

The 2011 PRRT Extension Bill

A uniform federal oil and
gas taxation regime

November 2011

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On 2 November 2011, the Federal Government introduced the *Petroleum Resource Rent Tax Assessment Amendment Bill 2011 (PRRT Bill)*, along with various consequential amendment bills, as part of a resource rent tax legislative reform package, which also saw the simultaneous introduction of the *Minerals Resource Rent Tax (MRRT) Bill 2011*. The PRRT Bill extends the Petroleum Resource Rent Tax (PRRT) regime to all Australian oil and gas projects, specifically bringing onshore projects as well as the North West Shelf project into the scope of PRRT. The PRRT Bill is supplemented by an accompanying explanatory memorandum (EM).

The Federal Government has referred the entire resource rent tax legislative package (including the PRRT Bill) to the House of Representatives Standing Committee on Economics (Economics Committee), which has been charged with the responsibility to report by 21 November 2011, in the hope that this legislative package will be passed through the lower house chamber this year. The Economics Committee's terms of reference is to enquire into the adequacy of this legislative package in achieving the Government's policy objective of delivering a fairer return to the Australian community from the extraction of its non-renewable resources and where possible, identify any

unintended consequences. Public hearings before the Economics Committee were being conducted in Canberra on 8 and 9 November 2011, and submissions to the enquiry closed on 8 November 2011.

The Government is clearly adopting an accelerated timeline to legislate the PRRT Bill and hence taxpayers should be focussing on their PRRT transition process, including ensuring, among others, that the tax accounting reflex is accurately captured and reported as soon as substantive enactment occurs, most likely in early 2012, and that appropriate valuations of project interests are undertaken well in advance.

As explained in PwC's publication dated [1 September 2011](#) which provided a summary of the Exposure Draft of the *Petroleum Resource Rent Tax Assessment Amendment Bill 2011 (the Exposure Draft)*, the PRRT Bill amends the existing *Petroleum Resource Rent Tax Assessment Act 1987 (PRRTAA)* to accommodate onshore projects and the North West Shelf project within the PRRT regime. Accordingly, the PRRT Bill is to be read in conjunction with the PRRTAA to appreciate the effects of its amendments.

This publication focuses on:

- the changes which have been made to the Exposure Draft in the course of finalising the PRRT Bill for its introduction into Parliament and observations on their implications, and
- the critical actions to be taken in implementing your transition into the PRRT regime.

Unless otherwise discussed below, the position in the PRRT Bill is unchanged from the Exposure Draft. For a comprehensive analysis of the elements of the extended PRRT regime and the Exposure Draft, please refer to our publication of [1 September 2011 – Summary of the PRRT Extension Exposure Draft](#).



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Summary of the PRRT Bill

The PRRT Bill amends the existing PRRTAA to give effect to the recommendations made by the Policy Transition Group (PTG) in its report to the Government on 21 December 2010.

These recommendations were accepted and endorsed by the Government on 24 March 2011 and the introduction of the PRRT Bill represents the culmination of the consultation process which began back on 2 May 2010 (when the Government released the Henry Review).

As discussed in our earlier publication of 1 September this year, the Exposure Draft broadly reflected the PTG's recommendations but gave rise to some unintended anomalous outcomes (particularly in relation to the transitional "starting base" position) and did not address certain PTG recommendations in relation to the calculation of assessable receipts.

