





# **Minerals Resource Rent Tax (Consequential Amendments and Transitional Provisions) Act 2012**

**No. 14, 2012**

**An Act to make consequential amendments and  
deal with transitional matters arising from the  
enactment of the *Minerals Resource Rent Tax Act  
2012*, and for other purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)



---

## Contents

1	Short title.....	2
2	Commencement.....	2
3	Schedule(s).....	3
<b>Schedule 1—Amendment of the Taxation Administration Act 1953 not related to assessments</b>		4
<b>Schedule 2—Amendments related to assessments</b>		45
Part 1—Amendments		45
<i>Taxation Administration Act 1953</i>		45
Part 2—Alternative amendments		48
<i>Administrative Decisions (Judicial Review) Act 1977</i>		48
<i>Income Tax Assessment Act 1997</i>		48
<i>Taxation Administration Act 1953</i>		49
<b>Schedule 3—Amendment of other Acts</b>		62
Part 1—Amendments commencing at the same time as the Minerals Resource Rent Tax Act 2012 commences		62
<i>Administrative Decisions (Judicial Review) Act 1977</i>		62
<i>A New Tax System (Goods and Services Tax) Act 1999</i>		62
<i>Crimes (Taxation Offences) Act 1980</i>		62
<i>Income Tax Assessment Act 1997</i>		64
<i>Taxation (Interest on Overpayments and Early Payments) Act 1983</i>		77
Part 2—Amendments with other commencements		78
<i>Administrative Decisions (Judicial Review) Act 1977</i>		78
<i>Income Tax Assessment Act 1997</i>		78
<i>Minerals Resource Rent Tax Act 2012</i>		78
<b>Schedule 4—Application and transitional provisions</b>		79
Part 1—Preliminary		79
Part 2—General liability rules		80
Part 3—MRRT allowances		81

---

Part 4—Specialist liability rules	82
Part 5—Administration	85



# **Minerals Resource Rent Tax (Consequential Amendments and Transitional Provisions) Act 2012**

**No. 14, 2012**

---

---

**An Act to make consequential amendments and  
deal with transitional matters arising from the  
enactment of the *Minerals Resource Rent Tax Act  
2012*, and for other purposes**

[Assented to 29 March 2012]

The Parliament of Australia enacts:

---

## 1 Short title

This Act may be cited as the *Minerals Resource Rent Tax (Consequential Amendments and Transitional Provisions) Act 2012*.

## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	29 March 2012
2. Schedule 1	At the same time as the <i>Minerals Resource Rent Tax Act 2012</i> commences.	1 July 2012
3. Schedule 2, Part 1	Immediately after the commencement of Schedule 1 to the <i>Indirect Tax Laws Amendment (Assessment) Act 2012</i> . However, the provision(s) do not commence at all if that Act does not receive the Royal Assent before 1 July 2012.	
4. Schedule 2, Part 2	At the same time as the <i>Minerals Resource Rent Tax Act 2012</i> commences. However, the provision(s) do not commence at all if the <i>Indirect Tax Laws Amendment (Assessment) Act 2012</i> receives the Royal Assent before 1 July 2012.	
5. Schedule 3, Part 1	At the same time as the <i>Minerals Resource Rent Tax Act 2012</i> commences.	1 July 2012
6. Schedule 3, item 90	Immediately after the commencement of Schedule 1 to the <i>Indirect Tax Laws Amendment (Assessment) Act 2012</i> .	

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
	However, the provision(s) do not commence at all if that Act does not receive the Royal Assent before 1 July 2012.	
7. Schedule 3, item 91	At the same time as the <i>Minerals Resource Rent Tax Act 2012</i> commences.  However, if section 3 of the <i>Clean Energy Act 2011</i> commences on 1 July 2012, the provision(s) commence immediately after that commencement.	
8. Schedule 3, item 92	The later of: (a) immediately after the commencement of the provision(s) covered by table item 2; and (b) at the same time as section 3 of the <i>Clean Energy Act 2011</i> commences.  However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	
9. Schedule 4	At the same time as the <i>Minerals Resource Rent Tax Act 2012</i> commences.	1 July 2012

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

### **3 Schedule(s)**

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## Schedule 1—Amendment of the Taxation Administration Act 1953 not related to assessments

### 1 Subsection 8AAB(4) (after table item 19)

Insert:

19A	50-15	<i>Minerals Resource Rent Tax Act 2012</i>	payment of MRRT
-----	-------	--	-----------------

### 2 Subsection 8AAB(4) (after table item 45)

Insert:

45A	115-30 in Schedule 1	<i>Taxation Administration Act 1953</i>	payment of MRRT instalments
45B	115-65 in Schedule 1	<i>Taxation Administration Act 1953</i>	shortfall in MRRT instalments worked out on the basis of a varied rate

### 3 At the end of section 11-1 in Schedule 1

Add:

; and (g) \*MRRT.

### 4 Paragraphs 12-330(1)(b) and 12-335(2)(a) in Schedule 1

After “tax”, insert “or \*MRRT”.

### 5 Subdivision 18-A in Schedule 1 (heading)

Repeal the heading, substitute:

### Subdivision 18-A—Crediting withheld amounts

### 6 At the end of section 18-10 in Schedule 1

Add:

- (3) If an entity withholds an amount from a \*withholding payment as required by section 12-325 (natural resource payments), apply sections 18-15, 18-20 and 18-25 to the payment as if the entity had

---

withheld only so much of that amount as was withheld in respect of tax.

Note: Section 18-49 provides a credit for amounts withheld in respect of MRRT.

## **7 Group heading before section 18-65 in Schedule 1**

Repeal the heading, substitute:

### **Entitlement to credit: Minerals resource rent tax**

#### **18-49 Credit—Natural resource payments**

- (1) An entity is entitled to a credit in an \*MRRT year if:
  - (a) one or more \*withholding payments covered by section 12-325 (natural resource payments) from which there are \*amounts withheld in respect of \*MRRT are made to the entity during the MRRT year; and
  - (b) an assessment has been made of the MRRT payable, or an assessment has been made that no MRRT is payable, by the entity for the MRRT year.
- (2) The amount of the credit is so much of the total of the \*amounts withheld as is withheld in respect of \*MRRT.

## **8 After Part 3-10 in Schedule 1**

Insert:

### **Part 3-15—Minerals Resource Rent Tax**

#### **Division 115—Instalments**

##### **Table of Subdivisions**

	Guide to Division 115
115-A	Preliminary
115-B	Liability for instalments
115-C	Working out instalment amounts
115-D	Instalment rate chosen by you
115-E	Instalment rate given to you by Commissioner

- 115-F Default instalment rate
- 115-G Special rules for project interests that are transferred or split
- 115-H Special rules for transitional accounting periods

## **Guide to Division 115**

### **115-1 What this Division is about**

You pay quarterly instalments of MRRT under this Division if you have mining revenue for a quarter or a positive instalment rate.

Instalments give rise to a credit once an assessment of the MRRT is made.

The amount of a quarterly instalment is the product of your instalment income for the quarter and your applicable instalment rate.

The applicable instalment rate may be a rate chosen by you, a rate given to you by the Commissioner, or a statutory default rate.

General interest charge may be payable if a rate you choose for a quarter is too low, having regard to the amount of MRRT you are liable to pay for the year.

### **Subdivision 115-A—Preliminary**

#### **Table of sections**

- 115-5 Objects of this Division

#### **115-5 Objects of this Division**

The objects of this Division are:

- (a) to ensure the efficient collection of \*MRRT by the payment of quarterly instalments; and
- (b) to calculate total instalments for the \*MRRT year that are as close as possible to the amount of MRRT you are liable to pay for the year.

---

## Subdivision 115-B—Liability for instalments

### Table of sections

115-10	Liability for instalments
115-15	Information to be given to the Commissioner
115-20	Credit for instalments payable
115-25	When instalments are due
115-30	General interest charge on late payment

### 115-10 Liability for instalments

- (1) You are liable to pay an instalment under this Division in relation to an \*instalment quarter in an \*MRRT year, if:
- (a) you have a \*mining project interest or \*hold a \*pre-mining project interest; and
  - (b) either:
    - (i) you have \*mining revenue or \*pre-mining revenue relating to the instalment quarter; or
    - (ii) your \*applicable instalment rate for the instalment quarter is greater than nil.

Note 1: For provisions about collection and recovery of amounts you are liable to pay under this Division, see Part 4-15.

Note 2: For *applicable instalment rate*, see section 115-45.

#### *Meaning of instalment quarter*

- (2) For an \*MRRT year (whether it ends on 30 June or not), the following are the *instalment quarters*:
- (a) your first *instalment quarter* consists of the first 3 months of the MRRT year;
  - (b) your second *instalment quarter* consists of the fourth, fifth and sixth months of the MRRT year;
  - (c) your third *instalment quarter* consists of the seventh, eighth and ninth months of the MRRT year;
  - (d) your fourth *instalment quarter* consists of the tenth, 11th and 12th months of the MRRT year.

Note: There is a special rule for MRRT years that are not 12 months: see Subdivision 115-H.

### **115-15 Information to be given to the Commissioner**

- (1) If you are liable to pay an instalment for an \*instalment quarter (even if it is a nil amount), you must notify the Commissioner of the amount of your \*instalment income for the quarter.
- (2) You must notify the Commissioner in the \*approved form and on or before the day when the instalment is due (regardless of whether it is paid).
- (3) Subsection (1) does not apply to you for an \*instalment quarter if:
  - (a) a nil rate determination under subsection 115-45(2) or (3) applies to you for the quarter; and
  - (b) you are exempted from compliance with subsection (1) for the quarter:
    - (i) by a written notice the Commissioner gives you; or
    - (ii) by a legislative instrument that the Commissioner makes, exempting a class of entities.
- (4) An exemption under subsection (3) may be combined in the same document as a nil rate determination.

### **115-20 Credit for instalments payable**

- (1) You are entitled to a credit when the Commissioner makes an assessment of the amount (including a nil amount) of \*MRRT you are liable to pay.
- (2) The amount of the credit is:
  - (a) the total of each instalment payable by you for the \*MRRT year (even if you have not yet paid it); *less*
  - (b) the total of each credit that you have claimed under section 115-60 or 115-100.
- (3) The making of the assessment, and the resulting credit entitlement, do not affect the liability to pay an instalment.

Note: How the credit is applied is set out in Division 3 of Part IIB.

---

### 115-25 When instalments are due

An instalment you are liable to pay in relation to an \*instalment quarter is due on or before the 21st day of the month after the end of that quarter.

### 115-30 General interest charge on late payment

If you fail to pay some or all of an instalment by the time by which the instalment is due to be paid, you are liable to pay the \*general interest charge on the unpaid amount for each day in the period that:

- (a) started at the beginning of the day by which the instalment 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 instalment;
  - (ii) general interest charge on any of the instalment.

### Subdivision 115-C—Working out instalment amounts

#### Table of sections

115-35	How to work out the amount of an instalment
115-40	Meaning of <i>instalment income</i>
115-45	Meaning of <i>applicable instalment rate</i>

### 115-35 How to work out the amount of an instalment

The amount of an instalment you are liable to pay in relation to \*MRRT, in relation to an \*instalment quarter, is:

$$\text{Your *instalment income for the *instalment quarter} \times \text{*Applicable instalment rate}$$

### 115-40 Meaning of *instalment income*

Your *instalment income* for an \*instalment quarter in an \*MRRT year is the sum of the amounts worked out under column 2 of the table in subsection 30-25(2) of the *Minerals Resource Rent Tax Act 2012* for each \*mining revenue event that:

- (a) happens during the instalment quarter; and

- (b) results in an amount (including a nil amount) being included:
- (i) under section 30-10 of that Act in your \*mining revenue for a \*mining project interest for the MRRT year; or
  - (ii) under section 70-40 of that Act in your \*pre-mining revenue for a \*pre-mining project interest for the MRRT year.

Note 1: Special rules affect the calculation of instalment income for project interests that are transferred or split: see Subdivision 115-G.

Note 2: If you have chosen to use the alternative valuation method under Division 175 of the *Minerals Resource Rent Tax Act 2012*, your unadjusted revenue amounts under section 175-30 of that Act will be the same as the amounts worked out under column 2 of the table in subsection 30-25(2) of that Act.

### **115-45 Meaning of *applicable instalment rate***

- (1) Your *applicable instalment rate*, for an \*instalment quarter in an \*MRRT year (the *current year*), is worked out using the first applicable item in the table.

<b>Applicable instalment rate for an instalment quarter for MRRT</b>		
<b>Item</b>	<b>Column 1 If:</b>	<b>Column 2 Your applicable instalment rate is:</b>
1	A nil rate determination under subsection (2) or (3) applies to you for the *instalment quarter	Nil.
2	You have chosen an instalment rate under Subdivision 115-D for: (a) the *instalment quarter; or (b) an earlier instalment quarter in the current year	The rate you chose for the instalment quarter, or, if you did not choose a rate for the instalment quarter, the rate you chose for the most recent earlier instalment quarter in the current year for which you chose a rate.
3	The Commissioner has given you an instalment rate under Subdivision 115-E before the end of the *instalment quarter (whether in the current year or an earlier *MRRT year)	The most recent instalment rate given to you by the Commissioner before the end of the instalment quarter.
4	None of items 1, 2 and 3 applies	The rate that applies to you under Subdivision 115-F.

Note: If you choose a rate under Subdivision 115-D, you must use it for the rest of the MRRT year even if the Commissioner later gives you a different instalment rate.

*Nil rate determinations*

- (2) The Commissioner may, by giving you written notice, determine a nil rate for you for an \*MRRT year if, in the Commissioner's opinion, you are unlikely to be liable to pay \*MRRT for the MRRT year.
- (3) The Commissioner may, by legislative instrument, determine a nil rate for a class of entities for an \*MRRT year if, in the Commissioner's opinion, each entity in the class is unlikely to be liable to pay \*MRRT for the MRRT year.
- (4) A determination applies for the \*instalment quarter in which the Commissioner makes it, and for later quarters in the \*MRRT year.

