Petroleum Resource Rent Tax Assessment Amendment Act 2012

No. 18, 2012

An Act to amend the *Petroleum Resource Rent Tax Assessment Act 1987*, and for other purposes

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

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Petroleum Resource Rent Tax Assessment Amendment Act 2012

No. 18, 2012

An Act to amend the *Petroleum Resource Rent Tax Assessment Act 1987*, and for other purposes

[*Assented to 29 March 2012*]

The Parliament of Australia enacts:

1 Short title

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

Commencement information		
Column 1	**Column 2**	**Column 3**
Provision(s)	**Commencement**	**Date/Details**
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, items 1 to 10	1 July 2012.	1 July 2012
3. Schedule 1, item 11	1 July 2012. However, the provision(s) do not commence at all if the *Tax Laws Amendment (2011 Measures No. 8) Act 2011* receives the Royal Assent on or before 1 July 2012.	
4. Schedule 1, items 12 to 24	1 July 2012.	1 July 2012
5. Schedule 1, item 25	The later of: (a) the start of 1 July 2012; and (b) immediately after the commencement of Schedule 2 to the *Tax Laws Amendment (2011 Measures No. 8) Act 2011*. However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	
6. Schedule 1, items 26 to 46	1 July 2012.	1 July 2012
7. Schedule 2, Part 1	1 July 2012.	1 July 2012
8. Schedule 2, Part 2	A single day to be fixed by Proclamation. However, if the provision(s) do not commence within the period of 6 months	

Commencement information		
Column 1	**Column 2**	**Column 3**
Provision(s)	**Commencement**	**Date/Details**
	beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	
9. Schedules 3 and 4	1 July 2012.	1 July 2012
10. Schedule 5, item 1	1 July 2012.	1 July 2012
11. Schedule 5, items 2 to 5	The later of: (a) immediately after the commencement of the provision(s) covered by table item 2; and (b) immediately after the commencement of Schedule 3 to the *Minerals Resource Rent Tax (Consequential Amendments and Transitional Provisions) Act 2012*. However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	
12. Schedule 5, items 6 to 12	1 July 2012.	1 July 2012
13. Schedule 6, Part 1	The later of: (a) immediately after the commencement of the provision(s) covered by table item 2; and (b) immediately after the commencement of section 3 of the *Clean Energy Act 2011*. However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	
14. Schedule 6, Parts 2 and 3	1 July 2012.	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—Extension to onshore projects etc.

Petroleum Resource Rent Tax Assessment Act 1987

1 Section 2 (definition of *access authority*)

Repeal the definition, substitute:

access authority means:

(a) a petroleum access authority within the meaning of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*; or

(b) an authority or right (however described) under another Australian law to carry on, in relation to petroleum, specified operations in a specified area (other than an authority or right that is an exploration permit, retention lease, production licence or infrastructure licence).

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

2 Section 2 (paragraph (a) of the definition of *applicable commencement date*)

After “(b)”, insert “or (c)”.

3 Section 2 (at the end of the definition of *applicable commencement date*)

Add:

; or (c) if the project is an onshore petroleum project or the North West Shelf project, or if an onshore petroleum project is a pre-combination project in relation to the project—1 July 2012.

4 Section 2 (definition of *block*)

Repeal the definition, substitute:

block means:

(a) in relation to an offshore area—a block within the meaning of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*; or

(b) in relation to an onshore area—an area (however described) referred to in another Australian law relating to exploration for, or recovery of, petroleum.

5 Section 2 (definition of *eligible production licence*)

Repeal the definition.

6 Section 2 (definition of *excluded fee*)

Repeal the definition, substitute:

excluded fee means:

(a) an amount of a kind referred to in paragraph 113(1)(c), subsection 115(5), paragraph 118(1)(c), subsection 178(4) or paragraph 181(1)(c) of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*; or

(b) a similar amount payable, under another Australian law, in relation to the grant of an exploration permit, retention lease or production licence.

7 Section 2 (definition of *exploration permit*)

Repeal the definition, substitute:

exploration permit means:

(a) a petroleum exploration permit within the meaning of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*; or

(b) an authority or right (however described) under another Australian law:

(i) to explore for petroleum in an area; or

(ii) to recover petroleum on an appraisal basis in that area; or

(iii) to carry on such operations, and execute such works, in the area as are necessary for those purposes;

that is not an authority or right to recover petroleum other than on an appraisal basis.

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

8 Section 2 (definition of *exploration permit area*)

Repeal the definition, substitute:

exploration permit area means:

(a) a petroleum exploration permit area within the meaning of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*; or

(b) the area covered by an authority or right mentioned in paragraph (b) of the definition of ***exploration permit***.

9 Section 2 (definition of *holder of a registered interest*)

Repeal the definition, substitute:

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

(a) an entry has been made under subsection 494(3) of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*; or

(b) an entry has been made in a register mentioned in paragraph (b) of the definition of ***registered holder***.

10 Section 2 (definition of *infrastructure licence*)

Repeal the definition, substitute:

infrastructure licence means:

(a) an infrastructure licence within the meaning of section 7 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*; or

(b) an authority or right (however described) under another Australian law to construct and operate facilities in a specified area for engaging in any of the following activities (other than an authority or right that is an exploration permit, retention lease, production licence or pipeline licence):

(i) remote control of facilities, structures or installations used to recover petroleum in a production licence area;

(ii) processing petroleum recovered in any place, including converting petroleum into another form by physical or chemical means, or both, and partial processing of petroleum;

(iii) storing petroleum before it is transported to another place;

(iv) preparing petroleum for transport to another place (for example, pumping or compressing);

(v) activities related to any of the above.

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

11 Section 2 (after paragraph (e) of the definition of *marketable petroleum commodity*)

Insert:

(ea) shale oil;

12 Section 2

Insert:

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

13 Section 2

Insert:

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

14 Section 2

Insert:

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

15 Section 2

Insert:

onshore petroleum project means a petroleum project for which:

(a) no part of the production licence area is a petroleum production licence area within the meaning of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*; and

(b) no part of the production licence area is an area within the Joint Petroleum Development Area within the meaning of that Act.

16 Section 2 (definition of *petroleum*)

Repeal the definition, substitute:

petroleum means:

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

(b) oil shale.

However, ***petroleum*** does not include a taxable resource within the meaning of the *Minerals Resource Rent Tax Act 2012*.

17 Section 2 (definition of *pipeline licence*)

Repeal the definition, substitute:

pipeline licence means:

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

(b) an authority or right (however described) under another Australian law:

(i) to construct a pipeline in a specified area in accordance with any specified conditions; and

(ii) to construct in that area specified pumping stations, tank stations and valve stations at specified positions; and

(iii) to operate that pipeline and those pumping stations, tank stations and valve stations; and

(iv) to carry on such operations, to execute such works and to do all such other things in that area as are necessary for, or incidental to, the construction or operation of that pipeline and those pumping stations, tank stations and valve stations.

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

18 Section 2 (paragraph (a) of the definition of *pre-combination project*)

Omit "eligible".

19 Section 2 (at the end of the definition of *production licence*)

Add:

; or (c) an authority or right (however described) under another Australian law to undertake activities for the recovery of petroleum from an area (other than an authority or right that is an exploration permit or a retention lease).

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

20 Section 2 (definition of *production licence area*)

Repeal the definition, substitute:

production licence area means the following:

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

(b) the area covered by an authority or right mentioned in paragraph (c) of the definition of ***production licence***;

and, in relation to the Greater Sunrise project, includes the Western Greater Sunrise area.

21 Section 2 (definition of *registered holder*)

Repeal the definition, substitute:

registered holder means:

(a) in relation to a title under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*—the registered holder within the meaning of that Act; and

(b) in relation to an authority or right (however described) under another Australian law—the person whose name is shown in

the register (however described) kept under the relevant Australian law concerned.

22 Section 2 (definition of *retention lease*)

Repeal the definition, substitute:

retention lease means:

(a) a petroleum retention lease within the meaning of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*; or

(b) an authority or right (however described) under another Australian law:

(i) to explore for petroleum in an area; or

(ii) to recover petroleum on an appraisal basis in that area; or

(iii) to carry on such operations, and execute such works, in the area as are necessary for those purposes;

that is not an authority or right to recover petroleum other than on an appraisal basis, and that is granted on the basis that the area contains petroleum and that recovery of that petroleum is likely to become commercially viable in the future.

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

23 Section 2 (definition of *retention lease area*)

Repeal the definition, substitute:

retention lease area means:

(a) a petroleum retention lease area within the meaning of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*; or

(b) the area covered by an authority or right mentioned in paragraph (b) of the definition of ***retention lease***.

24 After section 2

Insert:

2AA Determinations relating to certain defined terms

(1) An authority or right under an Australian law is taken, for the purposes of this Act, to be an authority or right mentioned in one of the paragraphs to which this section applies if the Resources Minister determines, by legislative instrument, that it is an authority or right of that kind.

(2) An authority or right under an Australian law is taken, for the purposes of this Act, not to be an authority or right mentioned in one of the paragraphs to which this section applies if the Resources Minister determines, by legislative instrument, that it is not an authority or right of that kind.

(3) This section applies to the following paragraphs in section 2:

(a) paragraph (b) of the definition of ***access authority***;

(b) paragraph (b) of the definition of ***exploration permit***;

(c) paragraph (b) of the definition of ***infrastructure licence***;

(d) paragraph (b) of the definition of ***pipeline licence***;

(e) paragraph (c) of the definition of ***production licence***;

(f) paragraph (b) of the definition of ***retention lease***.

25 After paragraph 2E(2)(e)

Insert:

(ea) shale oil;

26 Subsection 19(1)

After “(1A)”, insert “and (1B)”.

27 Subsection 19(1)

Omit “an eligible”, substitute “a”.