Much of the framework of the PRRT Bill is unchanged compared to the Exposure Draft which was issued on 26 August 2011, with the following key exceptions:

- providing onshore integrated gas-to-liquids (GTL) projects with a gateway to potentially access the GTL regulations in determining the value of the resource at the taxing point
- providing for the use of an accounting approach in apportioning the eligible acquisition expenditure under the "look-

back starting base" method between the exploration and non-exploration components

- narrowing the scope of the assessable incidental receipts provision such that it only applies to certain carbon capture and storage services
- assessing the proceeds from the sale of free carbon permits related to a petroleum project and explicitly denying deductions for carbon shortfall unit charges
- introducing a PRRT consolidation regime for the onshore oil and gas sector (which raises some added complexities in relation to its interaction with the broader PRRT legislation)
- modifying the transitional starting base provisions to ensure that the recommendations made by the PTG on the design features of the extended PRRT regime are given their proper effect and to address certain unintended consequences identified through the consultation process in respect of the Exposure Draft (including the submission made by PwC available at <http://www.treasury.gov.au/documents/2200/PDF/PwC.pdf>)
- removing the ability to use the look-back method as a default for calculating the transitional starting base in circumstances where no valid election is made by 30 August 2013 (which emphasises the importance to taxpayers of appropriate

and timely preparation for transitioning into the PRRT regime)

- allowing existing onshore projects a period of up to 31 March 2013 to apply for a combination certificate to combine their eligible projects, and
- providing the formal mechanism to exclude projects transitioning into the PRRT from the usual quarterly instalment arrangements for the first PRRT year commencing 1 July 2012 (in the interest of ensuring that the limited amendment period for starting base determinations commences as soon as possible and given

the preparations required for project combination certificate applications, taxpayers should nonetheless prepare for the adoption of PRRT as a matter of priority).

The amendments to the Exposure Draft, as reflected in the PRRT Bill, are discussed in more detail in the Appendix to this publication. While these amendments address some of the concerns raised in relation to the Exposure Draft, it is important that you carefully consider the application of the PRRT Bill to your individual circumstances given the increased likelihood of enactment in the near future.

Much of the framework of the legislation remains unchanged from the exposure draft – with some notable exceptions



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Next steps

As noted above, there is an accelerated time frame within which the Government expects the resource rent tax legislative package (including the PRRT Bill) to be passed by the lower house of Parliament (i.e. before the end of 2011). If this eventuates, it is implied that the Government expects the approval of the upper house of Parliament to be forthcoming in early 2012, which would trigger the substantive enactment of the legislation.

This would appear ambitious given the recent concerns which have been raised by members of other political parties as to the scope and effectiveness of both the MRRT and PRRT, and their broader impact on Australia's tax transfer system and investment competitiveness in the resources sector.

What does this mean for you?

Overall, the PRRT Bill appears to reflect Government's endeavours to address as many of the comments and suggestions made by industry, their advisors and the professional accounting bodies, as possible within the parameters defined by the PTG in its 21 December 2010 report. Although there may still be certain imperfections, the drafting of the PRRT Bill would appear to be largely settled.

While unlikely to be substantively enacted (i.e. passed by both houses of Parliament) before 31 December 2011, if all goes to plan as envisaged by the Government, the PRRT Bill is likely to be passed as law early

in the new year. This means that, subject to due Parliamentary process, the extension of the PRRT regime to onshore oil and gas projects and the North West Shelf project is highly imminent. At a minimum, December balancers (and entities preparing half year reports at December 2011) will need to consider their responses to the disclosure requirements for their financial reports in respect of the implications of the extended PRRT to their organisations.

Affected companies should therefore review the PRRT Bill in detail (and/or consult with their professional advisor) to determine precisely how the PRRT rules will apply to the particular facts and circumstances of their existing and planned projects. In particular, the details contained in the PRRT Bill will now provide a stable platform for

taxpayers to update and action their PRRT transition strategies, including:

- updating PRRT models for projects
- considering and refining the design of their PRRT compliance processes and modifications to existing information capture and reporting systems
- analysing the tax accounting implications arising under the extended PRRT rules and the associated financial reporting requirements,
- commencing engagement with suitable valuers to plan the nature, timing and extent of valuation exercises
- appropriately considering the PRRT implications on any upcoming deals or transactions, and
- evaluating the pros and cons of electing to consolidate onshore project interests for PRRT purposes.