Note: The determination does not apply in later MRRT years.

- (5) However, if the Commissioner later gives you an instalment rate under Subdivision 115-E, the determination stops applying to you for the instalment quarter in which you are given that later rate, and for later quarters.

Note 1: This may mean the nil rate determination does not apply to you for any instalment quarter (if the Commissioner makes the determination, then *later* in the same quarter gives you an instalment rate under Subdivision 115-E).

Note 2: For whether the rate the Commissioner gives you under Subdivision 115-E is your *applicable instalment rate* for an instalment quarter, see the table in subsection (1).

## **Subdivision 115-D—Instalment rate chosen by you**

### **Table of sections**

#### **Choosing an instalment rate**

- 115-50 Choosing a varied instalment rate
- 115-55 Notifying Commissioner of varied instalment rate

#### **Variation credits**

- 115-60 Credit on using varied rate in certain cases

**General interest charge payable in certain cases if instalments are too low**

- 115-65 Liability to GIC on shortfall in instalments worked out on the basis of varied rate
- 115-70 Working out your *benchmark instalment rate*

**Choosing an instalment rate**

**115-50 Choosing a varied instalment rate**

You may choose an instalment rate for an \*instalment quarter in an \*MRRT year under this Subdivision.

- Note 1: If choosing a rate leads you to pay an instalment that is too low, you may be liable to general interest charge under section 115-65.
- Note 2: You would also use this rate for later instalment quarters in the MRRT year, unless you choose another rate for the later instalment quarter under this section (see section 115-45).
- Note 3: Division 119 is about choices under the MRRT law.

**115-55 Notifying Commissioner of varied instalment rate**

- (1) If you choose an instalment rate for an \*instalment quarter under section 115-50, you must notify the Commissioner of the rate.
  - (2) You must notify the Commissioner in the \*approved form and on or before the day the instalment for the \*instalment quarter is due (regardless of whether it is paid).
- Note: The Commissioner may combine this approved form with the approved form for the notice you are required to give under section 115-15: see subsection 388-50(2).

**Variation credits**

**115-60 Credit on using varied rate in certain cases**

- (1) You are entitled to claim a credit if:
  - (a) you are liable to pay an instalment for an \*instalment quarter (the *current quarter*) in an \*MRRT year; and
  - (b) the amount of your instalment for the current quarter is to be worked out using an instalment rate you chose under section 115-50; and

- (c) that rate is lower than your \*applicable instalment rate for the previous quarter in the same year; and
- (d) the amount worked out using the method statement is greater than nil.

*Method statement*

- Step 1. Add up the instalments you are liable to pay for the earlier \*instalment quarters in the year (even if you have not yet paid all of them).
- Step 2. Subtract from the step 1 amount each earlier credit that you have claimed under this section or section 115-100 in respect of the year.
- Step 3. Multiply the total of your \*instalment income for those earlier \*instalment quarters by your \*applicable instalment rate for the current quarter.
- Step 4. Subtract the step 3 amount from the step 2 amount.
- Step 5. If the result is a positive amount, it is the amount of the credit you can claim.

Example: In the first instalment quarter in an MRRT year, a miner has instalment income of \$100m and an applicable instalment rate of 15%, which has been given by the Commissioner.

In the second instalment quarter in the MRRT year, the miner has instalment income of \$80m and uses the same rate given by the Commissioner (15%).

In the third instalment quarter in the MRRT year, the miner has instalment income of \$70m and chooses an instalment rate of 12%.

The miner uses the method statement to work out a credit as follows:

Step 1: The instalment of \$15m for the first instalment quarter ( $\$100\text{m} \times 15\%$ ), plus the instalment of \$12m for the second instalment quarter ( $\$80\text{m} \times 15\%$ ) gives a total step 1 amount of \$27m.

Step 2: No earlier credits have been claimed, so there is no amount to subtract from the step 1 amount—the step 2 amount is \$27m.

Step 3: The total of the instalment income for the earlier quarters is \$180m, multiplied by the rate for the current quarter (12%), equals \$21.6m.

Step 4:  $\$27\text{m} - \$21.6\text{m} = \$5.4\text{m}$ .

Step 5: The miner has a credit of \$5.4m.

The miner also has an instalment liability for the current quarter of \$8.4m (\$70m x 12%).

After applying the \$5.4m credit, the miner will be liable to pay an amount of \$3m for the quarter.

- (2) A claim for a credit must be made in the \*approved form on or before the day on which the instalment for the current quarter is due.

Note: How the credit is applied is set out in Division 3 of Part IIB.

- (3) The credit entitlement does not affect your liability to pay an instalment.

### **General interest charge payable in certain cases if instalments are too low**

#### **115-65 Liability to GIC on shortfall in instalments worked out on the basis of varied rate**

- (1) You are liable to pay the \*general interest charge under this section if:

- (a) an instalment rate (the *varied rate*) you choose under section 115-50 is your \*applicable instalment rate for an \*instalment quarter (the *variation quarter*) in an \*MRRT year; and
- (b) the varied rate is less than 85% of your \*benchmark instalment rate for the MRRT year.

Note: For the Commissioner's power to remit general interest charge, see section 8AAG.

- (2) You are liable to pay the \*general interest charge on the amount worked out as follows:

$$\left( \begin{array}{l} \text{Rate} \\ \text{discrepancy} \end{array} \times \begin{array}{l} \text{Your *instalment income} \\ \text{for the variation quarter} \end{array} \right) + \begin{array}{l} \text{Credit} \\ \text{adjustment} \end{array}$$

where:

*credit adjustment* means:

- (a) if, as a result of using the varied rate for the variation quarter, you claimed a credit under section 115-60—the amount worked out as follows:

$$\text{Rate discrepancy} \times \frac{\text{Your *instalment income for the earlier instalment quarters in the *MRRT year}}{\text{Rate discrepancy}}$$

or the sum of the amounts of the credits, whichever is less;  
and

- (b) otherwise—nil.

**rate discrepancy** means the difference between the varied rate and the lesser of:

- (a) the rate that would have been your \*applicable instalment rate for the variation quarter if you did not choose an instalment rate for the variation quarter or an earlier \*instalment quarter in the \*MRRT year; and
- (b) your \*benchmark instalment rate for that MRRT year.
- (3) You are liable to pay the charge for each day in the period that:
- (a) started at the beginning of the day by which the instalment for the variation quarter was due to be paid; and
- (b) finishes at the end of the day on which your \*assessed MRRT for the \*MRRT year is due to be paid.
- (4) The Commissioner must give you written notice of the \*general interest charge to which you are liable under subsection (2). You must pay the charge within 14 days after the notice is given to you.
- (5) If any of the \*general interest charge to which you are liable under subsection (2) remains unpaid at the end of the 14 days referred to in subsection (4), you are also liable to pay the general interest charge on the unpaid amount for each day in the period that:
- (a) starts at the end of those 14 days; 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 unpaid amount;
- (ii) general interest charge on the unpaid amount.

---

### 115-70 Working out your *benchmark instalment rate*

Your *benchmark instalment rate* for an \*MRRT year is the percentage worked out to 2 decimal places (rounding up if the third decimal place is 5 or more) using the formula:

$$\frac{\text{The amount of *MRRT you are liable to pay for the *MRRT year}}{\text{Your *instalment income for the *MRRT year}} \times 100$$

However, your *benchmark instalment rate* for the MRRT year is a nil rate if either component of the fraction is nil.

### Subdivision 115-E—Instalment rate given to you by Commissioner

#### Table of sections

115-75	Commissioner instalment rate for MRRT
115-80	Commissioner may take changes, and proposed changes, to the law into account

### 115-75 Commissioner instalment rate for MRRT

- (1) The Commissioner may give you an instalment rate from time to time, by giving you written notice of:
  - (a) the instalment rate; and
  - (b) the modified MRRT liability, as worked out under subsection (2), for the purposes of working out the instalment rate.

Note: For whether the rate the Commissioner gives you is your *applicable instalment rate* for an instalment quarter, see section 115-45.

- (2) An instalment rate that the Commissioner gives you must be the percentage worked out to 2 decimal places (rounding up if the third decimal place is 5 or more) using the formula:

$$\frac{\text{Your modified liability for MRRT for the *base year}}{\text{Your *instalment income for the base year}} \times 100$$

where:

*modified liability for MRRT* is the amount of \*MRRT you are liable to pay for the \*base year, subject to section 115-80.

---

Note: The instalment rate worked out under this subsection could exceed the MRRT rate. One reason for this is that not all amounts of mining revenue are included in instalment income.

- (3) The **base year** is the most recent \*MRRT year for which an assessment of \*MRRT has been made for you.
- (4) However, the instalment rate must be a nil rate if either component of the fraction is nil.
- (5) Despite subsections (2) to (4), the Commissioner may give you an instalment rate worked out on a different basis if, having regard to the object of this Division and the circumstances, the Commissioner is of the opinion:
  - (a) that it would be reasonable to work out the rate under this subsection; and
  - (b) that the rate so worked out is reasonable.

Example: The following are some examples of circumstances in which a rate may be worked out on a different basis:

- (a) an entity joins or leaves a consolidated group;
  - (b) a mining project interest is transferred or split;
  - (c) there is no base year for the mining project interest;
  - (d) there was a significant amount of one-off capital expenditure in the base year;
  - (e) MRRT allowances applied in a later year are expected to be significantly less than MRRT allowances applied in the base year;
  - (f) there is a change in the economic circumstances of the mining industry.
- (6) To avoid doubt, an instalment rate the Commissioner works out under subsection (5) may be higher, or lower, than the rate worked out under subsection (2) (if a rate can be worked out under that subsection).

### **115-80 Commissioner may take changes, and proposed changes, to the law into account**

For the purposes of working out your modified liability for \*MRRT for a \*base year, the Commissioner may work out an amount:

- (a) as if provisions of an Act or regulations, as they may reasonably be expected to apply for the purposes of your assessment for a later \*MRRT year, had applied for the purposes of the base year; and

- (b) as if provisions of an Act or regulations had applied for the purposes of the base year if:
  - (i) in the Commissioner's opinion, the provisions are likely to be enacted or made; and
  - (ii) the application of the provisions reduces the instalment rate being given to you.

Note: Taking law changes, and proposed law changes, into account in working out the instalment rate means total instalments for the year are as close as possible to your likely MRRT for the year.

## **Subdivision 115-F—Default instalment rate**

### **Table of sections**

115-85 Default instalment rate

### **115-85 Default instalment rate**

#### *Instalment rate for instalment income relating to iron ore*

- (1) The rate that applies to you for an \*instalment quarter in which your \*instalment income only includes amounts relating to iron ore is:
  - (a) if paragraph (b) does not apply—8%; or
  - (b) if the regulations prescribe a rate for the instalment quarter for the purposes of this subsection—that rate.

#### *Instalment rate for instalment income relating to other taxable resources*

- (2) The rate that applies to you for an \*instalment quarter in which your \*instalment income only includes amounts relating to \*taxable resources other than iron ore, is:
  - (a) if paragraph (b) does not apply—3%; or
  - (b) if the regulations prescribe a rate for the instalment quarter for the purposes of this subsection—that rate.

#### *Instalment rate for instalment income relating to iron ore and other taxable resources*

- (3) The rate that applies to you for an \*instalment quarter in which your \*instalment income includes amounts relating both to iron ore
-

---

and to other \*taxable resources is the sum of the following, worked out to 2 decimal places (rounding up if the third decimal place is 5 or more):

- (a) the rate that would apply for the quarter if your instalment income only included amounts relating to iron ore, multiplied by the proportion of your total instalment income for the quarter that relates to iron ore;
- (b) the rate that would apply for the quarter if your instalment income only included amounts relating to taxable resources other than iron ore, multiplied by the proportion of your total instalment income for the quarter that relates to taxable resources other than iron ore.

Example: In an instalment quarter, you have \$200m in instalment income from mining project interests that relate to iron ore, and \$100m in instalment income from mining project interests that relate to coal.

Under subsection (1), the default instalment rate for iron ore is 8%, and under subsection (2) the default instalment rate for coal is 3%.

The rate that applies to you for the quarter is 6.33%  $[(.08 \times 200\text{m}/300\text{m}) + (.03 \times 100\text{m}/300\text{m})]$ .

*Regulations not to be made in first MRRT year*

- (4) The regulations may prescribe a rate for the purposes of subsection (1) or (2) for an \*instalment quarter in the 2013-2014 \*MRRT year or a later year.

## **Subdivision 115-G—Special rules for project interests that are transferred or split**

### **Table of sections**

115-90	Effect of transfer or split of project interest on instalment income
115-95	Additional instalment income for new miner or new explorer
115-100	Credit for original miner or original explorer for instalment quarters before transfer or split
115-105	Adjusted instalment income for original miners or explorers

---

**115-90 Effect of transfer or split of project interest on instalment income**

*Instalment quarters that have ended before transfer or split happens—instalment income not affected by transfer or split*

- (1) In working out, under section 115-40, your \*instalment income for an \*instalment quarter that ends before a \*mining project transfer, \*mining project split, \*pre-mining project transfer or \*pre-mining project split happens:
- (a) include amounts that:
    - (i) relate to \*mining revenue events that happen during the instalment quarter; and
    - (ii) would, apart from the application of Division 120, 125, 145 or 150 of the *Minerals Resource Rent Tax Act 2012* in relation to the transfer or split, be included in your \*mining revenue or \*pre-mining revenue as mentioned in section 115-40; and
  - (b) do not include amounts that:
    - (i) relate to mining revenue events that happen during the instalment quarter; and
    - (ii) are included in your mining revenue or pre-mining revenue as mentioned in section 115-40 only because of the application of those Divisions in relation to the transfer or split.

Note 1: For the original miner or explorer (paragraph (a) case):

- (a) a credit may be available under section 115-100; and
- (b) the effect of paragraph (a) is modified in some circumstances: see section 115-105.

