

EXPOSURE DRAFT

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Inserts for
**Treasury Laws Amendment (Measures
for Consultation) Bill 2023: PRRT
deductions cap**

Commencement information

Column 1**Column 2****Column 3****Provisions****Commencement****Date/Details**

1. Schedule X

The first 1 January, 1 April, 1 July or
1 October to occur after the day this Act
receives the Royal Assent.

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Schedule X—Petroleum resource rent tax deductions cap

Petroleum Resource Rent Tax Assessment Act 1987

1 At the end of section 22

Add:

Deemed taxable profit for certain liquefied natural gas projects

(3) If:

- (a) a person derives assessable receipts in relation to a petroleum project and a year of tax; and
- (b) sales gas is, or will be, produced from some or all of the petroleum that is, or will be, recovered from the project; and
- (c) the person is a party to an arrangement (within the meaning of section 50); and
- (d) it is intended, as a result of carrying out the arrangement, that the sales gas be wholly or primarily produced into liquefied natural gas; and
- (e) the person enters, or will enter, into such arrangements on a regular or consistent basis; and
- (f) the person is not taken under subsection (1) or (2) to have a taxable profit in relation to the project and the year of tax; and
- (g) the project is not excluded under subsection (5) for the year of tax;

the person is taken for the purposes of this Act to have a taxable profit in relation to the project and the year of tax of an amount (the *denied deduction amount*) equal to 10% of the assessable receipts derived by the person in relation to the project and the year of tax.

- (4) However, if the project is a Greater Sunrise project, the person is taken for the purposes of this Act to have a taxable profit in relation to the project and the year of tax of an amount (the *denied deduction amount*) worked out using the following formula:

$$\frac{\text{Initial taxable profit} \times \text{Apportionment percentage figure}}{100}$$

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1 where:

2 *apportionment percentage figure* has the meaning given by
3 subsection 2C(2).

4 *initial taxable profit* means the amount of taxable profit worked
5 out under subsection (3) ignoring this subsection.

- 6 (5) For the purposes of paragraph (3)(g), a project is excluded for a
7 year of tax if:
- 8 (a) the year of tax is the first financial year in which assessable
9 petroleum receipts are derived by the person in relation to the
10 project or one of the subsequent 7 financial years; or
 - 11 (b) the person incurs resource tax expenditure or starting base
12 expenditure in the year of tax in relation to the project; or
 - 13 (c) the person is not taken to incur any amounts under
14 subsection 33(3), 34(3), 34A(4), 35(3), 35C(5), 35E(3),
15 35F(2) or 36(1) (including because of section 48 or 48A) in
16 relation to the project:
 - 17 (i) on the first day of the year of tax; or
 - 18 (ii) on the first day of a previous year of tax (other than the
19 first year of tax in relation to which the person incurred
20 deductible expenditure in relation to the project).

21 **2 After paragraph 32(fc)**

22 Insert:

23 (fd) augmented denied deductible expenditure;

24 **3 After section 35E**

25 Insert:

26 **35F Augmented denied deductible expenditure**

- 27 (1) For the purposes of this Act, a reference to the augmented denied
28 deductible expenditure incurred by a person in a financial year in
29 relation to a petroleum project is a reference to:
- 30 (a) if the petroleum project is not a combined project—any
31 amount that is taken by subsection (2) or Division 5 to be
32 augmented denied deductible expenditure incurred by the
33 person in relation to the project in the financial year; or
 - 34 (b) if the petroleum project is a combined project:
 - 35 (i) any amount that is taken by subsection (2) or Division 5
36 to be augmented denied deductible expenditure incurred

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1 by the person in relation to the project in the financial
2 year; or

- 3 (ii) if the financial year is the year in which the project
4 combination certificate in relation to the project came
5 into force—each amount that is taken by subsection (2)
6 or Division 5 to be augmented denied deductible
7 expenditure incurred by the person in relation to the
8 pre-combination projects in the financial year.

9 *Amounts uplifted from previous financial year*

10 (2) If:

- 11 (a) a person has a denied deduction amount worked out under
12 subsection 22(3) or (4) in relation to a project and a financial
13 year; and

14 (b) the sum of:

15 (i) the deductible expenditure incurred by the person in
16 relation to the project and the financial year; and

17 (ii) the total of the amounts (if any) transferred by the
18 person to the project in relation to the financial year
19 under section 45A; and

20 (iii) the total of the amounts (if any) transferred by another
21 person to the person in relation to the project and the
22 financial year under section 45B;

23 exceeds the assessable receipts derived by the person in the
24 financial year in relation to the project, the person is taken to
25 incur, in relation to the project and on the first day of the next
26 financial year, an amount of augmented denied deductible
27 expenditure worked out in accordance with the formula:

28 Available excess \times LTBR

29 where:

30 **available excess** is so much of the excess as does not exceed the
31 sum of:

32 (a) the amount (if any) of augmented denied deductible
33 expenditure incurred by the person in relation to the project
34 and the financial year; and

35 (b) the denied deduction amount.

