



# **Petroleum Resource Rent Tax Assessment Amendment Regulation 2013 (No. 1)**

## **Select Legislative Instrument No. 154, 2013**

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I, Quentin Bryce AC CVO, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation under the *Petroleum Resource Rent Tax Assessment Act 1987*.

Dated 28 June 2013

Quentin Bryce  
Governor-General

By Her Excellency's Command

David Bradbury  
Assistant Treasurer

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OPC50212 - B



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No. 154, 2013     *Petroleum Resource Rent Tax Assessment Amendment Regulation 2013*     *i*  
(No. 1)

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## Schedule 1—Amendments

### *Petroleum Resource Rent Tax Assessment Regulations 2005*

#### 1 Regulation 3

Insert:

*actual mass of project natural gas*, in relation to an integrated operation and a year of tax in which the operation produces project liquid or project electricity, means the mass of project natural gas that was used to produce project liquid or project electricity.

#### 2 Regulation 3 (definition of *actual volume of project natural gas*)

Repeal the definition, substitute:

*actual volume of project natural gas*, in relation to an integrated operation and a year of tax in which the operation produces project liquid or project electricity, means the volume of project natural gas that was used to produce project liquid or project electricity.

#### 3 Regulation 3

Insert:

*assessable gas* means:

- (a) in relation to calculating assessable petroleum receipts relating to sales gas—project sales gas; and
- (b) in relation to calculating assessable petroleum receipts relating to natural gas—project natural gas.

#### 4 Regulation 3 (definition of *capital allowance*)

Omit “year of tax”, substitute “financial year”.

#### 5 Regulation 3 (definition of *comparable uncontrolled price*)

Repeal the definition, substitute:

*comparable uncontrolled price* or *CUP*:

- (a) in relation to sales gas: see subregulation 19(1); and

(b) in relation to natural gas: see subregulation 19(1A).

### **6 Regulation 3 (definition of *downstream stage*)**

Repeal the definition, substitute:

*downstream stage*:

- (a) of an integrated GTL operation for the purposes of calculating assessable petroleum receipts relating to sales gas: see subregulation 5(2); and
- (b) of an integrated GTE operation for the purposes of calculating assessable petroleum receipts relating to sales gas: see subregulation 5(3); and
- (c) of an integrated GTL operation for the purposes of calculating assessable petroleum receipts relating to natural gas: see subregulation 5(5); and
- (d) of an integrated GTE operation for the purposes of calculating assessable petroleum receipts relating to natural gas: see subregulation 5(6).

### **7 Regulation 3**

Insert:

*estimated average annual mass of project natural gas* for an integrated operation: see subregulation 9(7).

### **8 Regulation 3 (definition of *estimated average annual volume of project natural gas*)**

Repeal the definition, substitute:

*estimated average annual volume of project natural gas* for an integrated operation: see subregulation 9(6).

### **9 Regulation 3 (definition of *expected operating life*)**

Repeal the definition, substitute:

*expected operating life* of an integrated operation: see subregulation 9(8).

### **10 Regulation 3**

Insert:

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*integrated GTE operation*: see subregulation 4A(1).

**11 Regulation 3 (definition of *integrated GTL operation*)**

Repeal the definition, substitute:

*integrated GTL operation*: see subregulation 4(1).

**12 Regulation 3**

Insert:

*integrated operation* means an integrated GTE operation or an integrated GTL operation.

**13 Regulation 3**

Insert:

*mass coefficient*, for an integrated operation in a year of tax: see subregulation 10A(2).

**14 Regulation 3 (definition of *MPC production year*)**

Repeal the definition, substitute:

*MPC production year*:

- (a) for an integrated GTL operation: see subregulation 4(9); and
- (b) for an integrated GTE operation: see subregulation 4A(9).

**15 Regulation 3**

Insert:

*non-arm's length transaction*: see regulation 8A.

**16 Regulation 3 (definition of *operating life*)**

Repeal the definition, substitute:

*operating life*:

- (a) of an integrated GTL operation: see subregulation 4(8); and
- (b) of an integrated GTE operation: see subregulation 4A(8).

**17 Regulation 3 (definition of *production date*)**

Repeal the definition, substitute:

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*production date:*

- (a) for an integrated GTL operation: see subregulation 4(7); and
- (b) for an integrated GTE operation: see subregulation 4A(7).

**18 Regulation 3 (definition of *production year*)**

Repeal the definition, substitute:

*production year:*

- (a) for an integrated GTL operation: see subregulation 4(6); and
- (b) for an integrated GTE operation: see subregulation 4A(6).

**19 Regulation 3**

Insert:

*project electricity*, of an integrated GTE operation: see subregulation 4A(4).

**20 Regulation 3 (definition of *project natural gas*)**

Repeal the definitions, substitute:

*project natural gas:*

- (a) of an integrated GTL operation: see subregulation 4(2); and
- (b) of an integrated GTE operation: see subregulation 4A(2).

**21 Regulation 3 (definition of *project product*)**

Repeal the definition, substitute:

*project product:*

- (a) of an integrated GTL operation: see subregulation 4(5); and
- (b) of an integrated GTE operation: see subregulation 4A(5).

**22 Regulation 3 (definition of *project sales gas*)**

Repeal the definition, substitute:

*project sales gas:*

- (a) of an integrated GTL operation: see subregulation 4(3); and
- (b) of an integrated GTE operation: see subregulation 4A(3).