Note 2: For the new miner or explorer (paragraph (b) case), additional “catch up” instalment income may be included in the quarter in which the transfer or split happens: see section 115-95.

*Instalment quarter in which transfer or split happens—instalment income transfers with interest*

- (2) In working out, under section 115-40, your \*instalment income for an \*instalment quarter in which a \*mining project transfer, \*mining project split, \*pre-mining project transfer or \*pre-mining project split happens:
- (a) include amounts that:

- (i) relate to \*mining revenue events that happen during the instalment quarter; and
  - (ii) because of the application of Division 120, 125, 145 or 150 of the *Minerals Resource Rent Tax Act 2012* in relation to the transfer or split, are included in your \*mining revenue or \*pre-mining revenue as mentioned in section 115-40; and
- (b) do not include amounts that:
- (i) relate to mining revenue events that happen during the instalment quarter; and
  - (ii) because of the application of those Divisions in relation to the transfer or split, are not included in your mining revenue or pre-mining revenue as mentioned in section 115-40.

### **115-95 Additional instalment income for new miner or new explorer**

- (1) Your *instalment income* for an \*instalment quarter in an \*MRRT year includes an amount worked out under subsection (2) if:
- (a) a \*mining project transfer, \*mining project split, \*pre-mining project transfer or \*pre-mining project split happens in the instalment quarter; and
  - (b) you have the relevant \*mining project interest or \*pre-mining project interest after the transfer or split.
- (2) The amount is the sum of the amounts worked out under column 2 of the table in subsection 30-25(2) of the *Minerals Resource Rent Tax Act 2012* for each \*mining revenue event that:
- (a) happens before the start of the \*instalment quarter in which the transfer or split happens; and
  - (b) because of the application of Division 120, 125, 145 or 150 of the *Minerals Resource Rent Tax Act 2012* in relation to the transfer or split, results in an amount (including a nil amount) being included in your \*mining revenue or \*pre-mining revenue as mentioned in section 115-40.

Note 1: The additional instalment income amount is nil if the transfer or split happens in the first quarter of an MRRT year, and the miner or explorer that has the interest before the transfer or split has the same MRRT year as each miner or explorer that has the interest after the transfer or split.

---

Note 2: For the instalment quarter in which the transfer or split happens, instalment income from before the transfer or split is included under subsection 115-90(2).

**115-100 Credit for original miner or original explorer for instalment quarters before transfer or split**

- (1) You are entitled to claim a credit if:
- (a) a \*mining project transfer, \*mining project split, \*pre-mining project transfer or \*pre-mining project split happens in relation to a \*mining project interest or \*pre-mining project interest in an \*instalment quarter in an \*MRRT year; and
  - (b) your \*instalment income for an earlier instalment quarter in the MRRT year for which you are liable to pay an instalment includes one or more amounts relating to the mining project interest; and
  - (c) the amount worked out using the method statement is greater than nil.

*Method statement*

- Step 1. Add up the instalments you are liable to pay for the earlier \*instalment quarters in the year (even if you have not yet paid all of them).
- Step 2. Subtract from the step 1 amount each earlier credit that you have claimed under this section or section 115-60 in respect of the year.
- Step 3. For each earlier \*instalment quarter in the year, work out your \*instalment income under section 115-40 without including amounts that:
- (a) relate to \*mining revenue events that happen during the instalment quarter; and
  - (b) because of the application of Division 120, 125, 145 or 150 of the *Minerals Resource Rent Tax Act 2012* in relation to a transfer or split, are not included in your \*mining revenue or \*pre-mining revenue as mentioned in section 115-40.

---

Note:	Step 3 effectively recalculates instalment income disregarding paragraph 115-90(1)(a).
Step 4.	Multiply the step 3 amount by your *applicable instalment rate for that quarter.
Step 5.	Sum the amounts worked out under step 4.
Step 6.	Subtract the step 5 amount from the step 2 amount.
Step 7.	If the result is a positive amount, it is the amount of the credit you can claim.

*Claim to be made in approved form*

- (2) A claim for a credit must be made in the \*approved form on or before the day on which the instalment for the current quarter is due.

### **115-105 Adjusted instalment income for original miners or explorers**

- (1) Despite subsection 115-90(1), the provisions mentioned in subsection (2) have effect as if your \*instalment income for an \*instalment quarter that ends before a \*mining project transfer, \*mining project split, \*pre-mining project transfer or \*pre-mining project split happens did not include amounts that:
- (a) relate to \*mining revenue events that happen during the instalment quarter; and
  - (b) because of the application of Division 120, 125, 145 or 150 of the *Minerals Resource Rent Tax Act 2012* in relation to the transfer or split, are not included in your \*mining revenue or \*pre-mining revenue as mentioned in section 115-40.

Note: Subsection (1) effectively recalculates instalment income disregarding paragraph 115-90(1)(a).

- (2) The provisions are:
- (a) subsection 115-65(2) (about GIC on instalment shortfalls); and
  - (b) section 115-70 (about your benchmark instalment rate for an \*MRRT year); and

- (c) subsection 115-75(2) (about working out a Commissioner instalment rate).

## **Subdivision 115-H—Special rules for transitional accounting periods**

### **Table of sections**

115-110 Instalment quarters in transitional accounting periods

### **115-110 Instalment quarters in transitional accounting periods**

- (1) An \*MRRT year that is a period longer than 12 months has the following *instalment quarters* in addition to the instalment quarters mentioned in subsection 115-10(2):
- (a) your fifth *instalment quarter* consists of the 13th, 14th and 15th months of the MRRT year;
  - (b) your sixth *instalment quarter* consists of the 16th, 17th and 18th months of the MRRT year;
  - (c) your seventh *instalment quarter* consists of the 19th, 20th and 21st months of the MRRT year;
  - (d) your eighth *instalment quarter* consists of the 22nd, 23rd and 24th months of the MRRT year.
- (2) Despite subsection (1) and subsection 115-10(2):
- (a) you do not have any *instalment quarters* that begin after the end of an \*MRRT year; and
  - (b) an *instalment quarter* that would otherwise end after the end of an MRRT year consists instead of the period from the start of the instalment quarter to the end of the MRRT year.

Note: You will only have an MRRT year that is not a 12 month period if you are moving from one accounting period to another: see Division 190 of the *Minerals Resource Rent Tax Act 2012*.

---

## **Division 117—MRRT returns and starting base returns**

### **Guide to Division 117**

#### **117-1 What this Division is about**

You are obliged to give the Commissioner an MRRT return for each MRRT year in which you have a mining project interest or pre-mining project interest, unless the Commissioner does not require you to lodge a return.

You are also obliged to give the Commissioner a starting base return for the first MRRT year.

#### **Table of sections**

##### **Operative provisions**

117-5	Who must give MRRT returns
117-10	The form and contents of MRRT returns
117-15	Additional MRRT returns
117-20	Starting base returns
117-25	Electronic lodgement of MRRT returns and starting base returns
117-30	MRRT returns and starting base returns treated as being duly made

#### **Operative provisions**

##### **117-5 Who must give MRRT returns**

- (1) If you have a \*mining project interest, or \*hold a \*pre-mining project interest, during an \*MRRT year, you must give the Commissioner an \*MRRT return for that year that relates to all such interests.
- (2) You must give the return whether or not you are liable to pay \*MRRT for the \*MRRT year.
- (3) You must give your \*MRRT return for the \*MRRT year to the Commissioner:
  - (a) on or before the first day of the sixth month after the end of the year; or

- (b) within such further period as the Commissioner allows; or
  - (c) if you are a member of a class of entities for which the Commissioner has determined a period under paragraph (5)(a)—within that further period;
- whichever is the latest.

Note: Section 286-75 provides an administrative penalty for breach of this subsection.

- (4) Despite subsection (1), you are not required to give the Commissioner an \*MRRT return for an \*MRRT year if:
  - (a) you have made a valid choice under section 200-10 of the *Minerals Resource Rent Tax Act 2012* (choosing to use the simplified MRRT method) that has effect at the end of the year; or
  - (b) you are a member of a class of entities that the Commissioner has exempted from providing a return for that year under paragraph (5)(b).
- (5) The Commissioner may, by legislative instrument, do either or both of the following:
  - (a) determine a further period within which a class of entities may provide an \*MRRT return for an \*MRRT year;
  - (b) exempt a class of entities from providing an MRRT return for an MRRT year.

### **117-10 The form and contents of MRRT returns**

- (1) Your \*MRRT return for an \*MRRT year must be in the \*approved form.
- (2) The \*approved form for an \*MRRT return must require information to be provided relating to the following:
  - (a) your \*taxable mining profit for the \*MRRT year;
  - (b) your \*MRRT payable for the MRRT year.

Note: If you have chosen the simplified MRRT method under Division 200 of the *Minerals Resource Rent Tax Act 2012*, both of these amounts will be zero.

---

**117-15 Additional MRRT returns**

- (1) In addition to the \*MRRT returns required under section 117-5, you must give the Commissioner:
  - (a) such further or fuller MRRT returns; or
  - (b) such other MRRT returns for an \*MRRT year or a specified period, whether or not you have given the Commissioner an MRRT return for the same period;as the Commissioner directs you to give (including any MRRT return in your capacity as agent or trustee).
- (2) The \*approved form for a further or fuller \*MRRT return may require information to be provided relating to:
  - (a) the \*MRRT year to which the return relates; or
  - (b) one or more preceding MRRT years; or
  - (c) both the MRRT year to which the return relates, and one or more preceding MRRT years.

**117-20 Starting base returns**

- (1) In addition to the \*MRRT returns required under section 117-5 or 117-15, you must give the Commissioner a \*starting base return for the first \*MRRT year if you make a choice under section 85-5 of the *Minerals Resource Rent Tax Act 2012*.
- (2) The \*starting base return must relate to all \*starting base assets (and all property or rights that are expected to be starting base assets after the time mentioned in subsection 80-25(2) of that Act) that you \*hold that relate to the mining project interest or \*pre-mining project interest to which that choice relates.
- (3) A \*starting base return is not valid unless you give it to the Commissioner:
  - (a) on or before the first day of the sixth month after the end of the first \*MRRT year of the entity that had the mining project interest, or \*held the \*pre-mining project interest, on 1 July 2012; or
  - (b) within such further period as the Commissioner allows.
- (4) A \*starting base return must be in the \*approved form.

- (5) The \*approved form must require information to be provided relating to:
- (a) the \*base value of all \*starting base assets mentioned in subsection (2) for the first \*MRRT year; or
  - (b) what would be the base value of any other property or right mentioned in that subsection for that year if it were a starting base asset.

### **117-25 Electronic lodgement of MRRT returns and starting base returns**

You must \*lodge electronically your \*MRRT returns and \*starting base returns, unless the Commissioner otherwise approves.

Note: Section 388-75 in this Schedule deals with signing returns.

### **117-30 MRRT returns and starting base returns treated as being duly made**

An \*MRRT return or \*starting base return purporting to be made or signed by or on behalf of an entity is treated as having been duly made by the entity or with the entity's authority until the contrary is proved.

## **Division 119—Making choices**

### **Guide to Division 119**

#### **119-1 What this Division is about**

A choice you make under the MRRT law must be made in accordance with the general rules in this Division (subject to any more specific rule in the MRRT law).

#### **Table of sections**

##### **Operative provisions**

- 119-5 Making choices
- 119-10 Choices are irrevocable
- 119-15 Division subject to more specific rules

## **Operative provisions**

### **119-5 Making choices**

- (1) If a provision of the \*MRRT law allows, or requires, you to make a choice about a matter, the choice is not valid unless you make it:
  - (a) no later than:
    - (i) if you are required to give the Commissioner an \*MRRT return for the first \*MRRT year in which the choice applies—the earlier of the day on which that obligation is met or the day on which that obligation falls due; or
    - (ii) otherwise—the last day in the period within which you would be required to give the Commissioner such a return if you were required to give the Commissioner such a return; or
  - (b) within a further time that the Commissioner allows.
- (2) The way your \*MRRT return for an \*MRRT year is prepared is sufficient evidence of you making the choice.
- (3) However, you must give the Commissioner notice of the choice in the \*approved form if:
  - (a) you are not required to give the Commissioner an \*MRRT return for that MRRT year; or
  - (b) the \*MRRT law expressly requires you to give the choice to the Commissioner; or
  - (c) the Commissioner requests you to do so.

### **119-10 Choices are irrevocable**

A choice under the \*MRRT law is irrevocable.

### **119-15 Division subject to more specific rules**

This Division is subject to any specific rules in the \*MRRT law outside this Division.

---

## Division 121—Reporting

### Guide to Division 121

#### 121-1 What this Division is about

If a mining project transfer, mining project split, pre-mining project transfer or pre-mining project split happens, the original entity must give the new entity all the information the new entity will need to satisfy its MRRT obligations in relation to the interest it has acquired.

#### Table of sections

##### Operative provisions

121-5	Object of this Division
121-10	Information notice for transfers and splits of mining and pre-mining project interests
121-12	Notice of rehabilitation expenditure
121-15	Substantiation requirement

#### Operative provisions

##### 121-5 Object of this Division

The object of this Division is to provide entities with access to the information necessary for them to comply with their obligations under the \*MRRT law.

##### 121-10 Information notice for transfers and splits of mining and pre-mining project interests

- (1) An entity (the *original entity*) must give another entity (the *new entity*) a notice if:
  - (a) the original entity had a \*mining project interest before a \*mining project transfer or \*mining project split, and the new entity has the interest, or part of the interest, after the transfer or split; or
  - (b) the original entity \*held a \*pre-mining project interest before a \*pre-mining project transfer or \*pre-mining project split,

and the new entity holds the interest, or part of the interest, after the transfer or split.