28 Subsection 19(1)

Omit “eligible” (second occurring).

29 After subsection 19(1A)

Insert:

(1B) For the purposes of this Act, there is taken to be a single petroleum project in relation to all production licences that are related to the

North West Shelf exploration permits and that are in force from time to time.

30 Subsection 19(2)

Omit “eligible” (wherever occurring).

31 Paragraph 19(2B)(a)

Omit “an eligible”, substitute “a”.

32 Paragraph 19(2B)(b)

Omit “eligible”.

33 Paragraph 19(2C)(a)

Omit “an eligible”, substitute “a”.

34 Paragraph 19(2C)(b)

Omit “eligible”.

35 Subsection 19(3)

Omit “eligible” (wherever occurring).

36 Subsection 20(1)

Repeal the subsection, substitute:

(1) Subject to this section, where within the qualifying period in relation to a production licence in relation to a petroleum project, the Resources Minister, whether on application, request or otherwise, having regard to:

(a) the respective operations, facilities and other things that comprise, have comprised or will comprise that project and any other petroleum project or projects existing at the time at which the production licence came into force; and

(b) the persons by whom or on whose behalf the operations, facilities and other things referred to in paragraph (a) are being, have been or are proposed to be carried on or provided; and

(c) to the extent (if any) that the projects are onshore petroleum projects—the respective operations, facilities and other things that are involved, have been involved or will be involved in any further processing or treating of any petroleum or

marketable petroleum commodity produced in relation to the projects; and

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

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

(1A) Despite subsection (1), the Minister cannot specify, under that subsection:

(a) a production licence relating to the North West Shelf project; or

(b) if one of the projects is not an onshore petroleum project—a production licence relating to:

(i) an onshore petroleum project existing on 30 June 2012; or

(ii) if a pre-combination project in relation to a combined project is such a project—the combined project.

37 Subsection 20(2)

Omit “eligible” (first occurring).

38 Paragraph 20(2)(a)

Repeal the paragraph, substitute:

(a) the period of 90 days after the latest of the following:

(i) the time the licence comes into force;

(ii) the commencement of this Act;

(iii) if the licence relates to an onshore petroleum project—the start of 1 January 2013; or

39 Paragraph 20(2)(b)

Omit “eligible”.

40 Subsection 20(4)

After “sale of” insert “petroleum or”.

41 Subsections 20(6) and (7)

Omit “eligible” (wherever occurring).

42 Clause 1 of the Schedule (paragraph (a) of the definition of *starting day*)

Omit “or the Bass Strait project”, substitute “, the Bass Strait project or the North West Shelf project”.

43 Clause 1 of the Schedule (after paragraph (c) of the definition of *starting day*)

Insert:

(ca) in relation to the North West Shelf project—the earlier of the day on which the exploration permit known as WA-1-P was granted and the day on which the exploration permit known as WA-28-P was granted; or

44 Subclause 13(1) of the Schedule

Omit “subclauses (2) and (3)”, substitute “subclause (2)”.

45 Subclause 13(3) of the Schedule

Repeal the subclause.

46 Transitional

Division 2 of Part VIII of the *Petroleum Resource Rent Tax Assessment Act 1987* (collection by instalments) does not apply, in respect of the year of tax commencing on 1 July 2012, in relation to an onshore petroleum project or the North West Shelf project.

Schedule 2—Assessable receipts

Part 1—Amendments commencing on 1 July 2012

Petroleum Resource Rent Tax Assessment Act 1987

1 At the end of subsection 23(1)

Add:

; (f) assessable incidental production receipts.

2 Subsection 23(2)

Omit “(e)”, substitute “(f)”.

3 Section 28

Before “For”, insert “(1)”.

4 At the end of section 28

Add:

(2) However, an amount referred to in subparagraph (b)(ii) that is a refund of resource tax expenditure is increased by dividing the amount by the rate mentioned in section 5 of the *Petroleum Resource Rent Tax (Imposition—General) Act 2012*.

5 After section 29

Insert:

29A Assessable incidental production receipts

(1) For the purposes of this Act, a reference to assessable incidental production receipts derived by a person in relation to a petroleum project is a reference to the consideration receivable, less the amount mentioned in subsection (2), by the person in relation to the sale of a product, or the provision of a service relating to carbon capture and storage, if:

(a) it has been recovered, extracted, provided or produced in carrying on operations, facilities or other things of a kind

mentioned in section 37, 38 or 39 in relation to the project; and

(b) it is not petroleum or a marketable petroleum commodity; and

(c) eligible real expenditure in relation to the project (including, in the case of a combined project, any pre-combination project in relation to the project) was incurred by the person in relation to those operations, facilities, or other things.

Example: The following are some examples:

(a) water from a water treatment facility that is an integral part of a coal seam gas project is sold;

(b) excess electricity that is produced as part of the petroleum project is sold.

(2) The amount is the sum of any expenditure (whether of a capital or revenue nature) incurred by the person to the extent that:

(a) it is incurred in deriving assessable incidental production receipts in relation to the petroleum project; and

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

6 Paragraph 30(a)

Omit “or assessable employee amenities receipts”, substitute “, assessable employee amenities receipts or assessable incidental production receipts”.

7 At the end of paragraphs 31(b) and (c)

Add “or”.

8 After paragraph 31(e)

Insert:

; or (ea) assessable incidental production receipts;

9 Paragraph 31(f)

Omit “except in the case of the Bass Strait Project”, substitute “unless paragraph (g) or (h) applies”.

10 At the end of section 31

Add:

; or (h) in the case of an onshore petroleum project or the North West Shelf project—at any time on or after 1 July 2012, including a time before the project commenced or after the project has ceased.

11 At the end of Division 2 of Part V

Add:

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

Despite section 45, this Division applies in relation to:

(a) an onshore petroleum project; or

(b) the North West Shelf project; or

(c) a project in relation to which an onshore petroleum project is a pre-combination project;

as if eligible real expenditure could be incurred in relation to such a project at any time, including a time before 1 July 2012.

12 Paragraphs 57(1)(a) and (2)(a)

Omit “24, 25, 27, 28 or 29”, substitute “23”.

13 Transitional

(1) For the purposes of applying section 31 of the *Petroleum Resource Rent Tax Assessment Act 1987* to an onshore petroleum project or the North West Shelf project, treat any receipts:

(a) of a kind referred to in that section; and

(b) derived before 1 July 2012 in relation to activities undertaken in relation to the project on or after that day;

as having been derived in the financial year in which the activities are undertaken.

(2) For the purposes of applying subparagraph 28(b)(ii) of the *Petroleum Resource Rent Tax Assessment Act 1987* in relation to an onshore petroleum project or the North West Shelf project, disregard any receipts:

(a) of a kind referred to in that subparagraph; and

(b) that relate to resource tax expenditure incurred in relation to the project before 1 July 2012.

Part 2—Amendments commencing on Proclamation

Petroleum Resource Rent Tax Assessment Act 1987

14 Paragraph 24(1)(a)

After “any petroleum” insert “(other than project natural gas (within the meaning of the regulations) to which paragraph (f) applies)”.

15 Subparagraph 24(1)(d)(ii)

Repeal the subparagraph.

16 At the end of subsection 24(1)

Add:

; and (f) where:

(i) any project natural gas (within the meaning of the regulations) recovered from the project is or has been sold; and

(ii) the regulations apply to the project natural gas;

the amount worked out in accordance with the regulations.

Schedule 3—Deductible expenditure

Petroleum Resource Rent Tax Assessment Act 1987

1 Section 2

Insert:

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

2 Section 2

Insert:

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

3 Section 2 (definition of *eligible real expenditure*)

After “general project expenditure”, insert “, resource tax expenditure”.

4 Section 2

Insert:

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

5 Section 2

Insert:

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

6 At the end of paragraph 19(4)(b)

Add:

; (vi) operations and facilities, carried on or provided, for an environmental purpose, in relation to the carrying on or provision of the operations, facilities and services referred to in this section.

7 After paragraph 32(f)

Insert:

(fa) resource tax expenditure;

8 Subsection 33(1)

Omit “or the Bass Strait project”, substitute “, the Bass Strait project or the North West Shelf project”.

9 Subsection 34(1)

Omit “or the Bass Strait project”, substitute “, the Bass Strait project or the North West Shelf project”.

10 Subsection 34A(1)

Omit “or the Bass Strait project”, substitute “, the Bass Strait project or the North West Shelf project”.

11 Paragraph 34A(1)(a)

Repeal the paragraph, substitute:

(a) any amount of class 2 general project expenditure actually incurred by the person in relation to the project in the financial year, not being expenditure incurred more than 5 years before the earlier of the following:

(i) the day specified in the production licence notice in relation to the project;

(ii) the day the production licence was issued in relation to the project; and

12 Subsection 34A(3)

After “Bass Strait project”, insert “or the North West Shelf project”.

13 Subsection 35(1)

Omit “or the Bass Strait project”, substitute “, the Bass Strait project or the North West Shelf project”.

14 After section 35B

Insert:

35C Resource tax expenditure

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

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

(b) any amount that is taken by subsection (5) or Division 5 to be resource tax expenditure incurred by the person in relation to the project in the financial year.

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

(a) any amount of resource tax expenditure actually incurred by the person in relation to the project in the financial year (not being expenditure incurred before the project combination certificate in relation to the project came into force); and

(b) any amount that is taken by subsection (5) or Division 5 to be resource tax expenditure incurred by the person in relation to the project in the financial year; and

(c) if the financial year is the year in which the project combination certificate in relation to the project came into force—any amount of resource tax expenditure, or any amount that is taken by subsection (5) or Division 5 to be resource tax expenditure, incurred by the person in relation to the pre-combination projects in the financial year.

