

EXPOSURE DRAFT

1 Inserts for
2 **Tax Laws Amendment (2012 Measures**
3 **No. 1) Bill 2012: geothermal energy**
4

EXPOSURE DRAFT

If you have any comments on this exposure draft, they should be sent to The Manager, Resource Tax Unit, The Treasury, at resourcetax@treasury.gov.au by date.

5

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Schedule ?	The day this Act receives the Royal Assent.	

6
7

Schedule ?—Geothermal energy

8

Income Tax Assessment Act 1997

9 **1 Section 10-5 (after table item headed “general insurance**
10 **companies and companies that self insure”)**

11 Insert:

geothermal energy

providing geothermal exploration information 15-40

12 **2 Section 12-5 (table item headed “capital allowances”)**

13 Omit:

exploration or prospecting 40-80(1), 40-730

14 substitute:

exploration or prospecting 40-80(1) and (1A),
40-730

geothermal exploration information Subdivision 40-B

geothermal exploration rights Subdivision 40-B

15 **3 Section 15-40 (heading)**

16 Repeal the heading, substitute:

EXPOSURE DRAFT

15-40 Providing mining, quarrying or prospecting information or geothermal exploration information

4 Section 15-40

After “prospecting information”, insert “or *geothermal exploration information”.

5 After paragraph 40-30(2)(b)

Insert:

- (ba) *geothermal exploration rights;
- (bb) *geothermal exploration information;

6 Section 40-40 (after table item 9)

Insert:

- 9A *Geothermal exploration information that an entity has and that is relevant to: The entity
- (a) *geothermal energy extraction carried on, or proposed to be carried on, by the entity; or
 - (b) a *business carried on by the entity that includes *exploration or prospecting for *geothermal energy resources from which energy can be extracted by geothermal energy extraction;
- whether or not the information is generally available

7 After subsection 40-80(1)

Insert:

- (1A) The decline in value of a *depreciating asset you *hold is the asset’s *cost if:
- (a) you first use the asset for *exploration or prospecting for *geothermal energy resources from which energy can be extracted by *geothermal energy extraction; and
 - (b) when you first use the asset, you do not use it for:
 - (i) development drilling for geothermal energy resources; or
 - (ii) design or development of geothermal energy extraction; and
 - (c) you satisfy one or more of these subparagraphs at the asset’s *start time:
 - (i) you carry on geothermal energy extraction;

EXPOSURE DRAFT

-
- 1 (ii) it would be reasonable to conclude you proposed to
2 carry on geothermal energy extraction;
3 (iii) you carry on a *business of, or a business that included,
4 exploration or prospecting for geothermal energy
5 resources from which energy can be extracted by
6 geothermal energy extraction, and expenditure on the
7 asset was necessarily incurred in carrying on that
8 business.

9 **8 Subsection 40-290(5)**

10 Repeal the subsection, substitute:

11 *Exception: mining, quarrying or prospecting information and*
12 *geothermal exploration information*

- 13 (5) This section does not apply to *mining, quarrying or prospecting
14 information or *geothermal exploration information.

15 **9 Paragraph 40-630(1)(b)**

16 After “operations”, insert “or *geothermal energy extraction”.

17 **10 Subsection 40-630(1) (note)**

18 After “operations”, insert “or geothermal energy extraction”.

19 **11 Paragraphs 40-630(1A)(b), (1B)(b) and (3)(b)**

20 After “operations”, insert “or *geothermal energy extraction”.

21 **12 Paragraph 40-650(3)(a)**

22 After “operations”, insert “or *geothermal energy extraction”.

23 **13 At the end of paragraph 40-650(3)(b)**

24 Add “or that extraction”.

25 **14 Before subsection 40-730(1)**

26 Insert:

27 *Exploration or prospecting for minerals or quarry materials*

28 **15 After subsection 40-730(2)**

29 Insert:

EXPOSURE DRAFT

Exploration or prospecting for geothermal energy resources

- 1
- 2 (2A) You can deduct expenditure you incur in an income year on
- 3 *exploration or prospecting for *geothermal energy resources from
- 4 which energy can be extracted by *geothermal energy extraction if:
- 5 (a) you carried on geothermal energy extraction; or
- 6 (b) it would be reasonable to conclude you proposed to carry on
- 7 geothermal energy extraction; or
- 8 (c) you carried on a *business of, or a business that included,
- 9 exploration or prospecting for geothermal energy resources
- 10 from which energy can be extracted by geothermal energy
- 11 extraction, and the expenditure was necessarily incurred in
- 12 carrying on that business.
- 13 (2B) However, you cannot deduct expenditure under subsection (2A) if
- 14 it is expenditure on:
- 15 (a) development drilling for *geothermal energy resources; or
- 16 (b) design or development of *geothermal energy extraction.