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**23 Regulation 3 (definition of *start date*)**

Omit “year of tax”, substitute “financial year”.

**24 Regulation 3 (definition of *taxpayer*)**

Repeal the definition, substitute:

*taxpayer* means a person who is a participant in an integrated operation and whose assessable petroleum receipts in relation to sales gas or natural gas from that operation are to be worked out under these Regulations because of regulation 14, 15 or 16.

**25 Regulation 3 (definition of *upstream stage*)**

Repeal the definition, substitute:

*upstream stage*:

- (a) of an integrated operation for the purposes of calculating assessable petroleum receipts relating to sales gas: see subregulation 5(1); and
- (b) of an integrated operation for the purposes of calculating assessable petroleum receipts relating to natural gas: see subregulation 5(4).

**26 Regulation 3 (definition of *volume coefficient*)**

Repeal the definition, substitute:

*volume coefficient*, for an integrated operation in a year of tax: see subregulation 10(2).

**27 At the end of regulation 3**

Add:

Note: For the definitions of the following terms, see section 2 of the Act:

- (a) *excluded commodity*;
- (b) *financial year*;
- (c) *instalment period*;
- (d) *long-term bond rate*;
- (e) *marketable petroleum commodity*;
- (f) *onshore petroleum project*;
- (g) *petroleum*;
- (h) *petroleum project*;
- (i) *sales gas*;

(j) *year of tax*.

## 28 Subregulation 4(1)

Omit “, with the elements described in regulation 5,”.

## 29 Subregulation 4(6)

Repeal the subregulation, substitute:

- (6) The *production year* for the integrated GTL operation is:
- (a) if an election has been made in relation to the integrated GTL operation under regulation 43—the 2012-13 year of tax; and
  - (b) otherwise—the year of tax in which processing first occurred.

## 30 After regulation 4

Insert:

### 4A When integrated GTE operation exists

- (1) An *integrated GTE operation* exists if there is an operation (the *overall operation*) in which:
- (a) petroleum is, or will be, recovered from a petroleum project; and
  - (b) sales gas is, or will be, produced from some or all of the petroleum; and
  - (c) some or all of the sales gas is, or will be, consumed in the commercial production of electricity.
- (2) The *project natural gas* of the integrated GTE operation is the petroleum (natural gas) mentioned in paragraph (1)(a) from which sales gas will be produced and consumed in the production of electricity within the overall operation (including any of that natural gas that is used in that production).
- (3) The *project sales gas* of the integrated GTE operation is the sales gas mentioned in paragraph (1)(b) that will be consumed in the production of electricity within the overall operation (including any of that sales gas that is used in that production).
- (4) The electricity mentioned in paragraph (1)(c) is *project electricity* of the integrated GTE operation.
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- (5) The project natural gas, project sales gas and project electricity are ***project product*** of the integrated GTE operation.
  - (6) The year of tax in which the project sales gas is first consumed in the production of project electricity is the ***production year*** for the integrated GTE operation.
  - (7) The ***production date*** for the integrated GTE operation is 31 December of the production year.
  - (8) The period beginning with the production year and ending with the year of tax in which projects sales gas is last consumed in the production of project electricity is the ***operating life*** of the integrated GTE operation.
  - (9) If the integrated GTE operation produces a marketable petroleum commodity other than project sales gas, the year of tax in which it is first produced is the ***MPC production year*** for the integrated GTE operation.

### **31 Regulation 5**

Repeal the regulation, substitute:

#### **5 Upstream and downstream stages of integrated operation**

*Assessable petroleum receipts relating to sales gas*

- (1) For the purposes of calculating assessable petroleum receipts relating to sales gas under regulation 14 or 15, the ***upstream stage*** of an integrated operation is a series of phases ending when all of the following actions have been completed:
  - (a) the recovery of project natural gas;
  - (b) any multiple use of units of property that are used in the recovery of project natural gas;
  - (c) the storage of recovered project natural gas before being used in the production of sales gas;
  - (d) any multiple use of the units of property that are used to store recovered project natural gas;
  - (e) the production of project sales gas;
  - (f) any multiple use of units of property that are used in the production of project sales gas;