- (2) The notice must contain:
- (a) the amount of each \*allowance component relating to the new entity's interest; and
  - (b) the information the original entity has that is necessary for the new entity to work out, for the \*MRRT year in which the transfer or split happens or for later MRRT years:
    - (i) the \*starting base losses for its interest; and
    - (ii) the amounts that are included in the new entity's \*mining revenue or \*pre-mining revenue for its interest; and
    - (iii) the amounts that are included in the new entity's \*mining expenditure or \*pre-mining expenditure for its interest; and
    - (iv) the amount of a \*rehabilitation tax offset for its interest; and
  - (c) for a split—the new entity's \*split percentage for its interest; and
  - (d) the information the original entity has that is necessary for the new entity to work out the new entity's \*instalment income for an \*instalment quarter in the MRRT year in which the transfer or split happens.
- (3) The original entity must also give the new entity a notice containing information about a thing mentioned in section 120-20, 125-30, 145-25 or 150-30 of the *Minerals Resource Rent Tax Act 2012* (events that happen after a transfer or split) in relation to the transfer or split.
- (4) The original entity must give the notice:
- (a) in writing, or in another form acceptable to the new entity; and
  - (b) for a notice under subsection (1)—within 60 days of the \*mining project transfer, \*mining project split, \*pre-mining project transfer or \*pre-mining project split; and
  - (c) for a notice under subsection (3)—within 60 days of the day on which the thing happens.

Note: Section 286-75 provides an administrative penalty for a breach of this section. A breach of this section may also be an offence under section 8C, and making a false or misleading statement when providing the information may be an offence under section 8K or 8N.

### **121-12 Notice of rehabilitation expenditure**

- (1) If:
- (a) an amount of expenditure is incurred by a trustee or bondholder (the *trustee*) out of an amount provided as security as mentioned in subsection 35-70(1) of the *Minerals Resource Rent Tax Act 2012*; and
  - (b) the amount is for rehabilitation of an area that is the \*project area for a \*mining project interest the other entity has at the time the amount is incurred;

the trustee must give the other entity a notice containing the information the trustee has that is necessary for the other entity to determine the extent, if any, to which the amount is \*mining expenditure for the other entity.

- (2) The trustee must give the notice:
- (a) in writing, or in another form acceptable to the new entity; and
  - (b) within 60 days of the incurring of the amount.

Note: Section 286-75 provides an administrative penalty for a breach of this section. A breach of this section may also be an offence under section 8C, and making a false or misleading statement when providing the information may be an offence under section 8K or 8N.

### **121-15 Substantiation requirement**

- (1) An entity that receives information from another entity under this Division may request the other entity to provide further and better particulars of the information, including:
- (a) if relevant, the underlying document or information on which it was based; and
  - (b) in relation to an amount, the way in which it was calculated.
- (2) The other entity must comply with the request within 60 days of the request being made.

Note: Section 286-75 provides an administrative penalty for a breach of this section. A breach of this section may also be an offence under

---

section 8C, and making a false or misleading statement when providing the information may be an offence under section 8K or 8N.

## **Division 123—Record keeping**

### **Guide to Division 123**

#### **123-1 What this Division is about**

You are required to keep records relating to your mining operations or pre-mining operations in accordance with this Division.

#### **Table of sections**

##### **Operative provisions**

- 123-5 What records you must keep
- 123-10 Retaining records
- 123-15 Offence for failing to keep or retain records

### **Operative provisions**

#### **123-5 What records you must keep**

- (1) You must keep records of every act, transaction, event or circumstance relating to your \*mining operations or \*pre-mining operations that are relevant to working out any of the following:
  - (a) whether you are, or another entity is, liable to pay \*MRRT for an \*MRRT year;
  - (b) whether you are, or another entity is, entitled to an offset under Division 45 (low profit offsets) or Division 225 (rehabilitation tax offsets) of the *Minerals Resource Rent Tax Act 2012*.
- (2) If the necessary records of an act, transaction, event or circumstance:
  - (a) do not already exist—you must create them or have someone else create them; or
  - (b) no longer exist—you must reconstruct them or have someone else reconstruct them.

- (3) If you make any choice, election, estimate, determination or calculation under the \*MRRT law, you must keep records containing particulars of:
- (a) the choice, election, estimate, determination or calculation; and
  - (b) in the case of an estimate, determination or calculation—the basis on which, and the method by which, the estimate, determination or calculation was made.
- (4) The records must be:
- (a) in English, or readily accessible and easily convertible into English; and
  - (b) such as to enable the things mentioned in subsection (1) or (3) (as the case requires) to be readily ascertained.

### **123-10 Retaining records**

You must retain the records required by section 123-5 until the latest of the following:

- (a) if it is a record mentioned in subsection (1) of that section—5 years after the completion of the act, transaction, event or circumstance to which it relates;
- (b) if it is a record mentioned in subsection (3) of that section—5 years after the choice, election, estimate, determination or calculation was made;
- (c) 5 years after you prepared or obtained the records;
- (d) if the records are relevant to an assessment of \*MRRT for an \*MRRT year—the end of the \*period of review for that assessment.

### **123-15 Offence for failing to keep or retain records**

- (1) An entity commits an offence if:
- (a) the entity is required to keep or retain a record under this Division; and
  - (b) the entity does not keep or retain the record in accordance with this Division; and
  - (c) the Commissioner has not notified the entity that the entity does not need to retain the record; and
  - (d) the entity is not a company that has been finally dissolved.
-

Penalty: 30 penalty units.

- (2) Subsection (1) is an offence of strict liability.

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

- (3) For the purposes of section 288-25, section 123-10 does not require an entity to retain a record if:

- (a) the Commissioner notifies the entity that the entity does not need to retain the record; or
- (b) the entity is a company that has been finally dissolved.

Note: Section 288-25 imposes an administrative penalty if an entity does not keep or retain records as required by this Division.

## **Division 125—Miscellaneous**

### **Table of sections**

125-1 Address for service

#### **125-1 Address for service**

- (1) Your address for service for the purposes of the \*MRRT law is:
    - (a) a physical address in Australia; or
    - (b) a postal address in Australia; or
    - (c) an electronic address;that you have given the Commissioner as your address for service for the purposes of the MRRT law.
  - (2) If you have given the Commissioner more than one address for service for the purposes of subsection (1), your address for service is such of those addresses as the Commissioner considers reasonable in the circumstances.
  - (3) If you have not given the Commissioner an address for service, your address for service is the address that the Commissioner reasonably believes to be your address for service for the purposes of the \*MRRT law.
  - (4) For the purposes of the \*MRRT law, a document (however described) may be given:
    - (a) in the manner specified in section 28A of the *Acts Interpretation Act 1901*; or
-

---

(b) if your address for service is an electronic address—by sending it to that address.

(5) Despite section 29 of the *Acts Interpretation Act 1901*, a document under subsection (4) of this section is taken to be given at the time the Commissioner leaves or posts it.

(6) This section has effect despite paragraphs 9(1)(d) and 9(2)(d) of the *Electronic Transactions Act 1999*.

### **9 Subsection 250-10(2) in Schedule 1 (after table item 39B)**

Insert:

39C	MRRT	50-5	<i>Minerals Resource Rent Tax Act 2012</i>
39D	shortfall interest charge on shortfall in MRRT	50-10	<i>Minerals Resource Rent Tax Act 2012</i>

### **10 Subsection 250-10(2) in Schedule 1 (after table item 135)**

Insert:

136	quarterly MRRT instalment	115-25 in Schedule 1	<i>Taxation Administration Act 1953</i>
-----	---------------------------	----------------------	---

### **11 Section 280-1 in Schedule 1**

After “income tax,” insert “minerals resource rent tax.”

### **12 Section 280-50 in Schedule 1**

After “income tax,” insert “\*MRRT,”.

### **13 After section 280-100 in Schedule 1**

Insert:

#### **280-101 Liability to shortfall interest charge—minerals resource rent tax**

(1) You are liable to pay \*shortfall interest charge on an additional amount of \*MRRT that you are liable to pay because the Commissioner amends your assessment for an \*MRRT year.

(2) The liability is for each day in the period:

- (a) beginning at the start of the day on which \*MRRT under your first assessment for that \*MRRT year was due to be paid, or would have been due to be paid if there had been any; and
  - (b) ending at the end of the day before the day on which the Commissioner gave you notice of the amended assessment.
- (3) However, if an amended assessment reinstates all or part of a liability in relation to a particular that had been reduced by an earlier amended assessment, the period for the reinstated liability begins at the start of the day on which \*MRRT under the earlier amended assessment was due to be paid, or would have been due to be paid if there had been any.

Note: See Division 50 of the *Minerals Resource Rent Tax Act 2012* for when the amount of assessed MRRT and shortfall interest charge becomes due and payable. That Division also provides for general interest charge on any part of the additional amount (plus any shortfall interest charge) that remains unpaid after the additional amount is due and payable.

**14 Paragraph 280-105(1)(a) in Schedule 1**

After “income tax,” insert “\*MRRT,”.

**15 Subsection 280-110(1) in Schedule 1**

After “280-100,” insert “280-101,”.

**16 Section 280-170 in Schedule 1**

After “income tax,” insert “\*MRRT,”.

**17 At the end of section 284-30 in Schedule 1**

Add:

Note: A beneficiary of a trust cannot have a \*shortfall amount or \*scheme shortfall amount in relation to the MRRT law.

**18 At the end of section 284-35 in Schedule 1**

Add:

Note: For the purposes of the MRRT law, under section 220-5 of the *Minerals Resource Rent Tax Act 2012* acts and omissions of partners in a partnership are taken to be acts or omissions of the partnership. Section 444-30 in this Schedule deals with the liability of partners for the obligations imposed on a partnership under the MRRT law.

**19 Paragraph 284-75(2)(a) in Schedule 1**

---

After “\*income tax law”, insert “or the \*MRRT law”.

**20 Paragraph 284-75(2)(b) in Schedule 1**

Omit “\*income tax law”, substitute “income tax law, or the MRRT law,”.

**21 Subsection 284-80(1) in Schedule 1 (table items 3 and 4) and subsection 284-90(1) in Schedule 1 (table item 4)**

After “\*income tax law” (wherever occurring), insert “, or the \*MRRT law,”.

**22 Subsection 284-90(1) in Schedule 1 (table item 4)**

After “income tax payable” insert “, or \*MRRT payable,”.

**23 Subsection 284-90(1) in Schedule 1 (table item 4)**

After “\*income tax return”, insert “or \*MRRT return”.

**24 After subsection 286-75(2) in Schedule 1**

Insert:

(2AA) You are also liable to an administrative penalty if:

- (a) you are required under Division 121 (MRRT reporting) to give information to an entity (other than the Commissioner) in a particular form by a particular day; and
- (b) you do not give the information to the entity in that form by that day.

**25 Paragraph 286-80(2)(a) in Schedule 1**

After “286-75(1),”, insert “(2AA),”.

**26 Section 352-1 in Schedule 1**

After “indirect tax laws”, insert “and the MRRT law”.

**27 At the end of Division 352 in Schedule 1**

Add:

---

**Subdivision 352-B—Accountability of the Commissioner in respect of MRRT law**

**Table of sections**

352-10 Commissioner must prepare annual report on MRRT law

**352-10 Commissioner must prepare annual report on MRRT law**

- (1) As soon as practicable after 30 June in each year, the Commissioner must prepare and give to the Minister a report on the working of the \*MRRT law during the year ending on that 30 June.
- (2) The report must include a report on any breaches or evasions of the \*MRRT law that the Commissioner knows about.
- (3) The Minister must cause a copy of the report 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.

**28 Subsection 353-10(1) in Schedule 1**

Repeal the subsection (including the note), substitute:

- (1) The Commissioner may by notice in writing require you to do all or any of the following:
  - (a) to give the Commissioner any information that the Commissioner requires for the purpose of the administration or operation of:
    - (i) an \*indirect tax law; or
    - (ii) the \*MRRT law; or
    - (iii) this Schedule (other than Division 340);
  - (b) to attend and give evidence before the Commissioner, or an individual authorised by the Commissioner, for the purpose of the administration or operation of:
    - (i) an indirect tax law; or
    - (ii) the MRRT law; or
    - (iii) this Schedule (other than Division 340);
  - (c) to produce to the Commissioner any documents in your custody or under your control for the purpose of the administration or operation of:

- (i) an indirect tax law; or
- (ii) the MRRT law; or
- (iii) this Schedule.

Note: Failing to comply with a requirement can be an offence under section 8C or 8D.

**29 Section 353-15 in Schedule 1 (heading)**

Repeal the heading, substitute:

**353-15 Access to premises for the purposes of the indirect tax laws and the MRRT law**

**30 Subsection 353-15(1) in Schedule 1**

After “tax law”, insert “or the \*MRRT law”.

**31 After section 353-15 in Schedule 1**

Insert:

**353-17 Offshore information notices**

For the purposes of the \*MRRT law, section 264A (about offshore information notices) of the *Income Tax Assessment Act 1936* applies as if:

- (a) a reference to a taxpayer in that section were a reference to an entity; and
- (b) a reference to an assessment in that section were a reference to an assessment under Division 155 of this Schedule relating to \*MRRT; and
- (c) a reference to the *Income Tax Assessment Act 1936* in that section were a reference to the MRRT law.

**32 After paragraph 357-55(f) in Schedule 1**

Insert:

(faa) \*MRRT;

**33 Subsection 360-5(1) in Schedule 1**

After “relevant provision”, insert “(other than a provision about \*MRRT)”.

**34 Section 444-1 in Schedule 1**

After “incapacitated entities”, insert “, trusts”.

**35 Subsection 444-5(1) in Schedule 1**

After “this Schedule”, insert “, the \*MRRT law”.

**36 After subsection 444-5(1) in Schedule 1**

Insert:

(1A) An amount that is payable under the \*MRRT law by an unincorporated association or body of entities is payable by each member of the committee of management of the association or body.

(1B) If there is more than one such member, those members are jointly and severally liable to pay the amount.

**37 Subsection 444-5(2) in Schedule 1**

After “this Schedule”, insert “, the \*MRRT law”.