(3) For the purposes of subsections (1) or (2), a reference to resource tax expenditure incurred by a person in a financial year in relation to a petroleum project is a reference to resource tax expenditure incurred by the person in the year to the extent the expenditure:

(a) is incurred in relation to petroleum recovered, on or after 1 July 2012, from the production licence area for the project; and

(b) is incurred under an Australian law (other than this Act); and

(c) is expenditure to which one of the following applies:

(i) the expenditure is a royalty, or would be a royalty if the petroleum were owned by the Commonwealth, or a State or Territory, just before the recovery of the petroleum;

(ii) the expenditure is an excise;

(iii) the expenditure is an amount calculated by reference to the revenue, expenditure or profits made or incurred by a person in relation to petroleum recovered from the production licence area for the project;

(iv) the expenditure is an amount calculated by reference to the value, at the wellhead, of petroleum recovered from the production licence area for the project.

(4) However, the amount of resource tax expenditure under subsection (3) is increased by dividing it by the rate of tax mentioned in section 5 of the *Petroleum Resource Rent Tax (Imposition—General) Act 2012*.

(5) For the purposes of subsection (1), (2) or (3), if the sum of the following incurred by a person in a financial year (the ***assessable year***) in relation to a petroleum project exceeds the assessable receipts derived by the person in the assessable year in relation to the project:

(a) the class 1 augmented bond rate general expenditure;

(b) the class 1 augmented bond rate exploration expenditure;

(c) the class 2 augmented bond rate general expenditure;

(d) the class 1 GDP factor expenditure;

(e) the class 2 augmented bond rate exploration expenditure;

(f) the class 2 GDP factor expenditure;

(g) the resource tax expenditure;

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

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

where:

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

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

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

15 Subparagraph 37(1)(b)(vi)

Omit "and".

16 At the end of paragraph 37(1)(b)

Add:

(vii) operations and facilities, carried on or provided, for an environmental purpose, in relation to the carrying on or provision of the operations, facilities and services referred to in this section; and

17 Section 44

Before "For", insert "(1)".

18 At the end of section 44

Add:

(2) For the purposes of paragraph (1)(e), a private override royalty payment does not include a payment to the extent:

(a) it is by way of compensation for carrying on or providing, in an area the operations, facilities or other things comprising a petroleum project; and

(b) it is paid:

(i) to a native title holder (within the meaning of the *Native Title Act 1993*) whose approved determination of native title (within the meaning of that Act) relates to that area; or

(ii) to a registered native title claimant (within the meaning of the *Native Title Act 1993*) whose claimant application (within the meaning of that Act) relates to that area; or

(iii) to a person who holds a right that relates to that area and arises under another Australian law dealing with the

rights of Aboriginal persons or Torres Strait Islanders in relation to land or waters.

19 After paragraph 58B(1)(a)

Insert:

(aa) if the election was made by the person within 30 days after the commencement of Schedule 1 to the *Petroleum Resource Rent Tax Assessment Amendment Act 2012*—1 July 2012; or

20 Clause 1 of the Schedule (definition of *relevant pre-commencement day*)

Repeal the definition, substitute:

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

(a) if the petroleum project is not a combined project, the Bass Strait project or the North West Shelf project—the day occurring 5 years before the earlier of the following:

(i) the day specified in the production licence notice in relation to the project;

(ii) the day the production licence was issued in relation to the project; or

(b) if the petroleum project is a combined project, the Bass Strait project or the North West Shelf project—the day occurring 5 years before the earlier of the following:

(i) the earliest day specified in a production licence notice in relation to a pre-combination project in relation to the project;

(ii) the earliest day a production licence was issued in relation to a pre-combination project in relation to the project.

Schedule 4—Starting base for onshore petroleum projects and the North West Shelf project

Part 1—Main amendments

Petroleum Resource Rent Tax Assessment Act 1987

1 Section 2 (at the end of the definition of *assessment*)

Add:

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

2 Section 2 (definition of *eligible real expenditure*)

Before "or closing-down expenditure", insert ", acquired exploration expenditure, starting base expenditure".

3 Section 2

Insert:

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

4 Section 2

Insert:

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

5 Section 2

Insert:

value, of a starting base asset, means:

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

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

6 Section 31

Before "For the purposes of", insert "(1)".

7 At the end of section 31

Add:

(2) Despite paragraph (1)(h), an assessable receipt that is an assessable receipt because of clause 21 of Schedule 2 may be derived at any time, including a time before the project commences or after the project ceases.

8 Before paragraph 32(g)

Insert:

(fb) acquired exploration expenditure;

(fc) starting base expenditure;

9 Subsection 34A(5) (at the end of the definition of *class 2 general project expenditure*)

Add "(other than acquired exploration expenditure or starting base expenditure)".

10 Before section 36

Insert:

35D Acquired exploration expenditure

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

(a) in relation to the financial year commencing on 1 July 2009—the person's acquired exploration expenditure amount in relation to the project, under clause 19 of Schedule 2; or

(b) in relation to any subsequent financial year—any amount that is taken by subsection (3) or (4) or Division 5 to be acquired

exploration expenditure incurred by the person in relation to the project in the financial year.

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

(a) any amount that is taken by subsection (3) or (4) or Division 5 to be acquired exploration expenditure incurred by the person in relation to the project in the financial year; or

(b) if the project combination certificate in relation to the project came into force in the financial year:

(i) any amount of acquired exploration expenditure; or

(ii) any amount that is taken by subsection (3) or (4) or Division 5 to be acquired exploration expenditure;

incurred by the person in relation to the pre-combination projects in relation to the project in the financial year.

(3) For the purposes of subsection (1) or (2), if:

(a) the sum of:

(i) the class 1 augmented bond rate general expenditure; and

(ii) the class 1 augmented bond rate exploration expenditure; and

(iii) the class 2 augmented bond rate general expenditure; and

(iv) the class 1 GDP factor expenditure; and

(v) the class 2 augmented bond rate exploration expenditure; and

(vi) the class 2 GDP factor expenditure; and

(vii) the resource tax expenditure; and

(viii) the acquired exploration expenditure;

incurred by a person in a financial year (the ***assessable year***) in relation to the petroleum project exceeds the assessable receipts derived by the person in the assessable year in relation to the project; and

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

the person is taken to incur, in relation to the project and on the first day of the next financial year, an amount of acquired

exploration expenditure worked out in accordance with the formula:

Available excess × Augmented bond rate

where:

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

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

(4) For the purposes of subsection (1) or (2), if:

(a) the sum of:

(i) the class 1 augmented bond rate general expenditure; and

(ii) the class 1 augmented bond rate exploration expenditure; and

(iii) the class 2 augmented bond rate general expenditure; and

(iv) the class 1 GDP factor expenditure; and

(v) the class 2 augmented bond rate exploration expenditure; and

(vi) the class 2 GDP factor expenditure; and

(vii) the resource tax expenditure; and

(viii) the acquired exploration expenditure;

incurred by a person in a financial year (the ***assessable year***) in relation to the petroleum project exceeds the assessable receipts derived by the person in the assessable year in relation to the project; and

(b) the next financial year starts later than 5 years after 2 May 2010;

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

Available excess × Augmented bond rate

where:

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

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

35E Starting base expenditure

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

(a) in relation to the starting base financial year for the project:

(i) if the look-back approach is not the valuation approach for the person's interest in the project under Part 2 of Schedule 2—the person's starting base amount in relation to the interest; or

(ii) if subparagraph (i) does not apply—an amount included in the person's starting base expenditure in relation to the project under clause 18 of Schedule 2; or

(b) in relation to any subsequent financial year—any amount that is taken by subsection (3) or Division 5 to be starting base expenditure incurred by the person in relation to the project in the financial year.

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

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

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

(b) if the project combination certificate in relation to the project came into force in the financial year:

(i) any amount of starting base expenditure; or

(ii) any amount that is taken by subsection (3) or Division 5 to be starting base expenditure;

incurred by the person in relation to the pre-combination projects in relation to the project in the financial year.

(3) For the purposes of subsection (1) or (2), if the sum of:

(a) the class 1 augmented bond rate general expenditure; and
(b) the class 1 augmented bond rate exploration expenditure; and
(c) the class 2 augmented bond rate general expenditure; and
(d) the class 1 GDP factor expenditure; and
(e) the class 2 augmented bond rate exploration expenditure; and
(f) the class 2 GDP factor expenditure; and
(g) the resource tax expenditure; and
(h) the acquired exploration expenditure; and
(i) the starting base expenditure;

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

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

where:

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

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

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

11 Section 45

Repeal the section, substitute:

45 Time of incurring of expenditure

Petroleum projects generally

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

(a) before the project commences or after the project ceases; or

(b) before the commencement of this Act.

Onshore petroleum projects

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

(a) if the project, or the exploration permit or retention lease from which the production licence to which the project relates is derived, came into existence before 2 May 2010—at any time on or after the starting base day under subsection (5) for the person's interest in the project, including a time before the project commences or after the project ceases; or

(b) if the project, or the exploration permit or retention lease from which the production licence to which the project relates is derived, came into existence on or after 2 May 2010—at any time on or after 2 May 2010, including a time before the project commences or after the project ceases.

The Bass Strait project

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

The North West Shelf project

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

Starting base days

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

Starting base days

Item	If ...	The starting base day is ...
1	the look-back approach is not the valuation approach for the interest that the person holds in the project	1 July 2012
2	(a) the look-back approach is the valuation approach for the interest; and (b) the person who held the interest at the start of 2 May 2010 had first acquired the interest, or (being a company) had been acquired, on or after 1 July 2007	the day on which that acquisition occurred
3	(a) the look-back approach is the valuation approach for the interest; and (b) item 2 does not apply	1 July 2002

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

(6) For the purposes of subsection (5), a person holding an interest in an onshore petroleum project or the North West Shelf project is taken:

(a) to have acquired the interest if, and when, the person is taken to have acquired that interest for the purposes of clause 18 of Schedule 2; and

(b) (not being an individual) to have been acquired if, and when, the person is taken to have been acquired for the purposes of that clause.