- (g) the transportation of project product for the recovery mentioned in paragraph (a) or the production mentioned in paragraph (e);
  - (h) any multiple use of units of property for transportation mentioned in paragraph (g);
  - (i) the storage of project sales gas at or adjacent to the place at which it is produced;
  - (j) any multiple use of units of property that are used for the storage of project sales gas mentioned in paragraph (i).
- (2) For the purposes of calculating assessable petroleum receipts relating to sales gas under regulation 14 or 15, the **downstream stage** of an integrated GTL operation is a series of phases beginning when the upstream stage ends and ending when all of the following actions have been completed:
- (a) the transportation (if any) of project sales gas from the upstream stage for processing into project liquid;
  - (b) the processing of the project sales gas into project liquid;
  - (c) any multiple use of units of property that are used in the processing of the project sales gas into project liquid;
  - (d) the transportation of project product for the processing of project sales gas mentioned in paragraph (b);
  - (e) any activity associated with an action mentioned in paragraphs (a) to (d) for the purpose of using project sales gas to produce project liquid;
  - (f) any multiple use of units of property for the transportation mentioned in paragraph (d);
  - (g) the sale of project liquid without further processing;
  - (h) the storage of project liquid at or adjacent to the place at which it is produced by the processing mentioned in paragraph (b);
  - (i) the loading of project liquid at a loading facility:
    - (i) adjacent to the place at which it is produced by the processing mentioned in paragraph (b); or
    - (ii) adjacent to the place at which it is stored as mentioned in paragraph (h);
  - (j) the transportation of project liquid between any or all of:
    - (i) the place at which it is produced by the processing mentioned in paragraph (b); and
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- (ii) the place at which it is stored as mentioned in paragraph (h); and
  - (iii) the place at which it is loaded as mentioned in paragraph (i);
  - (k) any multiple use of units of property for the storage, loading or transportation mentioned in paragraphs (h), (i) and (j).
- (3) For the purposes of calculating assessable petroleum receipts relating to sales gas under regulation 14 or 15, the ***downstream stage*** of an integrated GTE operation is a series of phases beginning when the upstream stage ends and ending when all of the following actions have been completed:
- (a) the transportation (if any) of the project sales gas from the upstream stage for combustion to produce project electricity;
  - (b) the combustion of the project sales gas to produce project electricity;
  - (c) any multiple use of units of property that are used in the combustion of the project sales gas to produce project electricity;
  - (d) any activity associated with an action mentioned in paragraphs (a) to (c) for the purposes of using project sales gas to produce project electricity;
  - (e) the sale of project electricity.

*Assessable petroleum receipts relating to natural gas*

- (4) For the purposes of calculating assessable petroleum receipts relating to natural gas under regulation 16, the ***upstream stage*** of an integrated operation is a series of phases ending when all of the following actions have been completed:
- (a) the recovery of project natural gas;
  - (b) any multiple use of units of property that are used in the recovery of project natural gas;
  - (c) the storage of recovered project natural gas before use in the production of sales gas, if the storage occurs before the sale referred to in paragraph 24(1)(f) of the Act;
  - (d) any multiple use of the units of property that are used to store recovered project natural gas (including units of property that are used to store recovered project natural gas before use in

- the production of sales gas, if the storage occurs before the sale referred to in paragraph 24(1)(f) of the Act);
  - (e) the transportation of project product for the recovery mentioned in paragraph (a);
  - (f) any multiple use of units of property for transportation referred to in paragraph (e).
- (5) For the purposes of calculating assessable petroleum receipts relating to natural gas under regulation 16, the *downstream stage* of an integrated GTL operation is a series of phases beginning when the upstream stage ends and ending when all of the following actions have been completed:
  - (a) the storage of recovered project natural gas, if the storage occurs after the sale referred to in paragraph 24(1)(f) of the Act;
  - (b) any multiple use of the units of property that are used to store recovered project natural gas (including units of property that are used to store recovered project natural gas, if the storage occurs after the sale referred to in paragraph 24(1)(f) of the Act);
  - (c) the production of project sales gas;
  - (d) any multiple use of units of property that are used in the production of project sales gas;
  - (e) the transportation of project product for the production mentioned in paragraph (c);
  - (f) any multiple use of units of property for transportation mentioned in paragraph (e).
  - (g) the storage of project sales gas at or adjacent to the place at which it is produced;
  - (h) any multiple use of units of property that are used for the storage of project sales gas mentioned in paragraph (g);
  - (i) the transportation (if any) of project sales gas for processing into project liquid;
  - (j) the processing of the project sales gas into project liquid;
  - (k) any multiple use of units of property that are used in the processing of the project sales gas into project liquid;
  - (l) the transportation of project product for the processing of project sales gas mentioned in paragraph (j);

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- (m) any activity associated with an action mentioned in paragraphs (i) to (l) for the purpose of using project sales gas to produce project liquid;
  - (n) any multiple use of units of property for the transportation mentioned in paragraph (l);
  - (o) the sale of project liquid without further processing;
  - (p) the storage of project liquid at or adjacent to the place at which it is produced by the processing mentioned in paragraph (j);
  - (q) the loading of project liquid at a loading facility:
    - (i) adjacent to the place at which it is produced by the processing mentioned in paragraph (h); or
    - (ii) adjacent to the place at which it is stored as mentioned in paragraph (n);
  - (r) the transportation of project liquid between any or all of:
    - (i) the place at which it is produced by the processing mentioned in paragraph (j); and
    - (ii) the place at which it is stored as mentioned in paragraph (p); and
    - (iii) the place at which it is loaded as mentioned in paragraph (q);
  - (s) any multiple use of units of property for the storage, loading or transportation mentioned in paragraphs (p), (q) and (r).
- (6) For the purposes of calculating assessable petroleum receipts relating to natural gas under regulation 16, the ***downstream stage*** of an integrated GTE operation is a series of phases beginning when the upstream stage ends and ending when all of the following actions have been completed:
- (a) the production of project sales gas;
  - (b) any multiple use of units of property that are used in the production of project sales gas;
  - (c) the transportation of project product for the production mentioned in paragraph (a);
  - (d) any multiple use of units of property for transportation mentioned in paragraph (c).
  - (e) the storage of project sales gas at or adjacent to the place at which it is produced;

- (f) any multiple use of units of property that are used for the storage of project sales gas mentioned in paragraph (e);
- (g) the transportation (if any) of the project sales gas for combustion to produce project electricity;
- (h) the combustion of the project sales gas to produce project electricity;
- (i) any multiple use of units of property that are used in the combustion of the project sales gas to produce project electricity;
- (j) any activity associated with an action mentioned in paragraphs (g) to (i) for the purposes of using project sales gas to produce project electricity;
- (k) the sale of project electricity.

