



# ***MT 2049 - Petroleum resource rent tax: calculation of PRRT instalments***

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## Taxation Ruling

### Petroleum resource rent tax: calculation of PRRT instalments

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*Miscellaneous Tax Rulings do not have the force of law. Each decision made by the Australian Taxation Office is made on the merits of each individual case having regard to any relevant Ruling.*

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## What this Ruling is about

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1. The petroleum resource rent tax (PRRT) payable under the *Petroleum Resource Rent Tax Assessment Act 1987* (the Act) is assessed on a petroleum project basis. Under section 21 of the Act, the tax imposed on the taxable profit of a person of a year of tax in relation to a project is payable by that person. According to section 22, the taxable profit of a person in relation to a project in a year is the excess of the assessable receipts derived by that person over the sum of:

- (a) the deductible expenditure incurred by that person; and
- (b) any amounts transferred to the project under section 45A (that is, transfers of exploration expenditure between the projects of a person) or section 45B (that is, transfers of exploration expenditure between group companies).

2. Although PRRT is imposed on an annual basis, section 94 of the Act requires a person to pay 3 quarterly instalments of PRRT in each year of tax liability. This Ruling explains that amounts of transferable exploration expenditure which can be transferred under either section 45A or 45B of the Act are not to be taken into account in calculating an instalment of PRRT under section 97 of the Act.

## Ruling

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3. Exploration expenditure that is or might be transferred under section 45A or 45B is not to be taken into account in calculating the notional amount of tax for an instalment period under section 97 of the Act.

4. Rather, these amounts are to be taken into account in calculating, at the end of each year of tax, the taxable profit in relation to the project for the entire year of tax.

## Date of effect

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5. This Ruling sets out the current practice of the Australian Taxation Office and is not concerned with a change in interpretation. Consequently, it applies (subject to any limitations imposed by statute) for years of tax commencing both before and after the date on which it is issued.

## Explanations

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### **PRRT is payable on taxable profit**

6. The petroleum resource rent tax is assessed on a project basis with each producer (person) liable to be assessed on the basis of his or her respective receipts and expenditure. Sections 21 and 22 describe this liability. Section 21 states that the tax imposed on the taxable profit of a person of a year of tax in relation to a project is payable by that person. According to section 22, the taxable profit of a person in relation to a project in a year is the excess of the assessable receipts derived by that person over the sum of:

- (a) the deductible expenditure incurred by that person; and
- (b) any amounts transferred to the project under section 45A or 45B.

### **Sections 45A and 45B - Wider deductibility of exploration expenditure**

7. There are three categories of expenditure which are deductible to a person:

- (a) exploration expenditure;

(b) general project expenditure; and

(c) closing-down expenditure.

8. Exploration expenditure generally consists of any expenditure in an exploration permit area that is directly related to exploration for petroleum, including expenditure on the recovery of petroleum and the production of a marketable commodity before a production licence is acquired and expenditure on storage and processing facilities and employee amenities.

9. Exploration expenditure is deductible against receipts of any project established within the area covered by an exploration permit. If there is more than one project in an exploration permit area, the expenditure is offset against the projects in the order in which they came into force. If the exploration expenditure exceeds the assessable receipts, the excess is compounded (that is, increased by an indexation mechanism) and carried forward to the next year.

10. The *Petroleum Resource Rent Legislation Amendment Act 1991* amended the law to allow a wider deductibility for exploration expenditure. Instead of carrying forward excess or undeducted exploration expenditure incurred after 1 July 1990, a person can transfer that undeducted exploration expenditure to another project provided that project is taxable. Sections 45A and 45B of the Act require a person to transfer amounts of transferable exploration expenditure calculated in accordance with the Schedule to the Act.

### **Liability to pay PRRT by instalments**

11. Although PRRT is imposed on the basis of a year of tax, section 94 of the Act requires a person to pay 3 instalments of PRRT in each year. Section 95 provides that those instalments are to be paid on 21 October, 21 January and 21 April in the relevant year of tax. Section 96 provides that the amount payable as an instalment is the notional tax amount calculated according to section 97.

12. Section 97 provides that the **notional tax amount** is calculated for an instalment period. The instalment period is the preceding

quarter or quarters of the financial year, but credit is given for any instalment payments already made in respect of the financial year. (The instalment for the first quarter of the financial year, July to September, is due on 21 October; for the two quarters July to December, the instalment is due on 21 January; and for the three quarters July to March, the instalment is due on 21 April.)

13. For each instalment period, the notional tax amount is the amount that would be payable calculated as if the instalment period is a year of tax, less credit for prior instalments for the financial year. Carry-forward expenditures are taken into account only to the extent of the instalment percentages, so that PRRT is spread over the instalments. But the carry-forward expenditures referred to in subsection 97(1A) do not include exploration expenditure transferred to the project under section 45A or 45B.

14. In effect, section 97 requires the taxpayer to determine the taxable profit for the instalment period in much the same way as sections 21 and 22 provide for calculating taxable profit for an entire year of tax. According to section 22, the taxable profit of a person in relation to a project **in a year** is the excess of the assessable receipts derived by that person over the sum of the deductible expenditure incurred by that person and any amounts transferred to the project under section 45A or 45B.

15. In making the calculation of notional taxable profit in relation to a project for the first instalment of PRRT in the 1991-92 year of tax, some taxpayers sought to include transferred amounts under sections 45A and 45B. This approach is not consistent with section 97. The Schedule to the Act under which transferable expenditure is calculated must be given its effect.

16. Nothing in the Act enables the calculation of a notional taxable profit for any period less than an entire year of tax. It follows, therefore, that it is not possible to calculate an amount of transferable exploration expenditure in relation to an instalment period. The more specific provisions of sections 45A and 45B and the Schedule have precedence. This is also consistent with the omission of transferred amounts under sections 45A and 45B from the instalment percentage adjustments of subsection 97(1A).

**Calculation of taxable profit for a year of tax**

17. Parts 2 and 3 of the Schedule make it clear that transferable exploration expenditure can only be determined once it has been ascertained whether a project has a notional taxable profit. The **notional taxable profit** of a person's project is defined as arising only in relation to an entire financial year (see clauses 5 and 9).

18. Transfers of exploration expenditure under sections 45A and 45B and Parts 5 and 6 of the Schedule can only be made to a project which has a notional taxable profit (see clauses 21 and 30). That is so irrespective of whether the transferable amount arises under Part 2, 3 or 4 of the Schedule. Further, the amount transferred to the receiving project must not exceed the notional taxable profit of the receiving project (see clauses 26 and 35). **Notional taxable profit** is again defined in relation to a financial year (see clauses 19 and 27).

19. Sections 45A and 45B and the Schedule to the Act require that transferable exploration expenditure be taken into account in calculating the taxable profit in relation to a project for an entire year of tax.

**Commissioner of Taxation**

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- *Petroleum Resource Rent Tax Assessment Act 1987*
- 21, 22, 45A, 45B, 94, 95, 96, 97, Parts 2 to 6 of the Schedule.