Resource tax expenditure

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

12 After subparagraph 48(1)(a)(ia)

Insert:

(ib) if section 35E does not apply in relation to the financial year in which the transaction is or was entered into, and the look-back approach is not the valuation approach for vendor's interest in the project under Part 2 of Schedule 2—to have incurred starting base expenditure, in relation to the project, of the starting base amount in relation to the vendor's interest; and

13 After subsection 48(2)

Insert:

(2A) Expenditure that the purchaser, or a purchaser, is taken to have incurred by subparagraph (1)(a)(ib) is taken to have been so incurred in the first financial year in relation to which section 35E applies in relation to the project.

14 After paragraph 48A(5)(c)

Insert:

(ca) if:

(i) section 35E does not apply in relation to the transfer year; and

(ii) the look-back approach is not the valuation approach for vendor's interest in the project under Part 2 of Schedule 2;

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

15 After subsection 48A(7)

Insert:

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

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

16 At the end of the Act

Add:

Schedule 2—Starting base for onshore petroleum projects and the North West Shelf project

Note: See sections 35D and 35E.

Part 1—Preliminary

1 Object of this Schedule

The object of this Schedule is to recognise the value, when resource tax reforms were announced on 2 May 2010, of:

(a) onshore petroleum projects; and

(b) the North West Shelf project;

by allowing certain amounts to be included in the deductible expenditure for the projects.

2 Definitions

In this Schedule:

accounting standard has the same meaning as in the *Corporations Act 2001*.

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

auditing standard has the same meaning as in the *Corporations Act 2001*.

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

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

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

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

hold, in relation to a starting base asset, has the meaning given by clause 11.

interim expenditure, in relation to a person's starting base asset relating to a petroleum project, has the meaning given by clause 15.

market value has a meaning affected by Subdivision 960-S of the *Income Tax Assessment Act 1997*.

mining, quarrying or prospecting information has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

project activity: a thing done is a ***project activity*** in relation to a petroleum project if it is done in carrying on or providing the operations, facilities and other things (including services and amenities) of a kind referred to in section 37 or 38 in relation to the project.

starting base return means a return of the kind referred to in clause 22, that complies with all the requirements of that clause and section 388-75 in Schedule 1 to the *Taxation Administration Act 1953*.

Part 2—Choosing a valuation approach

3 Choosing a valuation approach

(1) A person may choose the valuation approach for:

(a) an interest that, on 30 June 2013, the person holds in an onshore petroleum project or the North West Shelf project; or

(b) an interest that the person may in the future hold in such a project, if the project:

(i) does not exist at the time the person makes the choice; and

(ii) would, if it later came into existence, be derived from an exploration permit or retention lease in which the person held an interest at that time.

(2) The choice is not valid unless the person gives to the Commissioner a valid starting base return.

(3) The choice must specify whether the person has chosen:

(a) the book value approach; or

(b) the market value approach; or

(c) the look-back approach.

Note 1: The book value approach and the market value approach affect a person's starting base amount under Part 3, through the valuation of starting base assets under Division 3 of that Part and the way in which interim expenditure is taken into account under Division 4 of that Part.

Note 2: There is no starting base amount if the look-back approach applies, but expenditure incurred before 1 July 2012 may be eligible real expenditure: see subsections 45(2), (4) and (5).

(4) The choice is irrevocable after:

(a) 30 August 2013; or

(b) if, under paragraph 22(2)(c), the Commissioner allows further time for the person to give a starting base return—after that time elapses.

(5) The choice applies to:

(a) the year of tax commencing on 1 July 2012; and

(b) all later years of tax.

Note: Making a choice obliges the person to give to the Commissioner a starting base return under clause 22.

4 Restriction on specifying the book value approach

(1) The choice cannot specify the book value approach unless:

(a) during the 18 months preceding 2 May 2010, a person who held in that period:

(i) the interest in the onshore petroleum project or the North West Shelf project; or

(ii) if that interest did not exist in that period—an interest in the exploration permit or retention lease mentioned in subparagraph 3(1)(b)(ii);

prepared a financial report relating to the interest in accordance with accounting standards; and

(b) the report relates to a financial period that ended in the 18 months preceding 2 May 2010; and

(c) the report has been audited in accordance with auditing standards.

(2) If, during the 18 months preceding 2 May 2010, the person was a part of a consolidated entity (within the meaning of the *Corporations Act 2001*), for the purposes of paragraph (1)(a), treat any financial report for the consolidated entity, relating to the interest, as a report that the person prepared.

5 The valuation approach for starting base assets

The valuation approach for an interest in an onshore petroleum project or the North West Shelf project is the approach specified in a choice under clause 3 relating to:

(a) the interest; or

(b) an interest in an exploration permit or retention lease from which the interest is derived.

Part 3—Starting base amounts

Division 1—Starting base amounts

6 When a person has a *starting base amount*

A person has a ***starting base amount*** in relation to an interest in a petroleum project if:

(a) the project is an onshore petroleum project or is the North West Shelf project; and

(b) the person holds the interest; and

(c) either:

(i) the production licence relating to the project existed at the start of 1 July 2012; or

(ii) there existed at that time an exploration permit, or a retention lease, from which is derived the production licence to which the project relates; and

(d) the look-back approach is not the valuation approach for the interest under Part 2; and

(e) there are one or more starting base assets relating to the interest.

Note: In order for a starting base asset to relate to an interest in a petroleum project, the production licence relating to the project, or the retention lease or exploration permit from which it is derived, must have existed just before 2 May 2010: see clause 10.

7 The amount of the starting base amount

(1) If, under Part 2, the book value approach is the valuation approach for an interest in an onshore petroleum project or the North West Shelf project, the amount of the starting base amount relating to the interest is the sum of:

(a) the book values, worked out under Division 3, of all the starting base assets, relating to the interest, to which subclause (3) applies; and

(b) the adjusted interim expenditure amounts relating to the interest, worked out under clause 16.

(2) If, under Part 2, the market value approach is the valuation approach for an interest in an onshore petroleum project or the North West Shelf project, the amount of the starting base amount relating to the interest is the sum of:

(a) unless clause 8 applies—the market values, worked out under Division 3, of all the starting base assets, relating to the interest, to which subclause (3) applies; and

(b) if clause 8 applies—the amount worked out under subclause 8(2); and

(c) the amounts of interim expenditure incurred in relation to the interest.

(3) This subclause applies to a starting base asset if, at all times between 2 May 2010 and 30 June 2012, the person holding the asset simultaneously held:

(a) the interest in the project; or

(b) if, for some or all of that period, the project did not exist—an interest in a retention lease, or in an exploration permit, from which the project is derived.

Note: This subsection allows for a transfer of the starting base asset between 2 May 2010 and 30 June 2012, if it matches a transfer of the interest.

8 Alternative valuation method for coal seam gas projects

(1) This clause applies if:

(a) under Part 2, the market value approach is the valuation approach for an interest in an onshore petroleum project; and

(b) the project includes a known reserve of coal seam gas; and

(c) either:

(i) the interest, or another interest in the project, was acquired, by any person, between 1 July 2007 and 2 May 2010; or

(ii) a company that held the interest, or another interest in the project, was acquired, by any person, between 1 July 2007 and 2 May 2010; and

(d) the person who chose the market value approach in relation to the interest (the ***interest holder***) chooses under subclause (4) of this clause to apply the alternative valuation method for coal seam gas projects.

(2) For the purposes of paragraph 7(2)(b), the amount worked out under this subclause is:

$$\$0.60 \times \left(\text{Estimated reserves} - \text{Production since estimate}\right)$$

where:

estimated reserves is:

(a) if paragraph (b) does not apply—the most recent approved estimate, made before 2 May 2010, of the proved, probable and possible reserves of coal seam gas for the project, expressed in gigajoules; or

(b) if the interest holder does not hold the entire interest in the project—the portion of that estimate, expressed in gigajoules, of those reserves that reflects the interest holder's interest in the project.

production since estimate is:

(a) if paragraph (b) does not apply—the amount of coal seam gas produced from the project, expressed in gigajoules, between the day on which that approved estimate was made and 2 May 2010; or

(b) if the interest holder does not hold the entire interest in the project—the portion of that production, expressed in gigajoules, that reflects the interest holder's interest in the project.

(3) To be an approved estimate for the purposes of subclause (2), an estimate of the proved, probable and possible reserves of coal seam gas for the project must have been:

(a) determined in accordance with the requirements of the document known as the Petroleum Resources Management System, issued by the Society of Petroleum Engineers, as in force at the time the estimate was made; and

(b) independently certified as being determined in accordance with the requirements of that document as so in force.

(4) The interest holder may choose to apply the alternative valuation method for coal seam gas projects.

(5) The choice is not valid unless the interest holder gives it to the Commissioner:

(a) in the approved form; and

(b) on or before 30 August 2013, or within a further time that the Commissioner allows.

(6) The choice is irrevocable, and applies to:

(a) the year of tax commencing on 1 July 2012; and

(b) all later years of tax.

(7) For the purposes of paragraph (1)(c):

(a) a person holding an interest in the project is taken to have acquired the interest if, and when, the person is taken to have acquired that interest for the purposes of clause 18; and

(b) a company holding an interest in the project is taken to have been acquired if, and when, the company is taken to have been acquired for the purposes of that clause.

9 Reducing the starting base amount

(1) Despite clause 7, a starting base amount under that clause is reduced by the sum of all the reductions (if any) required by subclauses (2) and (3) of this clause in relation to any starting base assets to which the starting base amount relates.