PwC has a market leading energy and resources practice comprising dedicated PRRT, transfer pricing, valuations, consulting, accounting, legal and industry specialists who can deliver an integrated service offering to you. This can help in the design and implementation of your transition into the extended PRRT regime which may be uncharted territory for your organisation. We have a deep knowledge of the technical issues developed through active participation in the consultation

Taxpayers should prepare for the commencement of the PRRT as a matter of priority



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process and assisting our clients with their response to the various resource rent tax proposals and draft legislation. In addition, PwC has been actively involved in advising clients extensively on the intricacies of the offshore PRRT regime, since the PRRT legislation was introduced in 1987. This hands-on technical knowledge is combined with our practical industry expertise and insights developed through working with clients of all sizes in the oil and gas industry. We have developed a framework implementation plan that can be tailored to your specific needs which sets out the key actions across each of the issues outlined above. In particular, we can provide the following services to assist you in ensuring your business is well and truly PRRT-ready:

- taxation services in relation to the technical interpretation and practical application of the PRRT and its overlay with Commonwealth, State and Territory-based royalties
- valuation services to assist in calculating, documenting and supporting your calculation of the transitional starting base, as well as validating the valuation inputs and assumptions used, where the market value approach is proposed to be used
- transfer pricing services to assist in supporting the arm's length taxable revenue at the taxing point (where other prescribed methods are not available)
- technical accounting services in relation to the tax accounting impact of the PRRT
- consulting services to help you develop best practice systems and processes including implementing upgraded accounting systems, business processes and stakeholder engagement strategies
- deal services to help you properly understand the impact of the PRRT on any proposed merger or acquisition and to plan the appropriate strategy for managing such impacts, and
- legal services in relation to the reviews of contracts and joint venture agreements, as well as assist with any resource rent tax funding arrangements that may now be necessary.

We will also be running PRRT School in major cities in due course to assist your teams with how to practically prepare for the PRRT compliance cycle and to equip them with the necessary technical PRRT skills. Please liaise with your usual PwC contact or our resource tax specialists listed on page 6 if you have any questions or if you would like to discuss the impact of the PRRT on your business.



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Appendix – Comparison of key differences between the PRRT Bill introduced on 2 November 2011 and the Exposure Draft of 26 August 2011

2 November 2011 PRRT Bill and EM	26 August 2011 Exposure Draft	Commentary and observations
Project combinations		
<p>An offshore project can be combined with an onshore project with which it is sufficiently integrated, provided the onshore project did not exist prior to 1 July 2012.</p> <p>For such constituent projects to be sufficiently integrated, consideration must be given to all of the following:</p> <ul style="list-style-type: none"> • the degree of upstream integration; • commonality of project participants (who together are entitled to 50 per cent or more of each project’s assessable receipts); • the degree of downstream integration (if any); and • the geological, geophysical and geochemical and other features of the production licence areas. 	<p>No explicit provision to combine offshore projects with onshore projects.</p>	<p>The ability to combine onshore and offshore projects has been provided in response to request by industry.</p> <p>The need to consider the geological, geophysical and geochemical features of constituent onshore and offshore production licence areas in assessing whether they are sufficiently integrated could be a practical impediment to combining onshore and offshore projects.</p> <p>Where onshore and offshore projects are combined, the combined project is considered an offshore project, which will not be eligible for consolidation (see further below). This would limit a tax consolidated group’s ability to consolidate the interests held by different group members in a combined offshore project.</p> <p>The inability to combine offshore projects with any onshore projects that existed prior to 1 July 2012 is intended to ensure that onshore projects which have starting base amounts do not inappropriately shield the profits of offshore projects, as this would be contrary to the objective of the starting base being a shelter against the profits of transitioning onshore projects.</p> <p>There remains no ability to combine integrated onshore project <i>interests</i> (as opposed to whole projects), despite consistent requests by industry and their advisors. It is understood that this request could not be accommodated as splitting a project into its constituent interests is contrary to the existing project definition which is a fundamental cornerstone of the PRRT regime.</p>
<p>Existing onshore projects are provided a period of 90 days from 1 January 2013 (i.e. up to 31 March 2013) in which to seek the Resources Minister’s approval to combine.</p>	<p>Existing onshore projects are provided a period of 90 days from 1 July 2012 (i.e. up to 28 September 2012) in which to seek the Resources Minister’s approval to combine.</p>	<p>In effect, existing onshore projects which have their production licences issued up to 31 December 2012 have until 31 March 2013 to apply for a combination certificate. This would be much welcomed by the onshore oil and gas sector as it provides additional time to prepare the combination application package for their existing onshore tenements.</p>