**38 Subsections 444-10(1) and (2) in Schedule 1**

After “an \*indirect tax law”, insert “and the \*MRRT law”.

**39 Subsection 444-10(3) in Schedule 1**

After “an \*indirect tax law”, insert “or the \*MRRT law”.

**40 Subsection 444-10(5) in Schedule 1**

After “an \*indirect tax law”, insert “and the \*MRRT law”.

**41 Subsection 444-15(1) in Schedule 1**

After “an \*indirect tax law”, insert “or the \*MRRT law”.

**42 Subsections 444-30(1), (2) and (3) in Schedule 1**

After “this Schedule”, insert “, the \*MRRT law”.

**43 Subsections 444-70(1) and (2) in Schedule 1**

After “an \*indirect tax law”, insert “or the \*MRRT law”.

**44 At the end of Division 444 in Schedule 1**

---

Add:

**Subdivision 444-F—Trusts**

**Table of sections**

444-120 Trusts

**444-120 Trusts**

*Obligations*

- (1) Subject to subsection (2), an obligation that is imposed under the \*MRRT law on a trust is imposed on each of the following entities, but may be discharged by any such entity:
  - (a) an entity that is the trustee of the trust at the time the obligation arises;
  - (b) an entity that is the trustee of the trust at a time that is:
    - (i) after the obligation arises; and
    - (ii) before the obligation has been discharged.
- (2) An amount that is payable under the \*MRRT law by a trust is payable as set out in the table:

**Amounts payable by trusts**

<b>Item</b>	<b>Column 1</b>	<b>Column 2</b>
	<b>If the amount that is payable by the trust under the MRRT law is:</b>	<b>then it is payable by:</b>
1	*MRRT for an *MRRT year	each of the following entities: <ul style="list-style-type: none"> <li>(a) an entity that is the trustee of the trust at the end of the MRRT year;</li> <li>(b) an entity that is the trustee of the trust at a time that is:                             <ul style="list-style-type: none"> <li>(i) after the end of the MRRT year; and</li> <li>(ii) before the MRRT has been paid.</li> </ul> </li> </ul>
2	*general interest charge on the unpaid amount of *MRRT for an *MRRT year	each of the following entities: <ul style="list-style-type: none"> <li>(a) an entity that is the trustee of the trust at the end of the MRRT year;</li> </ul>

<b>Amounts payable by trusts</b>		
<b>Item</b>	<b>Column 1</b>	<b>Column 2</b>
	<b>If the amount that is payable by the trust under the MRRT law is:</b>	<b>then it is payable by:</b>
		(b) an entity that is the trustee of the trust at a time that is: <ul style="list-style-type: none"> <li>(i) after the end of the MRRT year;</li> <li>and</li> <li>(ii) before the general interest charge has been paid.</li> </ul>
3	*shortfall interest charge in relation to an *MRRT year	each of the following entities: <ul style="list-style-type: none"> <li>(a) an entity that is the trustee of the trust at the end of the MRRT year;</li> <li>(b) an entity that is the trustee of the trust at a time that is:               <ul style="list-style-type: none"> <li>(i) after the end of the MRRT year;</li> <li>and</li> <li>(ii) before the shortfall interest charge has been paid.</li> </ul> </li> </ul>
4	an instalment for an *instalment quarter payable under Division 115	each of the following entities: <ul style="list-style-type: none"> <li>(a) an entity that is the trustee of the trust at the end of the instalment quarter;</li> <li>(b) an entity that is the trustee of the trust at a time that is:               <ul style="list-style-type: none"> <li>(i) after the end of the instalment quarter; and</li> <li>(ii) before the instalment has been paid.</li> </ul> </li> </ul>
5	*general interest charge on the unpaid amount of an instalment referred to in table item 4	each of the following entities: <ul style="list-style-type: none"> <li>(a) an entity that is the trustee of the trust at the end of the instalment quarter;</li> <li>(b) an entity that is the trustee of the trust at a time that is:               <ul style="list-style-type: none"> <li>(i) after the end of the instalment quarter; and</li> <li>(ii) before the general interest charge has been paid.</li> </ul> </li> </ul>

*Joint and several liability*

- (3) If an amount is payable under this section by more than one entity, those entities are jointly and severally liable to pay the amount.

*Commissioner has direct access to trust assets*

- (4) For the purpose of ensuring the payment of an amount payable by an entity under this section in relation to a liability of a trust, the Commissioner has the same remedies against the property of the trust as the Commissioner would have against the property of the entity.

*Right of indemnity*

- (5) An entity that pays an amount of a liability it has under this section is entitled to be indemnified out of the assets of the trust for the liability.

*Offences*

- (6) Any offence against the \*MRRT law that is committed by a trust is taken to have been committed by the trustee of the trust, or, if the trust has more than one trustee, by each of the trustees.
- (7) In a prosecution of an entity for an offence that the entity is taken to have committed because of subsection (6), it is a defence if the entity proves that the entity:
- (a) did not aid, abet, counsel or procure the relevant act or omission; and
  - (b) was not in any way knowingly concerned in, or party to, the relevant act or omission (whether directly or indirectly and whether by any act or omission of the entity).

Note 1: The defence in subsection (7) does not apply in relation to offences under Part 2.4 of the *Criminal Code*.

Note 2: A defendant bears a legal burden in relation to the matters in subsection (7); see section 13.4 of the *Criminal Code*.



- (3) This section does not apply if the \*assessable amount is the \*MRRT payable by you for an \*MRRT year in relation to your \*taxable mining profit for the MRRT year.

## **5 Section 155-55 in Schedule 1**

Repeal the section, substitute:

### **155-55 Amendment to give effect to certain anti-avoidance declarations or determinations**

The Commissioner may amend an assessment of an \*assessable amount at any time, if:

- (a) the Commissioner makes a declaration under subsection 165-45(3) of the \*GST Act (about compensating adjustments for anti-avoidance declarations); or
- (b) the Commissioner makes a declaration under subsection 75-45(3) of the *Fuel Tax Act 2006* (about compensating adjustments for anti-avoidance declarations); or
- (c) the Commissioner makes a determination under section 210-30 of the *Minerals Resource Rent Tax Act 2012* (about compensating adjustments for anti-avoidance determinations).

The Commissioner may amend the assessment to give effect to the declaration or determination.

### **155-57 Amendment to give effect to MRRT anti-profit shifting rules**

The Commissioner may amend an assessment of an \*assessable amount of yours at any time for the purposes of giving effect to Division 205 (about anti-profit shifting) of the *Minerals Resource Rent Tax Act 2012*.

## **6 Section 155-90 in Schedule 1**

Before “You”, insert “(1)”.

## **7 At the end of section 155-90 in Schedule 1**

Add:

- (2) You cannot object under subsection (1) against an assessment ascertaining that:

- (a) you have no \*taxable mining profit for an \*MRRT year; or
  - (b) you have a taxable mining profit and no \*MRRT payable for an MRRT year;
- unless you are seeking an increase in your liability.

## **8 Section 350-5 in Schedule 1**

Repeal the section, substitute:

### **350-5 Application of Subdivision**

This Subdivision applies in relation to the following \*taxation laws:

- (a) \*indirect tax laws;
- (b) the \*MRRT law.

## **9 Subsection 350-10(1) in Schedule 1 (table item 2)**

Repeal the item, substitute:

- |   |  |  |
|---|--|--|
| 2 | <ul style="list-style-type: none"><li>(a) a notice of assessment of an *assessable amount; or</li><li>(b) a declaration under:<ul style="list-style-type: none"><li>(i) subsection 165-40(1) or 165-45(3) of the *GST Act; or</li><li>(ii) subsection 75-40(1) or 75-45(3) of the <i>Fuel Tax Act 2006</i>; or</li></ul></li><li>(c) a determination under:<ul style="list-style-type: none"><li>(i) section 205-25 of the <i>Minerals Resource Rent Tax Act 2012</i>; or</li><li>(ii) section 210-30 of the <i>Minerals Resource Rent Tax Act 2012</i>;</li></ul></li></ul> | <ul style="list-style-type: none"><li>(a) the assessment, declaration or determination was properly made; and</li><li>(b) except in proceedings under Part IVC of this Act on a review or appeal relating to the assessment, declaration or determination—the amounts and particulars of the assessment, declaration or determination are correct.</li></ul> |
|---|--|--|

## Part 2—Alternative amendments

### *Administrative Decisions (Judicial Review) Act 1977*

#### 10 Paragraph (e) of Schedule 1

After “Part 3-10”, insert “, 3-15 or 4-1”.

### *Income Tax Assessment Act 1997*

#### 11 Subsection 995-1(1)

Insert:

*assessable amount* has the meaning given by subsection 155-5(2) in Schedule 1 to the *Taxation Administration Act 1953*.

#### 12 Subsection 995-1(1) (definition of *assessment*)

Repeal the definition (not including the note), substitute:

*assessment*:

- (a) of an \*assessable amount, means an ascertainment of the assessable amount; and
- (b) of a \*tax-related liability not covered by paragraph (a), has the meaning given by a \*taxation law that provides for the assessment of the amount of the liability.

#### 13 Subsection 995-1(1)

Insert:

*Deputy Commissioner* means a Deputy Commissioner of Taxation.

#### 14 Subsection 995-1(1)

Insert:

*original assessment*, of an \*assessable amount, has the meaning given by section 155-35 in Schedule 1 to the *Taxation Administration Act 1953*.

#### 15 Subsection 995-1(1)

---

Insert:

*period of review*, for an assessment of an \*assessable amount, has the meaning given by section 155-35 in Schedule 1 to the *Taxation Administration Act 1953*.

## **16 Subsection 995-1(1)**

Insert:

*Second Commissioner* means a Second Commissioner of Taxation.

## ***Taxation Administration Act 1953***

## **17 Subsection 8AAZLG(2)**

After “makes”, insert “or amends”.

## **18 After paragraph 14ZW(1)(be)**

Insert:

(bg) if the taxation objection is made under Subdivision 155-C in Schedule 1 to this Act—4 years after notice of the original assessment of the assessable amount (within the meaning of Schedule 1) concerned is given to the person; or

## **19 After subsection 14ZW(1A)**

Insert:

(1AB) The person cannot lodge a taxation objection against a private tax ruling that relates to an MRRT year and to a mining project interest or pre-mining project interest after the end of whichever of the following ends last:

- (a) 60 days after the ruling was made;
- (b) 4 years after the last day allowed to the person for lodging an MRRT return in relation to the MRRT year and the interest.

(1AC) Expressions used in subsection (1AB) have the same meaning as in the *Income Tax Assessment Act 1997*.

## **20 Paragraph 14ZW(1B)(b)**

Omit “or (bb)”, substitute “, (bb) or (bg)”.

**21 Chapter 4 in Schedule 1 (heading)**

Repeal the heading, substitute:

**Chapter 4—Generic assessment, collection  
and recovery rules**

**22 Before Part 4-15 in Schedule 1**

Insert:

**Part 4-1—Returns and assessments**

**Division 155—Assessments**

**Table of Subdivisions**

Guide to Division 155

155-A Making assessments

155-B Amending assessments

155-C Validity and review of assessments

**Guide to Division 155**

**155-1 What this Division is about**

This Division contains rules relating to assessments.

The rules in this Division deal with the following:

- (a) how assessments are made or amended and their effect;
- (b) review of assessments.

**Subdivision 155-A—Making assessments**

**Table of sections**

155-5 Commissioner may make assessment

155-10 Commissioner must give notice of assessment

- 155-15 Self-assessment
- 155-25 Special assessment

### **155-5 Commissioner may make assessment**

- (1) The Commissioner may at any time make an assessment of an \*assessable amount (including an assessment that the amount is nil).

Note 1: For amendment of assessments: see Subdivision 155-B.

Note 2: An assessment can be reviewed: see Subdivision 155-C.

- (2) An amount of \*MRRT payable for an \*MRRT year in relation to a \*taxable mining profit for the MRRT year is an *assessable amount*.

### **155-10 Commissioner must give notice of assessment**

- (1) The Commissioner must give you notice of an assessment of an \*assessable amount of yours as soon as practicable after the assessment is made.

Note: This section also applies to an amended assessment: see section 155-80.

- (2) The Commissioner may give you the notice electronically if you are required to lodge, or have lodged, the return (if any) that relates to the \*assessable amount electronically.

### **155-15 Self-assessment**

- (1) The Commissioner is treated as having made an assessment under section 155-5 of an \*assessable amount mentioned in an item of the following table, if the document mentioned in the item is given to the recipient mentioned in the item:

---

<b>Self-assessed amounts</b>			
<b>Item</b>	<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
	<b>Assessable amount</b>	<b>Recipient</b>	<b>Document</b>
1	the *MRRT payable by you for an *MRRT year in relation to your *taxable mining profit for the MRRT year	the Commissioner	your *MRRT return for the MRRT year

---

## Schedule 2 Amendments related to assessments

### Part 2 Alternative amendments

---

- (2) The assessment is treated as having been made on the day the document is given to the recipient mentioned in column 2.
- (3) The amount assessed is:
  - (a) if the document is required to state the \*assessable amount—the amount (including a nil amount) stated; or
  - (b) otherwise—the amount (including a nil amount) worked out in accordance with the information stated in the document.
- (4) The document is treated as being a notice of the assessment:
  - (a) signed by the Commissioner; and
  - (b) given to you under section 155-10 on the day the document is given to the recipient.
- (5) This section does not apply to an \*assessable amount if the Commissioner has already assessed the assessable amount on or before the day mentioned in paragraph (4)(b).

### 155-25 Special assessment

For the purposes of making, under section 155-5, an assessment of an \*assessable amount that relates to a period (e.g. an \*MRRT year), the Commissioner may treat part of the period as being the whole period.