Use etc. that is not related to project activities

(2) Reduce the starting base amount to the extent (if any) that the amount relates to a starting base asset that, during the starting base period relating to the asset, was used, or being constructed for use, for a purpose other than carrying on project activities relating to the petroleum project.

Use etc. that equates to excluded expenditure

(3) Reduce the starting base amount (or, if that amount is reduced under subclause (2), that amount as so reduced) to the extent (if any) that the amount:

(a) relates to a starting base asset that, during the starting base period relating to the asset, was used, or being constructed for use, for carrying on project activities relating to the petroleum project; but

(b) would have been excluded expenditure if it had been an amount of expenditure that the person holding the interest in the project incurred.

(4) However, subclause (3) does not apply if:

(a) under Part 2, the market value approach is the valuation approach for the person's starting base assets relating to the petroleum project; and

(b) the amount would have been excluded expenditure only because of paragraph 44(e), (f) or (g).

Note: Subclause (4) ensures that a starting base amount in relation to an interest in a petroleum project is not reduced under the market value approach.

Starting base period

(5) The ***starting base period*** in relation to a starting base asset is a period, between 2 May 2010 and 1 July 2012:

(a) during which a person held both the asset and the interest in the project; and

(b) during which the asset was, for any purpose, used or being constructed for use.

Division 2—Starting base assets

10 Meaning of *starting base asset*

(1) Property, or a legal or equitable right that is not property, is a ***starting base asset*** relating to an interest in an onshore petroleum project or the North West Shelf project if:

(a) either of the following existed just before 2 May 2010:

(i) the production licence relating to the project, or (if the project is a combined project) a pre-combination project in relation to the project;

(ii) a retention lease, or exploration permit, from which the project (or pre-combination project) is derived; and

(b) on 2 May 2010, the property or right was used, or being constructed for use, in carrying on project activities relating to the project (or pre-combination project); and

(c) the look-back approach is not the valuation approach for the interest under Part 2.

(2) Despite subclause (1):

(a) if, under Part 2, the book value approach is the valuation approach for the interest in the petroleum project, the following are not ***starting base assets***:

(i) rights and interests constituting the petroleum project;

(ii) mining, quarrying or prospecting information, or rights to such information;

(iii) goodwill; and

(b) property, or a legal or equitable right, is not, and is taken never to have been, a ***starting base asset*** if:

(i) a valid choice has not been made under section 3 specifying the valuation approach for the interest; or

(ii) a valid starting base return that covers the property or right has not been given to the Commissioner.

(3) If, under Part 2, the market value approach is the valuation approach for the person's starting base assets relating to the interest in the petroleum project, treat:

(a) any mining, quarrying or prospecting information; or

(b) any rights to such information;

as property, or a legal or equitable right, for the purposes of subsection (1).

(4) Despite subsection (1), something that has already become a starting base asset relating to an interest in a petroleum project derived from a particular retention lease or exploration permit cannot become a starting base asset relating to an interest in another petroleum project derived from that lease or permit.

(5) This Schedule applies to any improvement to, or any fixture on, land as if it were an asset separate from the land, whether the improvement or fixture is removable or not.

11 *Holding* a starting base asset

(1) A person ***holds*** a starting base asset relating to an onshore petroleum project or the North West Shelf project if:

(a) the asset is a depreciating asset that the person holds (within the meaning of section 40-40 of the *Income Tax Assessment Act 1997*); or

(b) the person would hold the asset (within the meaning of that section) if it were a depreciating asset.

(2) However, a person who is entitled to the interest in a petroleum project is taken to hold the rights and interests constituting the interest in the project.

Division 3—Valuation of starting base assets

12 The book value of a starting base asset

(1) If, under Part 2, the book value approach is the valuation approach for an interest in an onshore petroleum project or the North West Shelf project, the book value of a starting base asset relating to the interest is the book value under subclause (2) or (3).

(2) If:

(a) the value of the asset is recorded in the accounts from which the most recent audited financial report before 2 May 2010 was prepared; and

(b) the financial report relates to a financial period that ended in the 18 months preceding that day;

the book value of the asset is as follows:

$$\text{Accepted value} \times \left(\begin{array}{c} \text{Long term bond} \\ \text{rate for the} \\ \text{valuation period} \end{array} + 1.05 \right)^{n}$$

where:

accepted value is:

(a) the value recorded in those accounts, unless paragraph (b) applies; or

(b) if that value is inconsistent with an auditor's report on the financial report—a value that is consistent with the auditor's report.

long term bond rate for the valuation period is the long term bond rate for the valuation period under subclause (4).

n is the number of days in that valuation period, divided by 365.

(3) However, the initial book value of the asset is zero if the value of the asset is not recorded as mentioned in subclause (2).

(4) The valuation period for the asset is the period:

(a) starting:

(i) on the day the financial report mentioned in paragraph (2)(a) was prepared, unless subparagraph (ii) of this paragraph applies; or

(ii) if the value of the asset recorded in the accounts from which the financial report was produced is inconsistent with an auditor's report on the financial report—on the day of the auditor's report; and

(b) ending at the end of 30 June 2012.

13 The market value of a starting base asset

(1) If, under Part 2, the market value approach is the valuation approach for an interest in an onshore petroleum project or the

North West Shelf project, the market value of a starting base asset relating to the interest is the market value of the asset on 1 May 2010.

(2) However, if the asset is a right or interest constituting the interest in the project, in working out its market value for the purposes of this section, disregard any liability of the person to make any payments, of a kind known as private override royalty payments, relating to:

(a) petroleum recovered from:

(i) the production licence area in relation to the project; or

(ii) an exploration permit area for an exploration permit from which the production licence to which the project relates is derived; or

(iii) a retention lease area for a retention lease from which the production licence to which the project relates is derived; or

(b) marketable petroleum commodities produced from such petroleum.

14 Partial disposal of a starting base asset before 1 July 2012

(1) The book value under clause 12, or the market value under clause 13, of a starting base asset relating to an interest that a person holds in an onshore petroleum project or the North West Shelf project is reduced to the extent (if any) that any of the person's interest in the asset is disposed of during the period:

(a) starting on the day provided under subclause (2); and

(b) ending at the end of 30 June 2012.

(2) The period starts:

(a) if, under Part 2, the book value approach is the valuation approach for the interest:

(i) on the day of the financial report (if any) mentioned in paragraph 12(2)(a) of this Schedule in relation to the accounts in which the value of the asset is recorded; or

(ii) if subparagraph (i) of this paragraph does not apply—on 2 May 2010; or

(b) if, under Part 2, the market value approach is the valuation approach for the interest—on 2 May 2010.

(3) Treat, for the purposes of this clause, as a disposal of part of the person's interest in the starting base asset an arrangement that has the effect of transferring to another person part of the benefits or entitlements that the person has in relation to the asset.

Division 4—Interim expenditure

15 Meaning of *interim expenditure*

(1) An amount of expenditure that a person incurs relating to an interest in an onshore petroleum project or the North West Shelf project is ***interim expenditure*** relating to the interest to the extent that:

(a) the amount:

(i) relates to a depreciating asset that is used, or being constructed for use, on 1 July 2012 in carrying on project activities relating to the project; and

(ii) is included in the cost of the asset under Subdivision 40-C of the *Income Tax Assessment Act 1997*; and

(iii) was incurred during the period starting on the day provided under subclause (3) or (4) and ending at the end of 30 June 2012; or

(b) the amount:

(i) relates to a CGT asset that is not a depreciating asset and that is used, or being constructed for use, on 1 July 2012 in carrying on project activities relating to the project; and

(ii) is included in the cost base of the asset; and

(iii) was incurred during the period starting on the day provided under subclause (3) or (4) and ending at the end of 30 June 2012; or

(c) the amount:

(i) is mining capital expenditure (within the meaning of the *Income Tax Assessment Act 1997*) relating to project activities relating to the project; and

(ii) was incurred between 2 May 2010 and 30 June 2012.

(2) However, if the asset is a CGT asset (but not a depreciating asset), treat the amount of the interim expenditure as not including any

part of the amount that consists of the third element of the cost base under subsection 110-25(4) of the *Income Tax Assessment Act 1997*.

Start of the expenditure period

(3) If, under Part 2, the book value approach is the valuation approach for the interest in the petroleum project, the period starts:

(a) if subclause (5) applies to the asset:

(i) on the day of the financial report (if any) mentioned in paragraph 12(2)(a) of this Schedule in relation to the accounts in which the value of the asset is recorded; or

(ii) if subparagraph (i) of this paragraph does not apply—on 2 May 2010; or

(b) otherwise—on the first day, before the end of 30 June 2012, from which the person held the asset at all times until the end of 30 June 2012.

Example: The person bought an asset on 1 January 2011 and sold it on 1 May 2011. The person bought the asset again on 1 June 2011 and still held it at the end of 30 June 2012.

The expenditure incurred in buying the asset the first time (on 1 January 2011) is not interim expenditure, because the person did not hold the asset until the end of 30 June 2012, as required by paragraph (3)(b).

The expenditure incurred in buying the asset the second time (on 1 June 2011) is interim expenditure (if it is covered by paragraph (1)(a)), because the person held the asset until the end of 30 June 2012.

(4) If, under Part 2, the market value approach is the valuation approach for the interest in the petroleum project, the period starts:

(a) if subclause (5) applies to the asset—on 2 May 2010; or

(b) otherwise—on the first day, before the end of 30 June 2012, from which the person held the asset at all times until the end of 30 June 2012.

(5) This subclause applies to an asset if, at all times between 2 May 2010 and 30 June 2012, the person holding the asset simultaneously held:

(a) the interest in the project; or

(b) if, for some or all of that period, the project did not exist—an interest in a retention lease, or in an exploration permit, from which the project is derived.