Appendix – Comparison of key differences between the PRRT Bill introduced on 2 November 2011 and the Exposure Draft of 26 August 2011

2 November 2011 PRRT Bill and EM	26 August 2011 Exposure Draft	Commentary and observations
Project combinations (cont)		
<p>The extent to which constituent projects demonstrate a degree of downstream integration is based on assessing the operations, facilities and other things involved in further processing or treating either petroleum or marketable petroleum commodity (MPC) produced by the constituent projects.</p> <p>Combination requests can be made by project participants who together are entitled to 50 per cent or more of each constituent project's assessable receipts from the sale of either petroleum or MPC produced by the constituent projects.</p>	<p>The extent to which constituent projects demonstrate a degree of downstream integration is based on assessing the operations, facilities and other things involved in further processing or treating MPC produced by the constituent projects.</p> <p>Combination requests can be made by project participants who together are entitled to 50 per cent or more of each constituent project's assessable receipts from the sale of MPC produced by the constituent projects.</p>	<p>The amendments made are aimed at overcoming the concern arising from the Exposure Draft that where there is a sale of petroleum by the upstream tenement owners, prior to an MPC coming into existence, the constituent projects may not be eligible for combination since the language used in the Exposure Draft appeared to focus on the extent to which there is integrated processing of MPC by the project participants who derived assessable receipts from the sale of MPC, and not petroleum.</p>
Definition of exploration permit and retention lease		
<p>The definition of an exploration permit excludes any authority or right to recover petroleum other than on an appraisal basis.</p> <p>The definition of a retention lease excludes any authority or right to recover petroleum other than on an appraisal basis, and a retention lease must be one which is granted on the basis the retention lease area contains petroleum which is likely to be commercially produced at some future time.</p>	<p>The definition of an exploration permit and retention lease did not contain such exclusion and/or condition.</p>	<p>It is understood that these amendments are made to ensure that, in the circumstances where the authority or right held by a taxpayer allows for the recovery or production of petroleum at a commercial level, a petroleum project is considered to exist (which implies that a production licence exists). The implications of this will include allowing the project to offset the starting base amount against the assessable petroleum receipts where either the book value or the market value method is adopted (the starting base amount determined under either of these methods is not deductible until a production licence is issued – see further below). However, it is questionable whether these amendments apply effectively where extended production testing is being undertaken to appraise the reservoir contained in an area.</p>

Appendix – Comparison of key differences between the PRRT Bill introduced on 2 November 2011 and the Exposure Draft of 26 August 2011