### Subdivision 155-B—Amending assessments

#### Table of sections

##### When Commissioner may amend assessments

155-35	Amendment during period of review
155-40	Amendment during period of review—certain applications taken to be notices
155-45	Amendment on application
155-50	Amendment to give effect to private ruling
155-55	Amendment to give effect to certain anti-avoidance determinations
155-57	Amendment to give effect to MRRT anti-profit shifting rules
155-60	Amendment because of review, objection or fraud

##### Special rules about amending amended assessments

155-65	Amending amended assessments
155-70	Refreshed period of review

---

### General rules

- 155-75 Refunds of amounts overpaid  
155-80 Amended assessments are assessments

## When Commissioner may amend assessments

### 155-35 Amendment during period of review

#### *Amendment*

- (1) The Commissioner may amend an assessment of an \*assessable amount within the \*period of review for the assessment.

Note 1: An amendment of an assessment can be reviewed: see Subdivision 155-C.

Note 2: This section also applies to amended assessments: see section 155-80. However, there are limits on how amended assessments can be amended: see sections 155-65 and 155-70.

#### *Meaning of period of review and original assessment*

- (2) The **period of review**, for an assessment of an \*assessable amount of yours, is:
- (a) the period:
    - (i) starting on the day on which the Commissioner gives notice of the \*original assessment of the assessable amount to you under section 155-10; and
    - (ii) ending on the last day of the period of 4 years starting the day after that day; or
  - (b) if the period of review is extended under subsection (4) or (5) of this section—the period as so extended.
- (3) The **original assessment**, of the \*assessable amount, is the assessment as it was first made.

#### *Extensions*

- (4) The Federal Court of Australia may order an extension of the \*period of review for an assessment of an \*assessable amount of yours for a specified period, if:
- (a) the Commissioner has started to examine your affairs in relation to the assessment; and

- (b) the Commissioner has not completed the examination within the period of review for the assessment; and
  - (c) the Commissioner, during the period of review, applies to the Federal Court of Australia for an order extending the period; and
  - (d) the Court is satisfied that it was not reasonably practicable, or it was inappropriate, for the Commissioner to complete the examination within the period of review, because of:
    - (i) any action taken by you; or
    - (ii) any failure by you to take action that it would have been reasonable for you to take.
- (5) You may, by written notice given to the Commissioner, consent to the extension of the \*period of review for an assessment of an \*assessable amount of yours for a specified period, if:
- (a) the Commissioner has started to examine your affairs in relation to the assessment; and
  - (b) the Commissioner has not completed the examination within the period of review for the assessment; and
  - (c) the Commissioner, during the period of review, requests you to consent to extending the period of review.
- (6) An order may be made under subsection (4), or consent given under subsection (5), in relation to an assessment of an \*assessable amount more than once.

**155-40 Amendment during period of review—certain applications taken to be notices**

- (1) An application made by you for an amendment of an assessment of an \*assessable amount of yours is treated as being a notice of the amended assessment given to you by the Commissioner under section 155-10, if:
- (a) the application is in the \*approved form; and
  - (b) the Commissioner makes the amendment:
    - (i) to give effect to the decision on the application; and
    - (ii) during the \*period of review for the assessment; and
  - (c) the amendment the Commissioner makes is the entire amendment for which you applied, and nothing else.

- (2) The notice is treated as having been given to you on the first day the Commissioner adjusts the balance of an \*RBA of yours as a result of the amendment.

### **155-45 Amendment on application**

The Commissioner may amend an assessment of an \*assessable amount of yours at any time, if you apply for an amendment in the \*approved form during the \*period of review for the assessment. The Commissioner may amend the assessment to give effect to his or her decision on the application.

Note: The Commissioner must give you notice of the amended assessment under section 155-10; see section 155-80.

### **155-50 Amendment to give effect to private ruling**

The Commissioner may amend an assessment of an \*assessable amount of yours at any time, if:

- (a) you apply for a \*private ruling during the \*period of review for the assessment; and
- (b) the Commissioner makes a private ruling because of the application.

The Commissioner may amend the assessment to give effect to the ruling.

### **155-55 Amendment to give effect to certain anti-avoidance determinations**

The Commissioner may amend an assessment of an \*assessable amount at any time to give effect to a determination under section 210-30 of the *Minerals Resource Rent Tax Act 2012* (about compensating adjustments for anti-avoidance determinations).

### **155-57 Amendment to give effect to MRRT anti-profit shifting rules**

The Commissioner may amend an assessment of an \*assessable amount of yours at any time to give effect to Division 205 of the *Minerals Resource Rent Tax Act 2012* (about anti-profit shifting).

### **155-60 Amendment because of review, objection or fraud**

Despite anything in this Subdivision, the Commissioner may amend an assessment of an \*assessable amount of yours at any time:

- (a) to give effect to a decision on a review or appeal; or
- (b) as a result of an objection made by you, or pending a review or appeal; or
- (c) if he or she is of the opinion there has been fraud or evasion.

### **Special rules about amending amended assessments**

#### **155-65 Amending amended assessments**

The Commissioner cannot amend an amended assessment of an \*assessable amount under section 155-35 if the \*period of review for the assessment has ended.

Note: The Commissioner can amend amended assessments at any time under sections 155-45 to 155-60.

#### **155-70 Refreshed period of review**

- (1) This section applies if the Commissioner has made one or more amendments of an assessment of an \*assessable amount of yours under section 155-35 about a particular.
- (2) Despite section 155-65, the Commissioner may amend (the *later amendment*) the amended assessment after the end of the \*period of review for the assessment, if:
  - (a) the Commissioner makes the later amendment before the end of the period of 4 years starting on the day after the day on which the Commissioner gave notice of the last of the amendments mentioned in subsection (1) to you under section 155-10; and
  - (b) the later amendment is about the particular mentioned in subsection (1) of this section; and
  - (c) the Commissioner has not previously amended the assessment under this section about that particular.

## General rules

### 155-75 Refunds of amounts overpaid

- (1) This section applies if:
  - (a) an assessment of an \*assessable amount of yours is amended; and
  - (b) as a result of the amendment, a \*tax-related liability (the *earlier liability*) of yours is reduced.
- (2) For the purposes of any \*taxation law that applies the \*general interest charge, the amount by which the \*tax-related liability is reduced is taken never to have been payable.

Note 1: The general interest charge is worked out under Part IIA of this Act.

Note 2: Subsection 8AAB(4) of this Act lists the provisions that apply the charge.

- (3) The Commissioner must apply the amount of any \*tax-related liability overpaid in accordance with Divisions 3 and 3A of Part IIB of this Act (about running balance accounts and the application of payments and credits).
- (4) However, if:
  - (a) a later amendment of an assessment of an \*assessable amount is made; and
  - (b) all or some of your earlier liability in relation to a particular is reinstated;this section is taken not to have applied to the extent that the earlier liability is reinstated.

### 155-80 Amended assessments are assessments

An amended assessment of an \*assessable amount is an assessment for all purposes of any \*taxation law.

Note: The Commissioner must give notice of the amended assessment under section 155-10. Under section 155-40, an application for an amendment is treated as being a notice of the amendment in certain circumstances.

## Subdivision 155-C—Validity and review of assessments

### Table of sections

155-85	Validity of assessment
155-90	Review of assessments

### 155-85 Validity of assessment

The validity of any assessment of an \*assessable amount is not affected by non-compliance with the provisions of this Act or of any other \*taxation law.

### 155-90 Review of assessments

- (1) You may object, in the manner set out in Part IVC of this Act, against an assessment of an \*assessable amount of yours if you are dissatisfied with the assessment.
- (2) You cannot object under subsection (1) against an assessment ascertaining that:
  - (a) you have no \*taxable mining profit for an \*MRRT year; or
  - (b) you have a taxable mining profit and no \*MRRT payable for an MRRT year;unless you are seeking an increase in your liability.

### 23 Subsection 255-5(2) in Schedule 1

Omit “Second Commissioner or a Deputy Commissioner”, substitute “\*Second Commissioner or a \*Deputy Commissioner”.

### 24 Paragraph 255-45(1)(b) in Schedule 1

Omit “Second Commissioner or a Deputy Commissioner”, substitute “\*Second Commissioner or a \*Deputy Commissioner”.

### 25 At the end of Chapter 4 in Schedule 1

Add:

## **Part 4-90—Evidence**

### **Division 350—Evidence**

#### **Table of Subdivisions**

	Guide to Division 350
350-A	Evidence

#### **Guide to Division 350**

##### **350-1 What this Division is about**

The rules in this Division deal with the evidentiary effect of official tax documents for the purposes of certain taxation laws.
--

##### **Subdivision 350-A—Evidence**

###### **Table of sections**

350-5	Application of Subdivision
350-10	Evidence
350-15	Judicial notice of signature

##### **350-5 Application of Subdivision**

This Subdivision applies in relation to \*taxation laws that are \*MRRT laws.

##### **350-10 Evidence**

*Conclusive evidence*

(1) The following table has effect:

<b>Conclusive evidence</b>		
<b>Item</b>	<b>Column 1</b>	<b>Column 2</b>
	<b>The production of ...</b>	<b>is conclusive evidence that ...</b>
1	(a) a <i>Gazette</i> containing a notice purporting to be issued by the	the notice or document was so issued.

**Schedule 2** Amendments related to assessments

**Part 2** Alternative amendments

---

---

<b>Conclusive evidence</b>		
<b>Item</b>	<b>Column 1</b>	<b>Column 2</b>
	<b>The production of ...</b>	<b>is conclusive evidence that ...</b>
	Commissioner for the purposes of a *taxation law; or (b) a document that: (i) is under the hand of the Commissioner, a *Second Commissioner, a *Deputy Commissioner or a delegate of the Commissioner; and (ii) purports to be a copy of, or extract from, a document issued by the Commissioner, a Second Commissioner, a Deputy Commissioner or a delegate of the Commissioner for the purposes of a taxation law;	
2	(a) a notice of assessment of an *assessable amount; or (b) a determination under section 205-25 of the <i>Minerals Resource Rent Tax Act 2012</i> ; or (c) a determination under section 210-30 of the <i>Minerals Resource Rent Tax Act 2012</i> ;	(a) the assessment or determination was properly made; and (b) except in proceedings under Part IVC of this Act on a review or appeal relating to the assessment or determination—the amounts and particulars of the assessment or determination are correct.

---

*Prima facie evidence*

- (2) The production of a certificate that:
- (a) is signed by the Commissioner, a \*Second Commissioner, a \*Deputy Commissioner or a delegate of the Commissioner; and
  - (b) states that, from the time specified in the certificate, an amount was payable under a \*taxation law (whether to or by the Commissioner);
-

is prima facie evidence that:

- (c) the amount is payable from that time; and
- (d) the particulars stated in the certificate are correct.

*Signed copies are evidence*

- (3) The production of a document that:
  - (a) appears to be a copy of, or extract from, any document (the **original document**) made or given by or to an entity for the purposes of a \*taxation law; and
  - (b) is signed by the Commissioner, a \*Second Commissioner, a \*Deputy Commissioner or a delegate of the Commissioner;is evidence of the matters set out in the document to the same extent as the original document would have been evidence of those matters.

### **350-15 Judicial notice of signature**

All courts, and all persons having by law or consent of parties authority to hear, receive and examine evidence, must take judicial notice of the signature of every person who is or has been:

- (a) the Commissioner; or
- (b) a \*Second Commissioner; or
- (c) a \*Deputy Commissioner; or
- (d) a delegate of the Commissioner;

if the signature is attached or appended to an official document for the purposes of a \*taxation law.

### **26 Paragraph 355-30(2)(a) in Schedule 1**

Omit “Second Commissioner of Taxation”, substitute “\*Second Commissioner”.

### **27 Paragraphs 355-55(1)(c) and 355-70(1)(c) in Schedule 1**

Omit “Second Commissioner” (first occurring), substitute “\*Second Commissioner”.

### **28 Paragraph 357-100(b) in Schedule 1**

Omit “Second Commissioner or a Deputy Commissioner”, substitute “\*Second Commissioner or a \*Deputy Commissioner”.

## Schedule 3—Amendment of other Acts

### Part 1—Amendments commencing at the same time as the Minerals Resource Rent Tax Act 2012 commences

#### *Administrative Decisions (Judicial Review) Act 1977*

##### 1 Paragraph (e) of Schedule 1

After:

*Income Tax Assessment Act 1997*

insert:

*Minerals Resource Rent Tax Act 2012*

#### *A New Tax System (Goods and Services Tax) Act 1999*

##### 2 At the end of section 177-12

Add:

; or (i) the *Minerals Resource Rent Tax Act 2012*.

#### *Crimes (Taxation Offences) Act 1980*

##### 3 Subsection 3(1)

Insert:

**MRRT** means:

- (a) MRRT within the meaning of the *Minerals Resource Rent Tax Act 2012*; and
- (b) shortfall interest charge (within the meaning of subsection 995-1(1) of the *Income Tax Assessment Act 1997*) under section 280-101 in Schedule 1 to the *Taxation Administration Act 1953*; and
- (c) an instalment under Division 115 in that Schedule.

##### 4 Subsection 3(1)

Insert:

---

*MRRT law* has the meaning given by section 300-1 of the  
*Minerals Resource Rent Tax Act 2012*.

## **5 Part II (at the end of note to heading)**

Add:

; (j) minerals resource rent tax (see Part XI).

