an MPC, each separate product included in the project liquid produced will not separately constitute an MPC that is subject to the operation of subparagraphs 24(1)(a), 24(1)(b) or 24(1)(c) of the PRRTAA. However, the PLVal of the project liquid produced in the year of tax must be included in the calculation of the RPM price to establish the assessable petroleum receipts derived from the production of the project sales gas. This is

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		discussed further at paragraph 96 of the final ruling.
27.	Scenario B – treatment 1 – part 1 Where LPGs are sold separately and not mixed with LNG, for the gas stream to qualify as sales gas it must be at a point where it satisfies the sales gas definition and importantly must be processed capable for use as LNG feedstock. The removal of propane and butane for separate sale means at a minimum the gas flow is not yet capable of being feedstock for LNG (there may be further processing but this is largely irrelevant in this scenario as it will merely move the ring fence point for the sales gas to the point it is capable of becoming feedstock).	As stated at Issue No. 23, in an integrated GTL operation, LPGs are among the liquefied products that are produced from project sales gas. In effect regulation 4 of the PRRTA Regulations provides that project liquid is the whole of the liquefied products produced from project sales gas. As identified in paragraph 95 of the ruling, the liquefied product produced in an integrated GTL operation may include LNG, LPG, liquefied ethane, liquefied propane and liquefied butane. When the project product meets the definition of project sales gas, it is then capable of being feedstock for not only LNG but also the other liquefied products able to be produced from the gas according to the facts of the particular integrated GTL project.
28.	Scenario B – treatment 1 – part 2 The propane and butane is not subject to the RPM as it is not sales gas and is subject to PRRT pursuant to sub-paragraphs 24 (1)(a), 24(1)(b) or 24(1)(c) of the PRRTAA. In effect this propane and butane is taxable as a separate MPC being Liquefied Petroleum Gas. As this amount of propane and butane is not sales gas it can never be subject to the RPM regulations and is not part of the 'project' to which the RPM applies. The RPM may then apply to the sales gas that is to be processed into LNG. However in this case the energy content of the propane and butane to be separately sold is not included in either project sales gas (it is not sales gas) and project liquid. The propane and butane is not included in project natural gas because it is not part of the petroleum (natural gas) from which sales gas will be produced. That is, the propane and butane is not petroleum (natural gas) from which sales gas will be produced. Accordingly, the energy content of propane and butane is excluded from project product to calculate the energy coefficient for that sales gas which becomes LNG which is subject to the RPM.	As stated at Issue No. 23, in an integrated GTL operation, LPGs are liquefied products that are produced from sales gas. The 'included' costs associated with producing LPG or other liquefied products from project sales gas are included in the net-back calculation of the RPM price for the project sales gas. Refer to paragraph 78 of the final ruling. Propane and butane are likely to be components of sales gas and where they are liquefied and sold separately to the LNG produced from the same sales gas, they will not give rise to separate MPCs that are taxed separately. Sales gas that does not meet the definition of project sales gas but which becomes an excluded commodity otherwise than by being sold in an arm's length transaction may also give rise to an assessable receipt worked out pursuant to subsections 24(1)(d) or 24(1)(e) of the PRRTAA rather than by application of the RPM methodology. In that case too, where propane and butane are components of the sales gas they will not give rise to separate MPCs that are taxed separately even if they are liquefied from the sales gas and sold separately. Refer to paragraph 66 of the final ruling.

29.	Scenario B – treatment 2 – part 1 The alternative to Scenario B (treatment 1) is LPGs, while separately sold, are subject to the RPM. This conclusion in my mind can only be reached if the ring fence point for the sales gas stream (including propane and butane) is in effect moved backwards such that the ring fence point for the sales gas is prior to the removal of propane and butane. In such an instance if sales gas subject to the RPM includes the propane and butane then the natural gas, project sales gas and within PLVal (as the case requires) will include the energy content / sales value of the propane / butane / LPG. However, as an MPC the separate sale of the LPG is not otherwise assessable for PRRT.	As stated at Issue No. 23, as propane and butane are likely to be included in sales gas as a mixture that is in a gaseous state when at a temperature of 15°C and a pressure of one atmosphere, they are also within the meaning of sales gas as defined in section 2 of the PRRTAA whether the sales gas is to be used as feedstock for conversion into project liquid or is to be suitable for direct consumption as energy. The PRRT taxing point or ring fence is the point at which the assessable receipts for the sales gas must be ascertained for the purpose of determining the taxable profit to which PRRT applies. The PLVal component of the net-back price will include the market value of the propane and butane that are produced, regardless of whether they are sold separately or the extent to which they remain in or are mixed back into LNG. Propane and butane produced from sales gas will not give rise to separate MPCs that are separately taxed. Refer to paragraph 96 of the final ruling.
30.	Scenario B – treatment 2 – part 2 The reason this alternative is raised is that there is comment in the draft ruling regarding LPG gases such that if LPG gases are mixed with condensate, part of the proceeds will be included in PLVal. The only way I can reconcile this comment is that there by definition needs to be an assumption that LPGs (if not sold as part of project liquid) cross the ring fence as sales gas. Is this because LPGs do not need to be removed from sales gas to make it feedstock? If the LPGs need to form part of PLVal then by definition this can only be achieved because they are part of project liquid which can only be derived from sales gas. If this statement in the draft ruling that LPGs are within PLVal is correct it will be necessary to reduce the assessable receipts for the condensate by the amount of PLVal as there can be no double counting of assessable receipts for an MPC.	Propane and butane produced from sales gas will not give rise to separate MPCs that are taxed separately. However, condensate (mixing pentane, hexane and heavier hydrocarbons) produced from petroleum (natural gas) or project natural gas is an MPC that is typically not in or produced from project sales gas and it will give rise to an assessable petroleum receipt when it becomes an excluded commodity. Where LPG gases form part of project sales gas for which the RPM methodology has produced assessable receipts, and are mixed into condensate, that LPG part of the condensate is produced from an excluded commodity and is to that extent excluded from being a marketable petroleum commodity. The LPG gases were part of the project sales gas for which assessable receipts have been worked out and which has become an excluded commodity. To that extent the condensate has been produced from an excluded commodity and is itself excluded from being a marketable petroleum commodity (definition, marketable petroleum commodity, section 2 of the PRRTAA). Refer to paragraph 98 of the final ruling. Valuing project liquid, and the amount included in assessable receipts for the project sales gas, are not the basis of the exclusion.