Note: Phases are explained using subregulations 6(1) and (2).

In general terms, a phase is a part of an operation during which the ratio of project product to total product flowing through the operation remains the same (and is expected to remain the same). The upstream and downstream stages of an integrated operation may include a number of phases, but each stage ends when the actions associated with the last phase have been completed.

## **32 Regulation 6 (heading)**

Repeal the heading, substitute:

### **6 Phase points of integrated operation**

#### **33 Subregulation 6(1) (example 1)**

Omit the last sentence, substitute “The total product flowing through the operation is reduced, as the liquid petroleum is removed. The ratio of project product in relation to total product therefore changes at the beginning of the gas pipeline, and the beginning of the pipeline is therefore a phase point.”

#### **34 Subregulation 6(1) (example 3)**

Omit the last sentence, substitute “The ratio of project product to total product changes when the sales gas is sold before liquefaction, as the total product in the operation is reduced. The point of sale is therefore a phase point.”



**35 After subregulation 6(1)**

Insert:

- (1A) However, paragraph (1)(b) does not apply to an integrated GTL operation for which an election has been made under regulation 43.

**36 Paragraph 6(3)(a)**

Omit “year of tax”, substitute “financial year”.

**37 After subregulation 6(3)**

Insert:

- (3A) However, subregulation (3) does not apply if an election has been made in relation to the integrated operation under regulation 43.

**38 After subregulation 7(3)**

Insert:

- (3A) A reference to the *multiple use* of a phase relating to the combustion of project sales gas to produce electricity is a reference to the use of the unit of property, at any time during the operating life of the integrated GTE operation, to combust petroleum products other than project sales gas to produce electricity (whether or not the other petroleum products were produced in the operation).

Example: Plant used to combust project sales gas is also used to combust sales gas produced outside the operation.

**39 Regulation 8 (heading)**

Repeal the heading, substitute:

**8 Participants in integrated operation**

**40 Regulation 8**

After “petroleum product”, insert “or electricity”.

**41 After regulation 8**

Insert:

## 8A Non-arm's length transaction

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

## 42 Regulation 9

Repeal the regulation, substitute:

## 9 Estimated average annual volume or mass of project natural gas

- (1) The participants in an integrated operation must give to the Commissioner estimates of:
  - (a) the operating life of the operation, in years; and
  - (b) either:
    - (i) if the participants will measure by volume—the total volume of project natural gas to be recovered during the life of the operation; or
    - (ii) if the participants will measure by mass—the total mass of project natural gas to be recovered during the life of the operation.
- (2) The estimates must be given to the Commissioner:
  - (a) if an election has been made in relation to the integrated operation under regulation 43—no later than:
    - (i) the day on which the participants must give to the Commissioner a starting base return under subclause 22(2) of Schedule 2 to the Act; or
    - (ii) a later day that the Commissioner allows.
  - (b) otherwise—in the financial year before the production year.
- (3) As soon as practicable after receiving an estimate (including a revised estimate under subregulation (4)) from the participants, the Commissioner must notify them in writing that the Commissioner:
  - (a) accepts the estimate or revised estimate; or
  - (b) has substituted an estimate under subregulation (5).

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- (4) If, from new information, it appears that an estimate notified by the Commissioner is inaccurate, the participants must give to the Commissioner a revised estimate.
- (5) If, having regard to relevant information, the Commissioner is not satisfied that an estimate given by the participants for subregulation (1) or (4) is reasonable, the Commissioner may substitute an estimate that the Commissioner is satisfied is reasonable.
- (6) For an operation in which natural gas will be measured by volume, the ***estimated average annual volume of project natural gas*** is (using the estimates notified by the Commissioner):
- $$\frac{\text{Estimated total volume of project natural gas}}{\text{Estimated operating life}}$$
- (7) For an operation in which natural gas will be measured by mass, the ***estimated average annual mass of project natural gas*** is (using the estimates notified by the Commissioner):
- $$\frac{\text{Estimated total mass of project natural gas}}{\text{Estimated operating life}}$$
- (8) The ***expected operating life*** of the integrated operation is the period of years estimated as the operating life, as notified by the Commissioner, beginning with the production year.

### **43 Subregulation 10(1)**

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

- (1) In this regulation, for an integrated operation in which natural gas is measured by volume:

***base year*** means:

- (a) if an election has been made in relation to the operation under regulation 43—the 2012-13 year of tax; and
- (b) otherwise—the year of tax in which the actual volume of project natural gas first exceeds the estimated average annual volume of project natural gas for the operation.

#### 44 Subregulation 10(2)

Omit “(or *VC*) for an integrated GTL operation”, substitute “for an integrated operation in which natural gas is measured by volume”.

#### 45 Subregulation 10(2) (paragraph (c) of the definition of *V<sub>B</sub>*)

Repeal the paragraph, substitute:

- (c) if the current year is after the base year—the amount calculated using the formula:

$$\sum_{n=1}^N \frac{V_n}{N}$$

where:

*n* is a year of tax, with the base year being year 1, the year after the base year being year 2, and so on.