## **6 At the end of the Act**

Add:

# **Part XI—Offences relating to minerals resource rent tax**

## **21 Application of Part I and Part II in relation to minerals resource rent tax**

- (1) Without prejudice to their effect apart from this section, subsection 3(3), paragraph 3(4)(e) and the provisions of Part II (other than section 8 and subsection 10(3)) also have the effect they would have if:
  - (a) a reference in any of those provisions to income tax were a reference to MRRT; and
  - (b) a reference in any of those provisions to future income tax were a reference to future MRRT; and
  - (c) a reference in any of those provisions to the Income Tax Assessment Act were a reference to the MRRT law; and
  - (d) a reference in any of those provisions, in relation to a company or trustee, to income tax moneys were a reference to MRRT moneys.
- (2) In applying the provisions of Part II (other than section 8 and subsection 10(3)) in accordance with subsection (1) of this section:
  - (a) a reference in any of those provisions to the MRRT payable by a company or trustee, in relation to the intention of a person entering into, or the knowledge or belief of a person concerning, an arrangement or transaction is to be read as a reference to some or all of the MRRT due and payable by the company or the trustee at the time when the arrangement or transaction was entered into; and

**Schedule 3** Amendment of other Acts

**Part 1** Amendments commencing at the same time as the Minerals Resource Rent Tax Act 2012 commences

---

- (b) a reference in any of those provisions to future MRRT payable by a company or trustee, in relation to the intention of a person entering into, or the knowledge or belief of a person concerning, an arrangement or transaction is to be read as a reference to some or all of the MRRT that may reasonably be expected by that person to become payable by the company or trustee after the arrangement or transaction is entered into; and
  - (c) a reference in any of those provisions, other than subsections 10(1) and (2), in relation to a company or trustee, to MRRT moneys is to be read as a reference to:
    - (i) MRRT payable by the company or trustee; and
    - (ii) costs ordered by a court against a company or trustee in a proceeding for the recovery of MRRT; and
  - (d) a reference in subsections 10(1) and (2) to MRRT moneys shall be read as a reference to MRRT that has been assessed under Schedule 1 to the *Taxation Administration Act 1953*.
- (3) In applying subsection 10(2), and sections 11 and 12, in accordance with subsections (1) and (2) of this section, the liability of a company or trustee in respect of MRRT moneys that have been assessed is not to be taken not to be finally determined merely because of the possibility of the Commissioner amending the assessment (otherwise than as a result of an objection being allowed or to give effect to a decision of the Administrative Appeals Tribunal or a court).

***Income Tax Assessment Act 1997***

**7 Section 10-5 (after table item headed “meals”)**

Insert:

**minerals resource rent tax**

refund of excess rehabilitation tax offsets 15-85

**8 Section 12-5 (table item headed “capital allowances”)**

After:

low-value and software development pools ..... Subdivision 40-E

insert:

Minerals Resource Rent Tax ..... 40-751

---

## 9 At the end of Division 15

Add:

### 15-85 Refunded excess rehabilitation tax offset

Your assessable income includes an amount the Commissioner pays you under paragraph 225-25(2)(b) of the *Minerals Resource Rent Tax Act 2012*.

Note: You can get a refund of excess rehabilitation tax offsets under section 225-25 of the *Minerals Resource Rent Tax Act 2012*.

## 10 Section 40-40 (table item 8)

Omit “\*mining operations”, substitute “\*mining and quarrying operations”.

## 11 Subsection 40-70(3)

Omit “*base value* in the formula in subsection (1)”, substitute “\*base value”.

## 12 Subsection 40-72(1) (formula)

Repeal the formula, substitute:

$$\text{*Base value} \times \frac{\text{Days held}}{365} \times \frac{200\%}{\text{Asset's *effective life}}$$

## 13 Subsection 40-72(1)

Omit “*base value* has the same meaning as in subsection 40-70(1).”

## 14 Subsection 40-72(3)

Omit “*base value* in the formula in subsection (1)”, substitute “\*base value”.

## 15 Paragraph 40-80(1)(a)

After “\*mining”, insert “and quarrying”.

## 16 Subparagraph 40-80(1)(c)(i)

Omit “\*mining operations”, substitute “mining and quarrying operations”.

**17 Subsection 40-95(10) (table items 1, 2 and 3)**

Omit “\* mining operations”, substitute “\* mining and quarrying operations”.

**18 Subsection 40-102(4) (table item 9)**

After “\* mining”, insert “and quarrying”.

**19 Paragraph 40-630(1)(b)**

After “\* mining”, insert “and quarrying”.

**20 Subsection 40-630(1) (paragraph (a) of the note)**

After “mining”, insert “and quarrying”.

**21 Paragraphs 40-630(1A)(b), (1B)(b) and (3)(b)**

After “\* mining”, insert “and quarrying”.

**22 Paragraph 40-650(3)(a)**

After “\* mining”, insert “and quarrying”.

**23 Section 40-725**

After:

- |   |
|---|
| <ul style="list-style-type: none"><li>• paying petroleum resource rent tax; and</li></ul> |
|---|

insert:

- |  |
|--|
| <ul style="list-style-type: none"><li>• paying minerals resource rent tax; and</li></ul> |
|--|

**24 Subsection 40-730(1)**

After “\* mining”, insert “and quarrying”.

**25 Paragraph 40-730(1)(a)**

After “mining”, insert “and quarrying”.

**26 Subsection 40-730(7)**

After “*Mining*”, insert “*and quarrying*”.

**27 Subparagraph 40-735(1)(a)(i)**

---

After “\*mining”, insert “and quarrying”.

**28 Subsection 40-735(4)**

After “\*mining”, insert “and quarrying”.

**29 Paragraph 40-740(1)(a)**

After “\*mining”, insert “and quarrying”.

**30 Paragraphs 40-740(1)(b), (c) and (e)**

After “mining”, insert “and quarrying”.

**31 Subsection 40-740(2)**

After “\*mining”, insert “and quarrying”.

**32 After section 40-750**

Insert:

**40-751 Deduction for payments of minerals resource rent tax**

- (1) You can deduct a payment of \*MRRT, or an instalment of MRRT payable under Division 115 in Schedule 1 to the *Taxation Administration Act 1953*, that you make in an income year.

Note: If an amount of the expenditure is recouped, the amount may be included in your assessable income: see Subdivision 20-A. Similarly, a refund of excess rehabilitation tax offsets you get under section 225-25 of the *Minerals Resource Rent Tax Act 2012* is assessable income: see section 15-85.

- (2) If you deduct an instalment of \*MRRT under subsection (1), you cannot also deduct any of the following amounts when applied under Division 3 of Part IIB of the *Taxation Administration Act 1953*:
- (a) the amount of the payment of the instalment;
  - (b) the amount of a credit arising under section 115-20 in Schedule 1 to the *Taxation Administration Act 1953* in respect of the instalment.
- (3) If you deduct a payment of \*MRRT under subsection (1), you cannot also deduct the corresponding amount applied under Division 3 of Part IIB of the *Taxation Administration Act 1953*.

**33 Subparagraph 40-840(1)(c)(i)**

After “\*mining”, insert “and quarrying”.

**34 Paragraph 40-860(1)(a)**

After “\*mining”, insert “and quarrying”.

**35 Subsection 40-860(2)**

After “\*mining”, insert “and quarrying”.

**36 Paragraph 40-860(3)(a)**

After “\*mining”, insert “and quarrying”.

**37 Paragraph 40-860(3)(c)**

After “mining”, insert “and quarrying”.

**38 Paragraphs 40-870(1)(a) and (2)(a)**

After “\*mining”, insert “and quarrying”.

**39 Subsection 250-105(1)**

Repeal the subsection, substitute:

- (1) For the purposes of section 250-40, the discount rate to be used in working out the present value of a future amount is the \*long term bond rate for the \*financial year in which the relevant \*arrangement period starts.

**40 Subsection 703-50(1) (note)**

After “Note”, insert “1”.

**41 At the end of subsection 703-50(1)**

Add:

- Note 2: A group that is consolidated for income tax purposes may also consolidate for the purposes of the *Minerals Resource Rent Tax Act 2012* (see section 215-10 of that Act).

**42 Subsection 719-50(1) (note)**

After “Note”, insert “1”.

**43 At the end of subsection 719-50(1)**

---

Add:

Note 2: A group that is consolidated for income tax purposes may also consolidate for the purposes of the *Minerals Resource Rent Tax Act 2012* (see section 215-10 of that Act).

#### **44 Subsection 721-10(2) (table item 70)**

Repeal the item, substitute:

70	Division 280 in Schedule 1 to the <i>Taxation Administration Act 1953</i> (shortfall interest charge)	the period provided for in this table for the *tax-related liability to which the shortfall interest charge relates
75	section 50-5 of the <i>Minerals Resource Rent Tax Act 2012</i> (when assessed MRRT is payable)	the *MRRT year to which the *assessed MRRT relates
80	section 50-10 of the <i>Minerals Resource Rent Tax Act 2012</i> (shortfall interest charge on shortfall in assessed MRRT)	the *MRRT year to which the *shortfall interest charge relates
85	section 115-25 in Schedule 1 to the <i>Taxation Administration Act 1953</i> (when MRRT instalments are due)	the *instalment quarter to which the instalment relates

#### **45 At the end of section 721-10**

Add:

- (4) Items 75, 80 and 85 of the table in subsection (2) apply in relation to tax-related liabilities that are due and payable by the \*head company because it chooses, under section 215-10 of the *Minerals Resource Rent Tax Act 2012*, to apply Division 215 of that Act in relation to the \*consolidated group.

#### **46 After subsection 721-25(1A)**

Insert:

- (1AA) The requirement in paragraph (1)(c) is also taken to be satisfied if:
- (a) the group liability is a \*tax-related liability mentioned in item 75 of the table in subsection 721-10(2) in relation to an \*MRRT year; and
  - (b) before, at or after the head company's due time, the \*head company of the group became entitled to a credit under

**Schedule 3** Amendment of other Acts

**Part 1** Amendments commencing at the same time as the Minerals Resource Rent Tax Act 2012 commences

---

section 115-20 in Schedule 1 to the *Taxation Administration Act 1953* for that MRRT year; and

- (c) just before the head company's due time, the contribution amounts for each of the TSA contributing members in relation to the group liability, as determined under the agreement, represented a reasonable allocation among the head company and the TSA contributing members of the difference between:
- (i) the total amount of the group liability; and
  - (ii) the amount of the credit mentioned in paragraph (b).

**47 Subsections 721-25(1B), (2) and (3)**

Omit "and (1A)", substitute ", (1A) and (1AA)".

**48 Subsection 995-1(1)**

Insert:

*allowance component* has the meaning given by section 300-1 of the *Minerals Resource Rent Tax Act 2012*.

**49 Subsection 995-1(1)**

Insert:

*applicable instalment rate* for an \*instalment quarter in an \*MRRT year has the meaning given by section 115-45 in Schedule 1 to the *Taxation Administration Act 1953*.

**50 Subsection 995-1(1)**

Insert:

*arm's length consideration* has the meaning given by section 300-1 of the *Minerals Resource Rent Tax Act 2012*.

**51 Subsection 995-1(1)**

Insert:

*base value*:

- (a) of a \*depreciating asset—has the meaning given by subsection 40-70(1); and

- (b) of a \*starting base asset—has the meaning given by section 300-1 of the *Minerals Resource Rent Tax Act 2012*.

## **52 Subsection 995-1(1) (definition of *base year*)**

Repeal the definition, substitute:

***base year:***

- (a) for an entitlement to a \*tax offset under Subdivision 61-I—has the meaning given by sections 61-430 and 61-450; and
- (b) in relation to an income year—has the meaning given by sections 45-320 and 45-470 in Schedule 1 to the *Taxation Administration Act 1953*; and
- (c) in relation to an \*MRRT year—has the meaning given by subsection 115-75(3) in Schedule 1 to the *Taxation Administration Act 1953*.

## **53 Subsection 995-1(1) (definition of *benchmark instalment rate*)**

Repeal the definition, substitute:

***benchmark instalment rate:***

- (a) in relation to an income year—has the meaning given by sections 45-360 and 45-530 in Schedule 1 to the *Taxation Administration Act 1953*; and
- (b) in relation to an \*MRRT year—has the meaning given by section 115-70 in Schedule 1 to the *Taxation Administration Act 1953*.

## **54 Subsection 995-1(1) (definition of *instalment income*)**

Repeal the definition, substitute:

***instalment income:***

- (a) in relation to a period that is, or is part of, an income year—has the meaning given by sections 45-120, 45-260, 45-280, 45-285, 45-286 and 45-465 in Schedule 1 to the *Taxation Administration Act 1953*; and
- (b) in relation to an \*instalment quarter of an \*MRRT year—has the meaning given by sections 115-40 and 115-95 in Schedule 1 to the *Taxation Administration Act 1953*.

**55 Subsection 995-1(1) (definition of *instalment quarter*)**

Repeal the definition, substitute:

*instalment quarter*:

- (a) in relation to an income year—has the meaning given by section 45-60 in Schedule 1 to the *Taxation Administration Act 1953*; and
- (b) in relation to an \*MRRT year—has the meaning given by subsection 115-10(2) and section 115-110 in Schedule 1 to the *Taxation Administration Act 1953*.

**56 Subsection 995-1(1)**

Insert:

*long term bond rate*, for a period, means:

- (a) the average, expressed as a decimal fraction to 4 decimal places (rounding up if the fifth decimal place is 5 or more), of the daily assessed Australian Government bond capital market yields in respect of 10-year non-rebate Treasury bonds published by the Reserve Bank in relation to the period; or
- (b) if no such yields in respect of bonds of that kind were published by the Reserve Bank in relation to the period, the decimal fraction determined by the Minister by legislative instrument for the purposes of this definition in relation to the period.

**57 Subsection 995-1(1)**

Insert:

*miner* has the meaning given by section 300-1 of the *Minerals Resource Rent Tax Act 2012*.

**58 Subsection 995-1(1)**

Insert:

*mining and quarrying operations* has the meaning given by section 40-730.

**59 Subsection 995-1(1)**

Insert:

---

*mining expenditure* has the meaning given by section 300-1 of the *Minerals Resource Rent Tax Act 2012*.

**60 Subsection 995-1(1)**

Insert:

*mining loss* has the meaning given by section 300-1 of the *Minerals Resource Rent Tax Act 2012*.

**61 Subsection 995-1(1) (definition of *mining operations*)**

Repeal the definition.

**62 Subsection 995-1(1)**

Insert:

*mining profit* has the meaning given by section 300-1 of the *Minerals Resource Rent Tax Act 2012*.