17 *No deduction under this section for cost of depreciating asset*

18 **16 Subsection 40-730(3)**

19 Omit “Also, you cannot deduct expenditure under subsection (1)”,

20 substitute “You cannot deduct expenditure under subsection (1) or

21 (2A)”.

22 **17 Before subsection 40-730(4)**

23 Insert:

24 *Definitions*

25 **18 Paragraph 40-730(4)(b)**

26 After “petroleum mining”, insert “and for *geothermal energy

27 resources”.

28 **19 Paragraph 40-730(4)(c)**

29 After “materials”, insert “, or of extracting energy from geothermal

30 energy resources,”.

31 **20 At the end of subsection 40-730(4)**

32 Add:

EXPOSURE DRAFT

1 ; and (e) obtaining *geothermal exploration information associated
2 with the search for, and evaluation of, areas containing
3 geothermal energy resources.

4 **21 After subsection 40-730(7)**

5 Insert:

6 (7A) *Geothermal energy resources* means matter occurring naturally
7 within the Earth and containing energy as heat.

8 (7B) *Geothermal energy extraction* means operations that are for:

- 9 (a) the extraction of energy from *geothermal energy resources;
10 and
11 (b) the *purpose of producing assessable income.

12 **22 At the end of section 40-730**

13 Add:

14 (9) *Geothermal exploration information* is geological, geophysical or
15 technical information that:

- 16 (a) relates to the presence, absence or extent of *geothermal
17 energy resources in an area; or
18 (b) is likely to help in determining the presence, absence or
19 extent of such resources in an area.

20 **23 Subparagraph 43-70(2)(fa)(iv)**

21 After “40-80(1)”, insert “or (1A)”.

22 **24 After paragraph 165-55(2)(b)**

23 Insert:

- 24 (ba) deductions for exploration or prospecting for *geothermal
25 energy resources (see section 40-80 and Subdivision 40-H);

26 **25 Paragraphs 716-300(1)(b) and (c)**

27 After “40-80(1)”, insert “or (1A)”.

28 **26 Subsection 716-300(1) (note)**

29 Omit “Subsection 40-80(1), which is in that Subdivision, provides”,
30 substitute “Subsections 40-80(1) and (1A), which are in that
31 Subdivision, provide”.

32 **27 Subsection 995-1(1)**

EXPOSURE DRAFT

1 Insert:

2 *geothermal energy extraction* has the meaning given by subsection
3 40-730(7B).

4 **28 Subsection 995-1(1)**

5 Insert:

6 *geothermal energy resources* has the meaning given by subsection
7 40-730(7A).

8 **29 Subsection 995-1(1)**

9 Insert:

10 *geothermal exploration information* has the meaning given by
11 subsection 40-730(9).

12 **30 Subsection 995-1(1)**

13 Insert:

14 *geothermal exploration right* means:

- 15 (a) an authority, licence, permit or right under an *Australian law
16 to explore for *geothermal energy resources; or
17 (b) a lease of land that allows the lessee to explore for
18 geothermal energy resources on the land; or
19 (c) an interest in such an authority, licence, permit, right or lease.

20 **31 Application**

21 (1) The amendments of section 15-40 of the *Income Tax Assessment Act*
22 1997 made by this Schedule apply to amounts received on or after
23 1 July 2012.

24 (2) The amendments of sections 40-30, 40-40, 40-80, 40-290 and 716-300
25 of the *Income Tax Assessment Act 1997* made by this Schedule apply to
26 depreciating assets whose start time is on or after 1 July 2012.

27 (3) The amendments of sections 40-630 and 40-650 and subsection
28 40-730(3) of the *Income Tax Assessment Act 1997* made by this
29 Schedule apply to expenditure incurred on or after 1 July 2012.

30 (4) Subsections 40-730(2A) and (2B) of the *Income Tax Assessment Act*
31 1997 apply to expenditure incurred on or after 1 July 2012.