*N* is the number of years of tax from the base year to the current year (inclusive).

*V<sub>n</sub>* is the actual volume of project natural gas for year *n*.

#### 46 After regulation 10

Insert:

#### 10A Meaning of *mass coefficient*

- (1) In this regulation, for an integrated operation in which natural gas is measured by mass:

***base year*** means:

- (a) if an election has been made in relation to the operation under regulation 43—the 2012-13 year of tax; and  
(b) otherwise—the year of tax in which the actual mass of project natural gas first exceeds the estimated average annual mass of project natural gas for the operation.

Note: If the estimated average annual mass of project natural gas changes from one year of tax to another, the base year for the calculation of the mass coefficient may also change.

- (2) The ***mass coefficient*** for an integrated operation in which natural gas is measured by mass in a year of tax (the ***current year***) is:

$$\frac{M_A}{M_B}$$

where:

$M_A$  is the actual mass of project natural gas for the current year.

$M_B$  is:

- (a) if the current year is before the base year—the estimated average annual mass of project natural gas; or
- (b) if the current year is the base year— $M_A$ ; or
- (c) if the current year is after the base year—the amount calculated using the formula:

$$\sum_{n=1}^N \frac{M_n}{N}$$

where:

$M_n$  is the actual mass of project natural gas for year  $n$ .

$n$  is a year of tax, with the base year being year 1, the year after the base year being year 2, and so on.

$N$  is the number of years of tax from the base year to the current year (inclusive).

#### **47 Regulation 13**

Omit “year of tax”, substitute “financial year”.

#### **48 Part 3 (heading)**

Omit “for sales gas”.

#### **49 Regulations 14 to 17**

Repeal the regulations, substitute:

#### **14 Assessable petroleum receipts—sales gas of integrated operation with non-arm’s length sale**

- (1) For subparagraph 24(1)(d)(iii) of the Act, this regulation applies to sales gas that has been sold if:
  - (a) it is project sales gas of an integrated operation; and

(b) the sale is a non-arm's length transaction.

Note: Paragraph 24(1)(b) of the Act applies to other sales of sales gas.

*Advance pricing arrangement*

- (2) If an advance pricing arrangement applies to the sale, the amount of assessable petroleum receipts of a taxpayer is the amount calculated in accordance with the arrangement.

*Comparable uncontrolled price*

- (3) The assessable petroleum receipts of a taxpayer in relation to the sale is the amount calculated under subregulation (4) if:
- (a) no advance pricing arrangement applies to the sale; and
  - (b) a comparable uncontrolled price exists for the sale; and
  - (c) no election has been made in relation to the integrated operation under regulation 42 or 43.
- (4) The amount is the higher of:
- (a) the consideration received or receivable, less any expenses payable, by the taxpayer in relation to the sale; and
  - (b) the comparable uncontrolled price multiplied by the volume or mass of project sales gas sold.

*Residual pricing method*

- (5) The assessable petroleum receipts of a taxpayer in relation to the sale is the amount calculated under subregulation (6) if:
- (a) no advance pricing arrangement applies to the sale; and
  - (b) either:
    - (i) no comparable uncontrolled price exists for the sale; or
    - (ii) an election has been made in relation to the integrated operation under regulation 42 or 43.
- (6) The amount is the higher of:
- (a) the consideration received or receivable, less any expenses payable, by the taxpayer in relation to the sale; and
  - (b) the RPM price of project sales gas for the taxpayer in the year of tax in which the sale took place multiplied by the volume or mass of project sales gas sold.

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**15 Assessable petroleum receipts—sales gas of integrated operation becoming excluded commodity other than by being sold**

- (1) For paragraph 24(1)(e) of the Act, this regulation applies to sales gas that becomes or became an excluded commodity if it is project sales gas of an integrated operation.

Note: Paragraph 24(1)(c) of the Act applies to other sales gas that becomes an excluded commodity.

*Advance pricing arrangement*

- (2) If an advance pricing arrangement applies to the transaction, the amount of assessable petroleum receipts of a taxpayer is the amount calculated in accordance with the arrangement.

*Comparable uncontrolled price*

- (3) The assessable petroleum receipts of a taxpayer in relation to the transaction is the amount calculated under subregulation (4) if:
- (a) no advance pricing arrangement applies to the transaction; and
  - (b) a comparable uncontrolled price exists for the transaction; and
  - (c) no election has been made in relation to the integrated operation under regulation 42 or 43.
- (4) The amount is the comparable uncontrolled price multiplied by the volume or mass of project sales gas subject to the transaction.

*Residual pricing method*

- (5) The assessable petroleum receipts of a taxpayer in relation to the transaction is the amount calculated under subregulation (6) if:
- (a) no advance pricing arrangement applies to the sale; and
  - (b) either:
    - (i) no comparable uncontrolled price exists for the sale; or
    - (ii) an election has been made in relation to the integrated operation under regulation 42 or 43.

(6) The amount is the RPM price of project sales gas for the taxpayer in the year of tax in which the transaction took place multiplied by the volume or mass of project sales gas subject to the transaction.

(7) In this regulation:

*transaction* means the act by which the project sales gas becomes or became an excluded commodity.