(6) For the purposes of subclauses (3) to (5), an amount of expenditure to which paragraph (1)(c) applies is taken to be an asset that the person incurring the expenditure holds from the day the expenditure was incurred until the day on which the person ceases to hold the interest in the project.

Excluded expenditure

(7) Despite subclause (1), the amount is not ***interim expenditure*** to the extent (if any) that the amount would have been excluded expenditure if it had been incurred after 1 July 2012.

16 Adjusted interim expenditure amounts

(1) If:

(a) under Part 2, the book value approach is the valuation approach for an interest in an onshore petroleum project or the North West Shelf project; and

(b) a person holding an interest in the project incurred an amount of interim expenditure relating to the interest;

there is an adjusted interim expenditure amount relating to the interest.

(2) The adjusted interim expenditure amount is as follows:

$$\text{Amount of the interim expenditure} \times \left(\begin{array}{c} \text{Long term bond} \\ \text{rate for the interim} \\ \text{valuation period} \end{array} + 1.05 \right)^{n}$$

where:

long term bond rate for the interim valuation period is the long term bond rate for the interim valuation period under subclause (3).

n is the number of days in the interim valuation period, divided by 365.

(3) The interim valuation period for an amount of interim expenditure is the period:

(a) starting on the day on which the person holding the interest in the petroleum project incurred the amount; and
(b) ending at the end of 30 June 2012.

17 Partial disposal of an asset before 1 July 2012

(1) If:
(a) a person incurs interim expenditure relating to an interest that a person holds in an onshore petroleum project or the North West Shelf project; and
(b) the interim expenditure relates to a depreciating asset or a CGT asset; and
(c) any of the person's interest in the asset is disposed of between 2 May 2010 and 1 July 2012;

the amount of the interim expenditure is taken to be reduced to the extent the person's interest in the asset is disposed of.

(2) Treat, for the purposes of this clause, as a disposal of part of the person's interest in the asset an arrangement that has the effect of transferring to another person part of the benefits or entitlements that the person has in relation to the asset.

Part 4—The look-back approach

Note: Section 45 deals generally with when eligible real expenditure may be incurred in relation to onshore petroleum projects and the North West shelf project, including under the look-back approach. This Part deals with some specific issues under the look-back approach, in particular issues relating to the costs of acquiring projects.

18 Expenditure incurred in acquiring interests in petroleum projects

Interests acquired between 1 July 2007 and 2 May 2010

(1) If:
(a) under Part 2, the look-back approach is the valuation approach for an interest in an onshore petroleum project or the North West Shelf project; and
(b) during the period between 1 July 2007 and 2 May 2010, either or both of the following events occurred:
(i) a person acquired the interest;

(ii) if the person holding the interest is a company—the person was acquired by another company;

the starting base expenditure, incurred by the person referred to in paragraph (b) in relation to the last such event to occur in relation to the interest during that period, includes the expenditure (***acquisition expenditure***) referred to in subsection (2).

(2) The acquisition expenditure is whichever of the following is applicable:

(a) the expenditure incurred by the person in acquiring the interest;

(b) the expenditure incurred by the other company in making the acquisition.

(3) Despite subclause (1), the starting base expenditure incurred by the person in relation to the project does not include acquisition expenditure to the extent (if any) that the acquisition expenditure reflects the value of things that are not project activities relating to the project.

(4) Despite subclause (1), the starting base expenditure incurred by the person in relation to the project does not include acquisition expenditure to the extent that the expenditure relates to an acquired exploration expenditure amount.

(5) Acquisition expenditure included under subclause (1) in the starting base expenditure incurred by the person is taken, for the purposes of this Act, to have been incurred on 2 May 2010.

Interests acquired before 30 June 2007

(6) If, under Part 2, the look-back approach is the valuation approach for an interest in an onshore petroleum project or the North West Shelf project, the eligible real expenditure incurred by the person holding the interest does not include:

(a) if the person acquired the interest before 30 June 2007—expenditure (***acquisition expenditure***) incurred by the person in acquiring the interest; or

(b) if the person is a company that was acquired by another company before 30 June 2007—expenditure (***acquisition expenditure***) incurred by the other company in making the acquisition.

Acquisitions

(7) For the purposes of this clause and clause 19, the person holding an interest in an onshore petroleum project or the North West Shelf project is taken to have acquired the interest if and only if:

(a) in a case where the project existed on 2 May 2010—the person purchased the interest; or

(b) in a case where the project did not exist on 2 May 2010—the person purchased:

(i) the exploration permit or retention lease from which the production licence to which the project relates is derived; or

(ii) an interest in the exploration permit or retention lease.

The acquisition is taken to have occurred when the transaction was first entered into that, when complete, had the effect of transferring the interest, or the permit or lease.

(8) For the purposes of this clause and clause 19:

(a) a company is taken to have been acquired by another company if and only if the company became a subsidiary of the other company; and

(b) the acquisition is taken to have occurred when:

(i) the transaction was first entered into that, when complete, had the effect of the first becoming a subsidiary of the other company; or

(ii) an agreement to enter into that transaction;

was first entered into; and

(c) except for the purposes of subclause (6) of this clause, the acquisition expenditure relating to the acquisition includes any expenditure the company incurred in acquiring any interest in the other company:

(i) during the period between 1 July 2007 and 2 May 2010; or

(ii) under an agreement entered into during the period between 1 July 2007 and 2 May 2010.

Note: Section 2B defines a ***subsidiary***.

(9) However, paragraph (8)(c) does not apply to acquisition expenditure to the extent (if any) that the acquisition expenditure

reflects the value of things that are not project activities relating to the petroleum project in which the other company holds an interest.

19 Acquired exploration expenditure amounts

(1) If:

(a) under Part 2, the look-back approach is the valuation approach for an interest in an onshore petroleum project or the North West Shelf project; and

(b) either:

(i) the person holding the interest acquired the interest during the period between 1 July 2007 and 2 May 2010; or

(ii) the person holding the interest is a company that was acquired during the period between 1 July 2007 and 2 May 2010; and

(c) expenditure that:

(i) the person holding the interest incurred in acquiring the interest; or

(ii) the person making the acquisition of the company holding the interest incurred in making the acquisition;

would, apart from subclause 18(4), be included under clause 18 in the starting base expenditure incurred by the person holding the interest;

the person holding the interest is taken, for the purposes of this Act, to have an acquired exploration expenditure amount in relation to the project equal to the amount of acquisition expenditure allocated to exploration assets and evaluation assets, as recorded in a financial report that satisfies subclause (2).

(2) The financial report satisfies this subclause if:

(a) it has been audited; and

(b) it was prepared in accordance with the accounting standards (within the meaning of the *Corporations Act 2001*); and

(c) it relates to a period that includes the day of the acquisition.

(3) The acquired exploration expenditure amount is taken, for the purposes of this Act, to be acquired exploration expenditure incurred by the person holding the interest on 2 May 2010.

20 Restriction applying the look-back approach in certain cases

Despite section 45 and clauses 18 and 19, if:

(a) under Part 2, the look-back approach is the valuation approach for an interest in an onshore petroleum project or the North West Shelf project; and

(b) particular expenditure would, apart from this clause, be eligible real expenditure incurred by a person in relation to the project; and

(c) either:

(i) if the expenditure was incurred between 1 July 2010 and 30 June 2012—the person has not kept and retained records, relating to the expenditure, that would meet the requirements of section 112; or

(ii) if the expenditure was incurred between 1 July 2002 and 30 June 2010—the person has not kept and retained records that enable the amount and nature of the expenditure to be reasonably substantiated;

the eligible real expenditure incurred by the person in relation to the project does not include that expenditure.

21 Certain receipts taken to be assessable receipts

If:

(a) under Part 2, the look-back approach is the valuation approach for an interest in an onshore petroleum project or the North West Shelf project; and

(b) between the starting base day under subsection 45(5) and 30 June 2012, the person incurred, in relation to particular property, expenditure that would have been eligible real expenditure incurred by the person in relation to the project if the person were to incur it after 30 June 2012; and

(c) between that starting base day and 30 June 2012, circumstances arose relating to the property that would have caused an assessable receipt of one of the following kinds to be derived in relation to the property if those circumstances were to arise after 30 June 2012:

(i) an assessable property receipt;

(ii) an assessable miscellaneous compensation receipt;

(iii) an assessable employee amenities receipt;

an amount equal to what would have been the amount of that assessable receipt is taken, for the purposes of this Act, to be an assessable receipt of that kind derived by the person, in relation to the project, in the financial year in which the circumstances arose.

Part 5—Starting base returns and assessments

22 Starting base returns

(1) A person must give to the Commissioner a starting base return if the person wishes to choose a valuation approach under clause 3 in relation to a petroleum project.

(2) A starting base return is not valid unless:
  (a) it is in the approved form; and
  (b) it is signed by or on behalf of the person giving the return; and
  (c) it is given to the Commissioner on or before 30 August 2013, or within a further time that the Commissioner allows.

(3) Without limiting the information that the approved form may require, the starting base return must provide the following information:
  (a) the valuation approach chosen under clause 3 in relation to the petroleum project;
  (b) if the book value approach or market value approach was chosen—the amount of the starting base amount relating to the person's interest in the project;
  (c) if the look-back approach was chosen—the amount of eligible real expenditure incurred before 1 July 2012 relating to the person's interest in the project.

23 Starting base assessments

(1) If a person has given to the Commissioner a valid starting base return relating to a petroleum project, the Commissioner is taken to have made, in accordance with what the person specified in the return, an ascertainment (a ***starting base assessment***) of:
  (a) if the book value approach or market value approach is the valuation approach relating to the person's interest in the

project—the amount of the starting base amount relating to the person's interest in the project; or

(b) if the look-back approach is the valuation approach relating to the person's interest in the project—the amount and kind of eligible real expenditure incurred before 1 July 2012 relating to the person's interest in the project.