**63 Subsection 995-1(1)**

Insert:

*mining project interest* has the meaning given by section 300-1 of the *Minerals Resource Rent Tax Act 2012*.

**64 Subsection 995-1(1)**

Insert:

*mining project split* has the meaning given by section 300-1 of the *Minerals Resource Rent Tax Act 2012*.

**65 Subsection 995-1(1)**

Insert:

*mining project transfer* has the meaning given by section 300-1 of the *Minerals Resource Rent Tax Act 2012*.

**66 Subsection 995-1(1)**

Insert:

*mining revenue* has the meaning given by section 300-1 of the *Minerals Resource Rent Tax Act 2012*.

**Schedule 3** Amendment of other Acts

**Part 1** Amendments commencing at the same time as the Minerals Resource Rent Tax Act 2012 commences

---

**67 Subsection 995-1(1)**

Insert:

*mining revenue event* has the meaning given by section 300-1 of the *Minerals Resource Rent Tax Act 2012*.

**68 Subsection 995-1(1)**

Insert:

*MRRT* has the meaning given by section 300-1 of the *Minerals Resource Rent Tax Act 2012*.

**69 Subsection 995-1(1)**

Insert:

*MRRT allowance* has the meaning given by section 300-1 of the *Minerals Resource Rent Tax Act 2012*.

**70 Subsection 995-1(1)**

Insert:

*MRRT law* has the meaning given by section 300-1 of the *Minerals Resource Rent Tax Act 2012*.

**71 Subsection 995-1(1)**

Insert:

*MRRT liability* has the meaning given by section 300-1 of the *Minerals Resource Rent Tax Act 2012*.

**72 Subsection 995-1(1)**

Insert:

*MRRT payable*, by a \*miner for an \*MRRT year, means the sum of the \*MRRT liabilities for each \*mining project interest the miner has for that year, less the sum of any offsets the miner has for that year under Division 45 or 225 of the *Minerals Resource Rent Tax Act 2012*.

**73 Subsection 995-1(1)**

Insert:

---

***MRRT return*** means a return of the kind referred to in Division 117 in Schedule 1 to the *Taxation Administration Act 1953*, that complies with all the requirements of sections 117-10 and 117-25 (if applicable) in that Schedule and section 388-75 in that Schedule.

**74 Subsection 995-1(1)**

Insert:

***MRRT year*** has the meaning given by section 300-1 of the *Minerals Resource Rent Tax Act 2012*.

**75 Subsection 995-1(1)**

Insert:

***pre-mining expenditure*** has the meaning given by section 300-1 of the *Minerals Resource Rent Tax Act 2012*.

**76 Subsection 995-1(1)**

Insert:

***pre-mining project interest*** has the meaning given by section 300-1 of the *Minerals Resource Rent Tax Act 2012*.

**77 Subsection 995-1(1)**

Insert:

***pre-mining revenue*** has the meaning given by section 300-1 of the *Minerals Resource Rent Tax Act 2012*.

**78 Subsection 995-1(1)**

Insert:

***rehabilitation tax offset*** has the meaning given by section 300-1 of the *Minerals Resource Rent Tax Act 2012*.

**79 Subsection 995-1(1)**

Insert:

***split percentage*** has the meaning given by section 300-1 of the *Minerals Resource Rent Tax Act 2012*.

**80 Subsection 995-1(1)**

Insert:

*starting base asset* has the meaning given by section 300-1 of the *Minerals Resource Rent Tax Act 2012*.

**81 Subsection 995-1(1)**

Insert:

*starting base return* has the meaning given by section 300-1 of the *Minerals Resource Rent Tax Act 2012*.

**82 Subsection 995-1(1) (definition of *start time*)**

Repeal the definition, substitute:

*start time*:

- (a) of a \*depreciating asset—has the meaning given by section 40-60; and
- (b) of a \*starting base asset relating to a \*mining project interest—has the meaning given by section 300-1 of the *Minerals Resource Rent Tax Act 2012*.

**83 Subsection 995-1(1)**

Insert:

*taxable mining profit*, of a miner for an \*MRRT year, means the sum of the following for each \*mining project interest the miner has for that year:

- (a) the \*mining profit for that interest for that year; less
- (b) the \*MRRT allowances for that interest for that year.

**84 Subsection 995-1(1)**

Insert:

*taxable resource* has the meaning given by section 300-1 of the *Minerals Resource Rent Tax Act 2012*.

**85 Subsection 995-1(1) (definition of *termination value*)**

Repeal the definition, substitute:

*termination value*:

---

- (a) of a \*depreciating asset—has the meaning given by section 40-300; and
- (b) of a \*starting base asset—has the meaning given by section 300-1 of the *Minerals Resource Rent Tax Act 2012*.

***Taxation (Interest on Overpayments and Early Payments) Act 1983***

**86 Subsection 3(1) (paragraph (d) of the definition of *decision to which this Act applies*)**

After “item 120”, insert “or 160”.

**87 Section 3C**

Before “In”, insert “(1)”.

**88 Section 3C (at the end of the table)**

Add:

- 160 assessed MRRT within the meaning of the *Minerals Resource Rent Tax Act 2012*

**89 At the end of section 3C**

Add:

- (2) Without limiting subsection (1), a reference in item 160 of the table to assessed MRRT includes:
  - (a) any general interest charge due and payable in relation to such an amount; and
  - (b) a quarterly MRRT instalment that is due under section 115-25 in Schedule 1 to the *Taxation Administration Act 1953*; and
  - (c) any general interest charge due and payable in relation to such an instalment.

## Part 2—Amendments with other commencements

### *Administrative Decisions (Judicial Review) Act 1977*

#### 90 Paragraph (e) of Schedule 1

After “Part 3-10”, insert “, 3-15”.

Note: If the *Indirect Tax Laws Amendment (Assessment) Act 2012* does not receive the Royal Assent before 1 July 2012, this item does not commence at all. See item 6 of the table in section 2 of this Act.

### *Income Tax Assessment Act 1997*

#### 91 Subsection 995-1(1) (at the end of the definition of *hold*)

Add:

; and (d) *hold* a thing mentioned in subsection 250-5(2) of the *Minerals Resource Rent Tax Act 2012* has the meaning given by sections 250-5 and 250-10 of that Act.

Note: The things mentioned in subsection 250-5(2) of that Act are starting base assets, an asset to which section 175-40 of that Act applies and a pre-mining project interest.

### *Minerals Resource Rent Tax Act 2012*

#### 92 At the end of Division 35

Add:

#### 35-80 Unit shortfall charge—clean energy

An amount of expenditure is *excluded expenditure* to the extent that it is unit shortfall charge (within the meaning of the *Clean Energy Act 2011*).

## **Schedule 4—Application and transitional provisions**

### **Part 1—Preliminary**

#### **1 Application of Act**

The MRRT law extends to matters and things whether occurring before or after 1 July 2012 (except where a contrary intention appears).

## Part 2—General liability rules

### 2 Modified time of supply for prepayments before 1 July 2012

Paragraph 30-35(a) of the *Minerals Resource Rent Tax Act 2012* is disregarded in working out the time a miner makes a supply of a taxable resource or thing produced using a taxable resource if consideration for the supply is received or becomes receivable at a time before 1 July 2012.

### 3 Recoupment or offsetting of mining expenditure

An amount is included under section 30-40 of the *Minerals Resource Rent Tax Act 2012* in a miner's mining revenue for a mining project interest for the MRRT year starting on 1 July 2012 to the extent that:

- (a) the amount is received, or becomes receivable, before the start of that MRRT year; and
- (b) had the amount been received, or become receivable, in that MRRT year, it would have given rise under that section to an amount of mining revenue for the mining project interest for the miner.

### 4 Compensation for loss of taxable resources

Section 30-50 of the *Minerals Resource Rent Tax Act 2012* does not apply in relation to amounts relating to loss of, destruction of or damage that happens to a taxable resource before 1 July 2012.

### 5 Hire purchase agreements entered into before 1 July 2012

Without limiting section 35-55 of the *Minerals Resource Rent Tax Act 2012*, that section also applies in relation to hire purchase agreements entered into before 1 July 2012.

Note: The property may be a starting base asset if the requirements in Subdivision 80-C of the *Minerals Resource Rent Tax Act 2012* are met.

## **Part 3—MRRT allowances**

### **6 Royalty amounts paid on taxable resources extracted before 1 July 2012**

To avoid doubt, a liability a miner incurs on or after 1 July 2012 gives rise to a royalty credit under section 60-20 of the *Minerals Resource Rent Tax Act 2012* if the requirements in that section are met, whether the relevant taxable resource was extracted on, before, or after that day.

## Part 4—Specialist liability rules

### 7 Combining mining project interests before commencement

#### *Combining mining project interests*

- (1) Two or more mining project interests are taken by Division 115 of the *Minerals Resource Rent Tax Act 2012* to be the same mining project interest from a particular time before 1 July 2012 if those interests would be taken to be the same mining project interest under that Division from that time if the time was after 1 July 2012.

#### *Downstream integration of mining project interests*

- (2) If:
- (a) disregarding paragraph 255-10(d) of the *Minerals Resource Rent Tax Act 2012* (choosing to treat mining project interests as integrated), a mining project interest would have been integrated with another mining project interest at a time during the period:
    - (i) starting on 2 May 2010; and
    - (ii) ending just before the start of 1 July 2012; and
  - (b) the miner makes a valid choice under section 255-20 of that Act on or before the day on which the obligation to give an MRRT return for the first MRRT year falls due;
- the requirement in paragraph 255-10(d) of that Act is taken to be satisfied at all times during the period starting at the time mentioned in paragraph (a) of this subitem and ending when the miner makes that choice.

### 8 Transferring and splitting mining project interests

To avoid doubt, Divisions 120 and 125 of the *Minerals Resource Rent Tax Act 2012* apply in relation to mining project interests before 1 July 2012 in the same way as those Divisions apply in relation to mining project interests after that day.

### 9 Transferring and splitting pre-mining project interests

---

To avoid doubt, Divisions 145 and 150 of the *Minerals Resource Rent Tax Act 2012* apply in relation to pre-mining project interests before 1 July 2012 in the same way as those Divisions apply in relation to pre-mining project interests after that day.

## **10 Substituted accounting periods**

Despite section 10-25 of the *Minerals Resource Rent Tax Act 2012*, if:

- (a) a miner has, under section 18 of the *Income Tax Assessment Act 1936*, accounting periods that are not financial years; and
- (b) one of those accounting periods starts before 1 July 2012 and ends after that day;

the period starting on 1 July 2012 and ending at the end of that accounting period is an *MRRT year*.

## **11 Schemes entered into before 2 May 2010**

Without limiting Division 210 of the *Minerals Resource Rent Tax Act 2012* (or that Division as it applies because of item 12 of this Schedule), that Division also applies in relation to a scheme if:

- (a) the scheme was entered into before 2 May 2010; and
- (b) it is reasonable to conclude that an entity (whether alone or with others) would have entered into or carried out the scheme, or part of the scheme, with the purpose mentioned in paragraph 210-10(1)(c) of that Act had the MRRT law been in force when the scheme was entered into.

## **12 Schemes to increase the base value of starting base assets**

- (1) Without limiting Division 210 of the *Minerals Resource Rent Tax Act 2012*, that Division also applies as if an entity gets or got an MRRT benefit from a scheme if:
  - (a) the entity holds a starting base asset; and
  - (b) the base value of that asset for the first MRRT year is, or could reasonably be expected to be, larger than it would be apart from the scheme.
- (2) For the purposes of subitem (1), the Commissioner may make, under section 210-25 of the *Minerals Resource Rent Tax Act 2012*, a determination stating the base value of the starting base asset for the first MRRT year.

- (3) This item applies to property or rights that are expected to be starting base assets as mentioned in subsection 117-20(2) in Schedule 1 to the *Taxation Administration Act 1953* as if the property or rights were a starting base asset.

### **13 Choice to consolidate for MRRT purposes before commencement**

Despite paragraph 215-10(4)(a) of the *Minerals Resource Rent Tax Act 2012*, a choice that the head company of a consolidated group or MEC group or the provisional head company of a MEC group makes under section 215-10 of that Act has effect on and after a day (the day of effect) if:

- (a) the choice is made on 1 July 2012 or within such further time as the Commissioner allows; and
- (b) the day of effect is between 2 May 2010 and the day the choice is made; and
- (c) the consolidated group or MEC group existed on the day of effect; and
- (d) the company notifies the Commissioner, under subsection 215-10(3) of that Act, that the choice is to apply from the day of effect.

## **Part 5—Administration**

### **14 Reporting requirements for transfers and splits of interests before 1 July 2012**

- (1) Without limiting Division 121 in Schedule 1 to the *Taxation Administration Act 1953*, that Division also applies in relation to a mining project transfer, mining project split, pre-mining project transfer or pre-mining project split that happened between 1 May 2010 and 30 June 2012.
- (2) However, despite paragraphs 121-10(4)(b) and (c) in that Schedule, an entity's obligation to give a notice that arises because of subitem (1) is taken to have been complied with if it is given by the later of the following:
  - (a) 21 July 2012;
  - (b) 21 days after receiving a notice that another entity is obliged to give the entity because of subitem (1).

### **15 Starting base assessments**

- (1) Without limiting Division 155 in Schedule 1 to the *Taxation Administration Act 1953*, that Division also applies in relation to a starting base asset as if:
  - (a) the base value of the starting base asset for the first MRRT year were an assessable amount within the meaning of that Division that was mentioned in column 1 of the table in subsection 155-15(1) of that Division; and
  - (b) a starting base return for that year in relation to the starting base asset were a document mentioned in column 3 of that table in relation to that assessable amount.
- (2) This item applies to property or rights that are expected to be starting base assets as mentioned in subsection 117-20(2) in Schedule 1 to the *Taxation Administration Act 1953* as if the property or rights were a starting base asset.

---

*[Minister's second reading speech made in—  
House of Representatives on 2 November 2011  
Senate on 7 February 2012]*

(238/11)

---