## **16 Assessable petroleum receipts—natural gas of onshore integrated operation with non-arm’s length sale**

(1) For subparagraph 24(1)(f)(ii) of the Act, this regulation applies to natural gas that has been sold if:

- (a) it is project natural gas of an integrated operation that recovers petroleum from an onshore petroleum project; and
- (b) the sale is a non-arm’s length transaction.

Note: Paragraph 24(1)(a) of the Act applies to other sales of natural gas.

### *Advance pricing arrangement*

(2) If an advance pricing arrangement applies to the sale, the amount of assessable petroleum receipts of a taxpayer is the amount calculated in accordance with the arrangement.

### *Comparable uncontrolled price*

(3) The assessable petroleum receipts of a taxpayer in relation to the sale is the amount calculated under subregulation (4) if:

- (a) no advance pricing arrangement applies to the sale; and
- (b) a comparable uncontrolled price exists for the sale; and
- (c) no election has been made in relation to the integrated operation under regulation 42 or 43.

(4) The amount is the higher of:

- (a) the consideration received or receivable, less any expenses payable, by the taxpayer in relation to the sale; and
- (b) the comparable uncontrolled price multiplied by the volume or mass of project natural gas sold.



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*Residual pricing method*

- (5) The assessable petroleum receipts of a taxpayer in relation to the sale is the amount calculated under subregulation (6) if:
- (a) no advance pricing arrangement applies to the sale; and
  - (b) either:
    - (i) no comparable uncontrolled price exists for the sale; or
    - (ii) an election has been made in relation to the integrated operation under regulation 42 or 43.
- (6) The amount is the higher of:
- (a) the consideration received or receivable, less any expenses payable, by the taxpayer in relation to the sale; and
  - (b) the RPM price of project natural gas for the taxpayer in the year of tax in which the sale took place multiplied by the volume or mass of project natural gas sold.

**50 Subregulation 18(1)**

Omit all the words after “sales gas”, substitute “or project natural gas to which paragraph 24(1)(d), (e) or (f) of the Act applies”.

**51 Subregulation 19(1)**

After “volume”, insert “or mass”.

**52 After subregulation 19(1)**

Insert:

- (1A) A *comparable uncontrolled price*, or *CUP*, in relation to a sale of a volume or mass of project natural gas to which paragraph 24(1)(f) of the Act applies, is a price for natural gas:
- (a) that was obtained for a sale in a market that the Commissioner is satisfied is a relevant market in relation to the transaction; and
  - (b) that the Commissioner is satisfied is an observable arm’s length price.

**53 Paragraphs 19(2)(a), (b) and (c)**

After “sales gas”, insert “or natural gas”.

**54 Subregulation 19(4)**

Repeal the subregulation, substitute:

(4) In this regulation:

*relevant transaction*, for a volume or mass of project sales gas, means:

- (a) a sale of the gas to which paragraph 24(1)(d) of the Act applies; or
- (b) an act by which the gas becomes an excluded commodity to which paragraph 24(1)(e) of the Act applies.

**55 Regulation 20 (heading)**

Repeal the heading, substitute:

**20 RPM price (transfer price using the residual pricing method)**

**56 Regulation 20**

Omit “for a taxpayer in a year of tax is a price for project sales gas that”, substitute “of an assessable gas for a taxpayer in a year of tax,”.

**57 Paragraph 20(a)**

After “cost-plus price”, insert “of the assessable gas”.

**58 Regulation 20**

After “and the netback price”, insert “of the assessable gas”.

**59 Subregulation 21(1)**

After “RPM price”, insert “for an assessable gas”.

**60 Subregulation 21(4) (example 1)**

Omit “amount”, substitute “price”.

**61 Regulation 22**

Repeal the regulation, substitute:

**22 Cost-plus price**

The **cost-plus price** of an assessable gas for a taxpayer who is a participant in an integrated operation in a year of tax is:

$$\frac{(\text{UCC} \times \text{QC}) + \text{UOC}}{\text{QAG}}$$

where:

**QAG** (quantity of assessable gas) is the quantity, measured by volume or mass, of the assessable gas that was produced in the operation in the year of tax.

**QC** (quantity coefficient) is:

- (a) for an integrated operation that measures by volume—the volume coefficient for the year of tax; and
- (b) for an integrated operation that measures by mass—the mass coefficient for the year of tax.

**UCC** (upstream capital costs) is the total amount of upstream capital costs incurred by the participants and allocated to the year of tax (see regulation 25).

**UOC** (upstream operating costs) is the total amount of upstream operating costs incurred by the participants in the year of tax (see regulation 25).

**62 Subregulation 23(1)**

Repeal the subregulation, substitute:

- (1) The **netback price** of an assessable gas for a taxpayer who is a participant in an integrated operation in a year of tax is:

$$\frac{\text{EPVal} - ((\text{DCC} \times \text{QC}) + \text{DOC})}{\text{QAG}} - \frac{\text{DPC}}{\text{QTDG}}$$

where:

**DCC** (downstream capital costs) is the total amount of downstream capital costs incurred by the participants and allocated to the year of tax (see regulation 25).

**DOC** (downstream operating costs) is the total amount of downstream operating costs incurred by the participants in the year of tax (see regulation 25).

**DPC** (downstream personal costs) is the total amount of downstream personal costs of the taxpayer for the year of tax.

**EPVal** (end product value) is the total market value in the year of tax of:

- (a) for an integrated GTL operation—the project liquid produced; or
- (b) for an integrated GTE operation—the project electricity produced.