(2) The starting base assessment is taken to have been made on the day the starting base return is given to the Commissioner.

(3) On and after the day the Commissioner is taken to have made the starting base assessment, the return is taken to be a notice of the starting base assessment:

(a) under the hand of the Commissioner; and

(b) given to the person on the day the Commissioner is taken to have made the starting base assessment.

(4) The starting base assessment is taken, from the time it is made, to be an assessment for the purposes of:

(a) section 65 (validity of assessments); and

(b) section 66 (objections to assessments); and

(c) Division 3 of Part VI (amendment of assessments); and

(d) section 106 (evidence).

(5) Without limiting subclause (4), from the first time an assessment (a ***general assessment***) is made of the person's taxable profit (or that the person has no taxable profit), in relation to the project and a year of tax commencing on or after 1 July 2012:

(a) the starting base assessment is taken, for the purposes of this Act, to form part of the general assessment; and

(b) any objection against the general assessment under section 66 must not relate to matters to which the starting base assessment relates; and

(c) any amendment of the general assessment under Division 3 of Part VI must not relate to matters to which the starting base assessment relates, except to the extent necessary to give effect to the starting base assessment (including the starting base assessment as amended).

(6) Without limiting subsection 67(2), the Commissioner may amend a general assessment at any time to the extent necessary to give

effect to the starting base assessment (including the starting base assessment as amended).

17 Transitional

For the purposes of applying clause 13 of Schedule 2 to the *Petroleum Resource Rent Tax Assessment Act 1987* in relation to working out the market value of a starting base asset, disregard any liability relating to receipts to which subitem 13(1) of Schedule 2 to the *Petroleum Resource Rent Tax Assessment Amendment Act 2012* applies.

Part 2—Other amendments

Petroleum Resource Rent Tax Assessment Act 1987

18 Section 2 (at the end of paragraphs (a) to (f) of the definition of *long term bond rate*)

Add “and”.

19 Section 2 (paragraph (h) of the definition of *long term bond rate*)

After “subsequent financial year”, insert “that is earlier than the financial year commencing on 1 July 2012”.

20 Section 2 (at the end of the definition of *long term bond rate*)

Add:

; and (i) in relation to the financial year commencing on 1 July 2012 and any subsequent financial year—has the same meaning as in subsection 995-1(1) of the *Income Tax Assessment Act 1997*; and

(j) in relation to a period that is not a financial year—has the same meaning as in subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

21 Section 2 (at the end of the definition of *post-30 June 2008 petroleum project*)

Add “, and includes an onshore petroleum project and the North-West shelf project”.

22 Section 2

Insert:

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

(a) if the production licence was derived from an exploration permit—the exploration permit area of the exploration permit; or

(b) if the production licence was derived from a retention lease—either:

(i) the retention lease area of the retention lease; or

(ii) the exploration permit area of the exploration permit to which the retention lease is related.

23 Section 2 (definition of *transferable exploration expenditure*)

Omit "the Schedule", substitute "Schedule 1".

24 Section 2 (notes 1 and 2 at the end of the definition of *transferable exploration expenditure*)

Omit "the Schedule", substitute "Schedule 1".

25 After section 4

Insert:

4A Holding an interest—petroleum project

Petroleum projects generally

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

(a) if the time is a time after the production licence in relation to the project came into force—the production licence area in relation to the project; or

(b) if the time is a time before the production licence in relation to the project came into force—a pre-licence area in relation to the production licence.

(2) However, subsection (1) does not apply if the project is a combined project, the Bass Strait project or the North West Shelf project.

Combined projects

(3) For the purposes of this Act, a person is taken to have held, at a particular time, an interest in relation to a combined project if the person was, at that time, entitled to receive receipts from the sale of

petroleum, or of marketable petroleum commodities produced from petroleum, recovered from:

(a) if the time is a time after the project combination certificate came into force—the production licence areas in relation to the project; or

(b) if the time is:

(i) a time before the project combination certificate came into force; and

(ii) a time after the earliest of the production licences in relation to the pre-combination projects came into force;

one or more of the production licence areas in relation to the pre-combination projects; or

(c) if the time is a time before the earliest of the production licences in relation to the pre-combination projects came into force—the earliest pre-licence area to arise in relation to any of the pre-combination projects.

The Bass Strait project and the North West Shelf project

(4) For the purposes of this Act, a person is taken to have held, at a particular time, an interest in relation to:

(a) the Bass Strait project; or

(b) the North West Shelf project;

if the person was, at that time, entitled to receive receipts from the sale of petroleum, or of marketable petroleum commodities produced from petroleum, recovered from the production licence areas in relation to that project.

4B Holding an interest—exploration permit

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

4C Holding an interest—retention lease

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

petroleum, or marketable petroleum commodities produced from petroleum, recovered from:

(a) if the time is a time after the retention lease was granted—the retention lease area; or

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

26 Subsection 22(1) (note)

Omit “the Schedule”, substitute “Schedule 1”.

27 Subsection 35A(1)

Omit “the Schedule”, substitute “Schedule 1”.

28 Subsection 35A(1) (note)

Omit “the Schedule”, substitute “Schedule 1”.

29 Subsection 35A(2)

Omit “the Schedule” (wherever occurring), substitute “Schedule 1”.

30 Subsection 35A(2) (note)

Omit “the Schedule”, substitute “Schedule 1”.

31 Subsection 35B(1)

Omit “the Schedule”, substitute “Schedule 1”.

32 Subsection 35B(1) (note)

Omit “the Schedule”, substitute “Schedule 1”.

33 Subsection 35B(2)

Omit “the Schedule” (wherever occurring), substitute “Schedule 1”.

34 Subsection 35B(2) (note)

Omit “the Schedule”, substitute “Schedule 1”.

35 Section 36A (note)

Omit “the Schedule”, substitute “Schedule 1”.

36 Subsection 36B(1) (note)

Omit “the Schedule”, substitute “Schedule 1”.

37 At the end of section 44

Add:

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

38 Subsections 45A(2) and (4), 45B(2) and (4) and 45D(2)

Omit “the Schedule”, substitute “Schedule 1”.

39 Subparagraph 45D(3)(b)(ii)

Omit “the Schedule”, substitute “Schedule 1”.

40 Paragraphs 45E(1)(b) and (c) and (3)(c)

Omit “the Schedule”, substitute “Schedule 1”.

41 Subparagraph 48(1)(a)(ia)

Omit “the Schedule”, substitute “Schedule 1”.

42 Paragraph 48A(5)(c)

Omit “the Schedule”, substitute “Schedule 1”.

43 At the end of section 61

Add:

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

44 At the end of subsection 67(2)

Add:

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

45 Paragraphs 97(1A)(c) and 98A(1)(b)

Omit “the Schedule”, substitute “Schedule 1”.

46 Schedule (heading)

Repeal the heading, substitute:

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

47 Clause 1 of the Schedule (definition of *pre-licence area*)

Repeal the definition.

48 Clauses 2 and 3 of the Schedule

Repeal the clauses.

49 Part 1A of the Schedule (heading)

Repeal the heading, substitute:

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

50 At the end of Part 1A of the Schedule

Add:

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

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

(a) an onshore petroleum project; or

(b) the North West Shelf project;

are not transferable under section 45A, 45B or 45C.

51 Clause 5 of the Schedule (paragraph (a) of the definition of *notional taxable profit*)

After “class 2 GDP factor expenditure”, insert “, resource tax expenditure, acquired exploration expenditure, starting base expenditure”.

52 Clause 9 of the Schedule (paragraph (a) of the definition of *notional taxable profit*)

After “class 2 GDP factor expenditure”, insert “, resource tax expenditure, acquired exploration expenditure, starting base expenditure”.

Schedule 5—Consolidated groups

Part 1—Main amendments

Petroleum Resource Rent Tax Assessment Act 1987

1 At the end of Part V

Add:

Division 8—Consolidated groups

58N Choice to consolidate

(1) A head company of a consolidated group or a MEC group or a provisional head company of a MEC group may, in writing, choose to apply this Division in relation to the group.

(2) However, subsection (1) does not apply if a notice has not been given to the Commissioner under section 703-58 or 719-76 of the *Income Tax Assessment Act 1997* in relation to the group.

(3) The choice is not valid unless it is in the approved form, and the head company or the provisional head company gives it to the Commissioner:
   (a) within 21 days after making the choice; or
   (b) within such further period as the Commissioner allows.

(4) The choice is irrevocable, and:
   (a) has effect on and after the day the choice is made; and
   (b) does not have effect after the consolidated group or MEC group ceases to exist.

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

58P Single entity rule

(1) If a person is a subsidiary member of the consolidated group or MEC group for any period in which the choice is in effect, the person and any other subsidiary member of the group are taken for

the purposes covered by subsection (2) to be parts of the head company or provisional head company of the group, rather than separate persons, during that period.

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

(2) The purposes covered by this subsection are:

(a) working out the head company's and subsidiary member's interests in onshore petroleum projects for any year of tax in which any of the period occurs or any later year of tax; and

(b) working out any tax that is payable in relation to such an interest for any such year of tax; and

(c) working out assessable receipts and deductible expenditure arising in relation to such an interest for any such year of tax.

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

(a) a subsidiary member's interest in an onshore petroleum project becomes a part of the head company's aggregated interest in the project;

(b) a subsidiary member's assessable receipts and deductible expenditure relating to the interest are inherited by the head company along with the interest;

(c) liabilities that a subsidiary member has to pay tax before becoming a member of the group (and any interest charges associated with such a liability) remain liabilities of the subsidiary member and not the head company.