36 **LTBR** is the long-term bond rate in relation to the financial year
37 plus 1.

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4 Paragraph 97(1A)(b)

After “35E(3)”, insert “, 35F(2)”.

5 After subsection 97(1B)

Insert:

(1BA) However, if a person expects to be taken under subsection 22(3) or (4) to have a taxable profit in relation to the project and the year of tax:

(a) subsection (1) of this section does not apply to the person in relation to the project and that year; and

(b) subject to subsection (2) of this section, the notional tax amount of the person, in relation to the project and an instalment period in that year, is the amount worked out in accordance with the formula:

$$\left(\text{Current period receipts} - \text{Previous period receipts} \right) \times 0.1$$

where:

current period receipts is:

(a) if the project is not a Greater Sunrise project—the assessable receipts derived by the person in relation to the project and the instalment period; or

(b) if the project is a Greater Sunrise project—the assessable receipts derived by the person in relation to the project and the instalment period multiplied by the current apportionment percentage that applied during that period.

previous period receipts is:

(a) if the project is not a Greater Sunrise project—the sum of the assessable receipts derived by the person in relation to the project in any earlier instalment periods in that year; or

(b) if the project is a Greater Sunrise project—the sum of the assessable receipts derived by the person in relation to the project in any earlier instalment periods in that year multiplied by the current apportionment percentage that applied during that period.

(1BB) If the whole or a part of the assessable petroleum receipts that would be taken into account in working out the current period receipts were determined under paragraph 24(1)(d) or (e) (the

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1 *special calculation provisions*), then, in calculating the current
2 period receipts under subsection (1BA):

- 3 (a) any assessable petroleum receipts determined under the
4 special calculation provisions are to be excluded; and
5 (b) the amount worked out in accordance with the regulations in
6 respect of those assessable petroleum receipts is to be
7 included.

8 **6 Subsection 97(1C)**

9 Omit “subsection (1B)”, substitute “subsections (1B), (1BA) and
10 (1BB)”.

11 **7 Subsection 97(2)**

12 After “subsection (1)”, insert “or (1BA)”.

13 **8 Clause 5 of Schedule 1 (definition of *notional taxable profit*)**

14 After “would be the taxable profit”, insert “under subsection 22(1) or
15 (2)”.

16 **9 Clause 5 of Schedule 1 (paragraph (a) of the definition of 17 *notional taxable profit*)**

18 After “starting base expenditure”, insert “, augmented denied deductible
19 expenditure”.

20 **10 Clause 9 of Schedule 1 (definition of *notional taxable 21 profit*)**

22 After “would be the taxable profit”, insert “under subsection 22(1) or
23 (2)”.

24 **11 Clause 9 of Schedule 1 (paragraph (a) of the definition of 25 *notional taxable profit*)**

26 After “starting base expenditure”, insert “, augmented denied deductible
27 expenditure”.

28 **12 Clause 14 of Schedule 1**

29 Before “Amounts”, insert “(1)”.

30 **13 At the end of clause 14 of Schedule 1**

31 Add:

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- 1 (2) Augmented denied deductible expenditure taken to be incurred by
2 a person in a financial year in relation to the notional project is not
3 deductible expenditure actually incurred by the person in relation
4 to the notional project in the financial year.

5 **14 Clause 19 of Schedule 1 (definition of *notional taxable***
6 ***profit*)**

- 7 After “would be the taxable profit”, insert “under subsection 22(1) or
8 (2)”.

9 **15 Clause 27 of Schedule 1 (definition of *notional taxable***
10 ***profit*)**

- 11 After “would be the taxable profit”, insert “under subsection 22(1) or
12 (2)”.

13 **16 Application of amendments**

- 14 (1) The amendments to the *Petroleum Resource Rent Tax Assessment Act*
15 *1987* made by this Schedule, other than the amendments made by
16 items 5 to 7, apply in relation to assessable receipts derived by a person
17 in relation to a petroleum project and a year of tax beginning on or after
18 1 July 2023 (whether or not assessable receipts were also incurred by a
19 person in relation to the project and an earlier year of tax).
- 20 (2) The amendments to the *Petroleum Resource Rent Tax Assessment Act*
21 *1987* made by items 5 to 7 of this Schedule apply in relation to a
22 petroleum project and a year of tax beginning on or after 1 July 2024.

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