**QAG** (quantity of assessable gas) is the quantity, measured by volume or mass, of the assessable gas that was produced in the operation in the year of tax.

**QC** (quantity coefficient) is:

- (a) for an integrated operation that measures by volume—the volume coefficient for the year of tax; and
- (b) for an integrated operation that measures by mass—the mass coefficient for the year of tax.

**QTDG** (quantity of taxpayer's downstream gas) is the quantity, measured by volume or mass, of the assessable gas that was produced in the operation in the year of tax and:

- (a) for an integrated GTL operation—processed into project liquid that the taxpayer was entitled to receive (including any of that gas that was used in that processing); or
- (b) for an integrated GTE operation—consumed in the production of project electricity that the taxpayer was entitled to receive.

### **63 Subregulations 23(2) to (4)**

After “project liquid”, insert “or project electricity”.

### **64 At the end of regulation 23**

Add:

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- (5) If the value of QTDG is zero, the value of DPC divided by QTDG is taken to be zero.

**65 Regulation 25 (table item dealing with when the method can be used)**

Omit “years of tax as well”, substitute “financial years as well (except if an election under regulation 43 or 44 applies to the operation, in which case less information is needed for capital costs incurred before 2 May 2010)”.

**66 Regulation 25 (table item dealing with what the method does)**

Omit “GTL” (wherever occurring).

**67 Regulation 25 (table item dealing with what the method does)**

Repeal the last paragraph, substitute:

“The direct costs of all the participants (other than marketing and selling costs) that are attributable to the production of assessable gas and project liquid (for an integrated GTL operation) or project electricity (for an integrated GTE operation) are pooled to give unit costs that apply to the operation as a whole. The personal costs of the taxpayer (marketing and selling costs) attributable to the taxpayer’s shares of assessable gas and project liquid or project electricity are applied to give supplementary unit costs. These are then used to calculate the taxpayer’s cost-plus and netback prices.”.

**68 Regulation 25 (at the end of the table item dealing with Step 6)**

Add:

“If an election has been made under regulation 43 or 44 in relation to an integrated GTL operation, apply regulation 31A to capital costs that were incurred before the 2012-13 year of tax.”.

**69 Regulation 26 (heading)**

Repeal the heading, substitute:

**26 Types of cost associated with integrated operation**

**70 Regulation 27 (heading)**

Repeal the heading, substitute:

**27 Exclusion of certain costs of integrated operation**

**71 Subregulation 28(1)**

Omit “a integrated GTL”, substitute “an integrated”.

**72 Subregulation 28(6)**

After “project liquid”, insert “or project electricity”.

**73 At the end of paragraph 31(1)(b)**

Add:

; or (iii) it is a project amount within the meaning of section 40-840 of the *Income Tax Assessment Act 1997*.

**74 Subregulation 31(3)**

Omit “the 1 January of the year of tax”, substitute “1 January in the financial year”.

**75 After regulation 31**

Insert:

**31A Amount and timing of included capital cost**

- (1) For Step 6 of the residual pricing method, this regulation applies to an included capital cost if:
  - (a) the cost is for:
    - (i) an integrated GTL operation for which an election has been made under regulation 43; or
    - (ii) an integrated onshore operation for which an election has been made under regulation 44; and
  - (b) the cost was incurred before 1 July 2012.
- (2) An included capital cost to which this regulation applies is taken, for the purpose of the residual pricing method, to have been

incurred on 1 July 2012 and not incurred when it was actually incurred.

Note: This will affect the operation of Steps 8 to 10 of the method.

- (3) If the cost was for a unit of property that was completed before 2 May 2010, the amount of the cost is taken to be the depreciated replacement cost of the unit at 1 May 2010.
- (4) In this regulation:

*depreciated replacement cost* has the same meaning as in Accounting Standard AASB 136 *Impairment of Assets*.

### **76 Subregulation 33(1)**

Omit “year of tax”, substitute “financial year”.

### **77 Subregulation 35(3)**

Omit “project liquid or the transportation”, substitute “project liquid, the combustion of project sales gas to produce project electricity or the transportation or storage”.

### **78 Subregulation 35(6)**

After “as augmented,”, insert “as reduced,”.

### **79 Regulation 38**

Omit “14 or 15” (wherever occurring), substitute “14, 15 or 16”.

### **80 Subregulations 39(1) to (3)**

Repeal the subregulations, substitute:

- (1) This regulation applies if a participant in an integrated operation uses an RPM price for an assessable gas in working out assessable petroleum receipts under regulation 14, 15 or 16, and had an RPM price for the previous year of tax.
- (2) For paragraph 97(1AA)(b) of the Act, the amount that is to be included in calculating the current period liability under subsection 97(1A) of the Act is:

$$\text{EPVal} \times \frac{\text{RPM}_{\text{PREV}} \times \text{QAG}_{\text{PREV}}}{\text{EPVal}_{\text{PREV}}}$$

where:

*EPVal* is the end product value for the participant in the instalment period.

*EPVal<sub>PREV</sub>* is the end product value for the participant in the previous year of tax.

*QAG<sub>PREV</sub>* is the quantity of the assessable gas, measured by volume or mass, that was in the previous year of tax:

- (a) for an integrated GTL operation—processed into project liquid that the participant was entitled to receive in the downstream stage (including any of that assessable gas that was used in that processing); or
- (b) for an integrated GTE operation—consumed in the production of project electricity that the participant was entitled to receive in the downstream stage.