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

If, because of the application of section 58P, a person is taken at a particular time to start being part of the head company or provisional head company, section 48 applies as if each of the person's interests in onshore petroleum projects just before that time had been transferred to the head company or provisional head company.

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

(1) If:

(a) at a particular time, a person stops being taken, because of section 58P, to be part of the head company or provisional head company; and

(b) the entitlement comprising the person's interest in an onshore petroleum project just after that time is all of the entitlement comprising the company's interest in the project just before that time;

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

(2) If:

(a) at a particular time, a person stops being taken, because of section 58P, to be part of the head company or provisional head company; and

(b) the entitlement comprising the person's interest in an onshore petroleum project just after that time is part, but not all, of the entitlement comprising the company's interest in the project just before that time;

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

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

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

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

(b) then apply section 58Q in relation to the member becoming a member of the acquiring group as if section 58P did not apply in relation to the member just before the acquisition time.

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

(1) If a company (the ***interposed company***) chooses under subsection 124-380(5) of the *Income Tax Assessment Act 1997* that a consolidated group is to continue in existence at and after the time referred to in that subsection as the completion time, for the purposes of this Act:

(a) the group is taken not to have ceased to exist under subsection 703-5(2) of that Act because the company referred to in subsection 124-380(5) of that Act as the original company ceases to be the head company of the group; and

(b) the interposed company is taken to have become the head company of the consolidated group at the completion time; and

(c) the original company is taken to have ceased to be the head company at that time.

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

(2) For the purposes referred to in subsection 58P(2) in relation to a year of tax ending after the completion time, everything that happened in relation to the original company before the completion time:

(a) is taken to have happened in relation to the interposed company instead of in relation to the original company; and

(b) is taken to have happened in relation to the interposed company instead of what would (apart from this section) be taken to have happened in relation to the interposed company before that time;

as if, at all times before the completion time, the interposed company had been the original company, and the original company had been the interposed company.

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

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

(1) For the purposes referred to in subsection 58P(2) in relation to a year of tax:

(a) if:

(i) a company (the ***old head company***) is the head company of a *MEC group at the end of an income year (within the meaning of the *Income Tax Assessment Act 1997*); and

(ii) a different company (the ***new head company***) is the head company of the group at the start of the next income year (the ***transition time***); or

(b) if:

(i) a company (also the ***old head company***) is the *provisional head company of a *MEC group just before a cessation event (within the meaning of that Act) happens to the company; and

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

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

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

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

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

58V Effect of group conversions involving MEC groups

(1) This section applies if, at a particular time (the ***conversion time***):

(a) a consolidated group (the ***new group***) is created from a *MEC group (the ***old group***); or

(b) a MEC group (the ***new group***) is created from a consolidated group (the ***old group***).

(2) For the purposes referred to in subsection 58P(2) in relation to a year of tax ending after the conversion time:

(a) the new group is taken to be a continuation of the old group; and

(b) the old group is taken not to have ceased to exist for the purposes of subsection 58N(4); and

(c) everything that happened in relation to the head company of the old group before the conversion time is taken instead to have happened in relation to:

(i) if the head company of the old group is the same entity as the head company of the new group—that entity in its role as head company of the new group; or

(ii) otherwise—the head company of the new group (as if the head company of the new group had been the head company of the old group at all times before the conversion time).

Part 2—Other amendments

Income Tax Assessment Act 1997

2 At the end of subsection 703-50(1)

Add:

Note 3: A group that is consolidated for income tax purposes may also consolidate for the purposes of the *Petroleum Resource Rent Tax Assessment Act 1987* (see section 58N of that Act).

3 At the end of subsection 719-50(1)

Add:

Note 3: A group that is consolidated for income tax purposes may also consolidate for the purposes of the *Petroleum Resource Rent Tax Assessment Act 1987* (see section 58N of that Act).

4 Subsection 721-10(2) (at the end of the table)

Add:

95	subsection 82(1) or (2) of the *Petroleum Resource Rent Tax Assessment Act 1987* (when tax assessed under that Act is payable)	the year of tax (within the meaning of that Act) to which the tax assessed under that Act relates
100	subsection 82(3) of the *Petroleum Resource Rent Tax Assessment Act 1987* (shortfall interest charge on shortfall in tax assessed under that Act)	the year of tax (within the meaning of that Act) to which the *shortfall interest charge relates
105	section 95 of the *Petroleum Resource Rent Tax Assessment Act 1987* (when instalment of tax is payable)	the instalment period (within the meaning of that Act) in relation to the instalment
110	subsection 98C(4) of the *Petroleum Resource Rent Tax Assessment Act 1987* (when instalment transfer interest charge is due)	the instalment transfer charge period (within the meaning of that Act) in relation to the charge

5 At the end of section 721-10

Add:

(5) Items 95, 100, 105 and 110 of the table in subsection (2) only apply in relation to tax-related liabilities that are due and payable by the *head company because it chooses, under section 58N of the *Petroleum Resource Rent Tax Assessment Act 1987*, to apply Division 8 of Part V of that Act in relation to the *consolidated group.

Petroleum Resource Rent Tax Assessment Act 1987

6 Section 2

Insert:

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

7 Section 2

Insert:

created:

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

(b) in relation to a MEC group—has the meaning given by section 719-25 of that Act.

8 Section 2 (definition of *head company*)

Repeal the definition, substitute:

head company:

(a) of a designated company group—has the meaning given by section 2BA; and

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

9 Section 2

Insert:

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

10 Section 2

Insert:

member:

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

(b) in relation to a MEC group—has the meaning given by section 719-25 of that Act.

11 Section 2

Insert:

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

12 Section 2

Insert:

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

Schedule 6—Other amendments

Part 1—Amendments related to clean energy package

Petroleum Resource Rent Tax Assessment Act 1987

1 At the end of subsection 28(1)

Add:

; (c) amounts receivable by the person in respect of the sale of free carbon units (within the meaning of the *Clean Energy Act 2011*):

(i) that the person received under the Jobs and Competitiveness Program (within the meaning of that Act); and

(ii) that relate to the petroleum project.

2 After paragraph 44(i)

Insert:

(ia) payments of unit shortfall charge under the *Clean Energy Act 2011*; or

Part 2—Amendments related to repeal of an Act

Petroleum Resource Rent Tax Act 1987

3 The whole of the Act

Repeal the Act.

4 Application

The amendment made by item 3 of this Schedule applies in relation to the year of tax beginning on 1 July 1986 and later years of tax.

5 Transitional

To the extent that:

(a) a person has paid or pays, in relation to a year of tax ending before the commencement of this Schedule, an amount in respect of a liability for tax that the *Petroleum Resource Rent Tax Act 1987* purported to impose on the person for that year; and

(b) the amount has not been repaid to the person;

the payment of the amount is taken, by this item, to have discharged or to discharge the person's liability to pay tax imposed by the *Petroleum Resource Rent Tax (Imposition—General) Act 2012*, the *Petroleum Resource Rent Tax (Imposition—Customs) Act 2012* or the *Petroleum Resource Rent Tax (Imposition—Excise) Act 2012* (as the case requires) in relation to that year of tax.

Part 3—Other amendments

Crimes (Taxation Offences) Act 1980

6 Subsection 3(1) (paragraph (a) of the definition of *petroleum resource rent tax*)

Repeal the paragraph, substitute:

(a) tax imposed by any of the following:

(i) the *Petroleum Resource Rent Tax (Imposition—General) Act 2012*;

(ii) the *Petroleum Resource Rent Tax (Imposition—Customs) Act 2012*;

(iii) the *Petroleum Resource Rent Tax (Imposition—Excise) Act 2012*;

as assessed under the *Petroleum Resource Rent Tax Assessment Act 1987*; and

Excise Tariff Act 1921

7 Subsection 3(1) (definition of *Resource Rent Tax area*)

Repeal the definition, substitute:

Resource Rent Tax area means an area that, for the purposes of the *Petroleum Resource Rent Tax Assessment Act 1987*:

(a) is the:

(i) exploration permit area of an exploration permit other than one of the North West Shelf exploration permits; or

(ii) retention lease area of a retention lease that is related to an exploration permit other than one of the North West Shelf exploration permits; or

(iii) production licence area of a production licence that is related to an exploration permit other than one of the North West Shelf exploration permits; and

(b) is not an onshore area within the meaning of that Act.

Income Tax Assessment Act 1997

8 Subsection 995-1(1) (definition of *petroleum resource rent tax*)

Repeal the definition, substitute:

> ***petroleum resource rent tax*** means tax imposed by any of the following:
>
> (a) the *Petroleum Resource Rent Tax (Imposition—General) Act 2012*;
>
> (b) the *Petroleum Resource Rent Tax (Imposition—Customs) Act 2012*;
>
> (c) the *Petroleum Resource Rent Tax (Imposition—Excise) Act 2012*;
>
> as assessed under the *Petroleum Resource Rent Tax Assessment Act 1987*.

Petroleum Resource Rent Tax Assessment Act 1987

9 Section 2 (definition of *tax*)

Repeal the definition, substitute:

> ***tax*** means tax imposed by any of the following:
>
> (a) the *Petroleum Resource Rent Tax (Imposition—General) Act 2012*;
>
> (b) the *Petroleum Resource Rent Tax (Imposition—Customs) Act 2012*;
>
> (c) the *Petroleum Resource Rent Tax (Imposition—Excise) Act 2012*.

10 After paragraph 31(a)

Insert:

; or (aa) assessable tolling receipts; or

11 Paragraphs 34A(1)(b), (2)(b), (2)(c) and (3)(b)

Omit “section 48”, substitute “Division 5”.

12 Subsection 98B(3) (definition of *instalment transfer tax*)

Omit "*Petroleum Resource Rent Tax Act 1987*", substitute "*Petroleum Resource Rent Tax (Imposition—General) Act 2012*".

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

(237/11)