*RPM<sub>PREV</sub>* is the RPM price for the assessable gas for the participant for the previous year of tax.

- (3) The *end product value* for the participant in a period is the total market value of:
  - (a) for an integrated GTL operation—the project liquid to which the participant is entitled in the period; or
  - (b) for an integrated GTE operation—the project electricity to which the participant is entitled in the period.

## 81 Subregulations 39(4) to (6)

After “project liquid”, insert “or project electricity”.

## 82 Subregulation 40(1)

Omit “in working out assessable petroleum receipts under regulation 14 or 15”, substitute “for an assessable gas in working out assessable petroleum receipts under regulation 14, 15 or 16”.

## 83 Subregulations 40(2) and (3)

Repeal the subregulations, substitute:



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- (2) Subject to subregulation (3), the amount that is to be included in calculating the current period liability under subsection 97(1A) of the Act is:

$QAG \times RPM \text{ price}$

where:

***QAG*** is the quantity of the assessable gas, measured by volume or mass, that was in the instalment period:

- (a) for an integrated GTL operation—processed into project liquid that the participant was entitled to receive in the downstream stage (including any of that assessable gas that was used in that processing); or
- (b) for an integrated GTE operation—consumed in the production of project electricity that the taxpayer was entitled to receive in the downstream stage.

***RPM price*** is the RPM price for the assessable gas calculated as if the instalment period were the assessment year (including under regulation 21, if applicable).

- (3) If the taxpayer became a participant in the assessment year because of a transfer of interests from a participant or participants (the ***previous participants***), the taxpayer may elect to apply subregulation 39(2) as if the factors in the equation were replaced by the following:

***EPVal<sub>PREV</sub>*** is the total end product value for the previous participants in the previous year of tax.

***QAG<sub>PREV</sub>*** is the total quantity of the assessable gas, measured by volume or mass, that was in the previous year of tax:

- (a) for an integrated GTL operation—processed into project liquid that the previous participants were entitled to receive in the downstream stage (including any of that assessable gas that was used in that processing); or
- (b) for an integrated GTE operation—consumed in the production of project electricity that the previous participants were entitled to receive in the downstream stage.

***RPM<sub>PREV</sub>*** is the average RPM price for the assessable gas for the previous participants for the previous year of tax, weighted

according to the end product value for each of the previous participants in the previous year of tax.

**84 Paragraph 41(a)**

Omit “subsection 24 (2) of the Act”, substitute “regulation 8A”.

**85 Paragraph 41(b)**

Omit “of N or VNG”.

**86 Paragraph 41(e)**

After “project liquid”, insert “or project electricity”.

**87 At the end of Part 7**

Add:

**42 Election to use residual pricing method—participant in onshore GTL operation**

- (1) A participant in an integrated GTL operation that recovers petroleum from an onshore petroleum project may elect to use the residual pricing method.
- (2) An election under this regulation:
  - (a) must be made in a form approved by the Commissioner; and
  - (b) must be given to the Commissioner in the financial year before the production year for the operation.
- (3) An election under this regulation is irrevocable.

**43 Election to use modified residual pricing method—integrated GTL operation existing before 2 May 2010**

- (1) The participants in an integrated GTL operation that first processed project sales gas into project liquid before 2 May 2010 may elect to use a modified form of the residual pricing method.
- (2) An election under this regulation:
  - (a) must be made by all participants in the operation jointly; and
  - (b) must be in a form approved by the Commissioner; and
  - (c) must be given to the Commissioner no later than:

- (i) the day on which the participants must give to the Commissioner a starting base return under subclause 22(2) of Schedule 2 to the Act; or
- (ii) a later day that the Commissioner allows.

(3) An election under this regulation is irrevocable.

Note: If an election has been made under this regulation, a number of provisions in these Regulations apply or operate differently. The differences include changes to the rules about capital costs (regulations 31 and 31A), and a reduction in the number of phases in an operation (regulation 6).

#### **44 Election to use depreciated replacement cost method—integrated onshore operation existing before 2 May 2010**

- (1) The participants in an integrated onshore operation may elect to use the depreciated cost method.
- (2) An election under this regulation:
  - (a) must be made by all participants in the operation jointly; and
  - (b) must be in a form approved by the Commissioner; and
  - (c) must be given to the Commissioner no later than:
    - (i) the end of the financial year before the production year; or
    - (ii) a later day that the Commissioner allows.
- (3) An election under this regulation is irrevocable.

#### **88 Amendments of listed provisions—GTL**

The following provisions are amended by omitting “GTL” (wherever occurring):

- (a) regulation 3, definitions of *participant*, *phase*, *phase cost*, *RPM price* and *start date*;
- (b) regulation 6, note after the heading;
- (c) subregulations 6(1) to (4);
- (d) subregulations 7(1), (2), (4) and (5);
- (e) regulations 11 and 12;
- (f) subregulations 18(1) and 21(3);
- (g) subregulation 21(4), examples 1 and 2;
- (h) regulation 25, table items dealing with Steps 1, 4 and 7;

**Schedule 1** Amendments

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- (i) subregulations 26(1) to (4);
- (j) regulations 27 and 30;
- (k) subregulations 31(1) and (2);
- (l) subregulations 32(2) to (4).