2 November 2011 PRRT Bill and EM	26 August 2011 Exposure Draft	Commentary and observations
Starting base		
The holder of an interest in a petroleum tenement as at 30 June 2013 is the entity which is entitled to elect which starting base method is to be applied to that interest.	It is implied that the holder of an interest in a petroleum tenement as at 1 July 2012 is the entity which is entitled to elect which starting base method is to be applied to that interest.	The amendment appears to overcome the complications which arose under the Exposure Draft whereby the holder of a petroleum project interest at 1 July 2012 subsequently disposes of the interest prior to making the starting base election (which is due no later than 30 August 2013). Under the Exposure Draft arguably the acquirer of the tenement would not have been able to make a starting base election. Providing the entity which holds the project interest as at 30 June 2013 with the entitlement to make the starting base election is consistent with the policy intent of ensuring that the taxpayer holding the interest at 30 June 2013 has the ability to appropriately consider their starting base choices and undertake the necessary starting base valuations.
If a valid starting base election is not made by that entity, there will be no starting base amount (or interim period expenditure) for the petroleum project interest.	If a valid starting base election is not made, by default, the starting base amount is determined under the look-back starting base method.	The amendment to remove the default look-back method means that entities will have no ability to access any starting base tax shield if no valid starting base election is made. This is contrary to the recommendation of the PTG in its 21 December 2010 report to the Government (see Recommendation 80) and emphasises the importance of establishing appropriate PRRT compliance strategies early in the process.
A valid starting base election is required to be made (on a self-assessment basis) via a “starting base return” which must be lodged with the Commissioner no later than 30 August 2013 (unless further time is allowed). A starting base return, once lodged, will constitute a formal assessment for the purposes of the PRRT Act to which the normal 4 year amendment period will apply (in the absence of extraordinary circumstances such as fraud or evasion). The amount of starting base expenditure subsequently claimed on a PRRT return cannot be amended once the 4 year amendment period for the starting base assessment has lapsed. A PRRT return can be amended to the extent necessary to give effect to an amendment to a starting base assessment.	A valid starting base election is required to be made (on a self-assessment basis) via an approved form which must be lodged with the Commissioner no later than 30 August 2013 (unless further time is allowed). The Commissioner may only amend a starting base amount within 4 years after the starting base election is lodged with the Commissioner.	The amendments ensure that the assessment procedures for starting base amounts are aligned with the general assessment provisions in the existing PRRTAA but do not affect the certainty over the circumstances and the 4 year period in which the Commissioner may amend a starting base amount.

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2 November 2011 PRRT Bill and EM	26 August 2011 Exposure Draft	Commentary and observations
Starting base (cont)		
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.	No equivalent provision.	The new provision appears to have been introduced to overcome the uncertainty in relation to holders of equitable interests in petroleum projects and their ability to “hold” (within the meaning of section 40-40 of the <i>Income Tax Assessment Act 1997</i>) the interest in the project, for the purposes of applying the starting base rules.
The starting base amount determined under either the book value or the market value starting base method will be deductible in the year a production licence is issued (if a production licence is not already in existence at 1 July 2012).	The starting base amount determined under either the book value or the market value starting base method will be deductible in the year after a production licence is issued (if a production licence is not already in existence at 1 July 2012).	The amendment will ensure that the starting base for non-producing tenements will be deductible at the <i>commencement of production</i> , consistent with the PTG’s recommendation.
<p>Acquirers of interests in petroleum tenements between 2 May 2010 and 30 June 2012 will be able to determine a starting base for their interests.</p> <p>Acquirers of exploration permits and retention leases after 1 July 2012 will be able to inherit the undeducted starting base amount from the vendor, notwithstanding the starting base amount is not yet deductible (until a production licence in respect of the petroleum project comes into existence).</p>	<p>Acquirers of interests in petroleum tenements between 2 May 2010 and 30 June 2012 are not eligible to determine a starting base for their interests.</p> <p>There is no mechanism for acquirers of exploration permits and retention leases after 1 July 2012 to inherit the undeducted starting base amount from the vendor, as the starting base amount is not yet deductible (until a production licence in respect of the petroleum project comes into existence).</p>	<p>These amendments remove various unintended consequences under the Exposure Draft which impacted acquisitions of petroleum project interests post-2 May 2010, by ensuring that:</p> <ul style="list-style-type: none"> a. acquirers of interests in petroleum project interests between 2 May 2010 and 30 June 2012 receive a starting base for their interests which existed as at 1 May 2010 (there is no longer a requirement for the same entity to have continuously held the project interest from 2 May 2010 through to 30 June 2012); and b. acquirers of pre-production stage projects whose acquisitions occur post-1 July 2012 are able to inherit the vendor’s undeducted starting base amounts attributable to the transferred interest.

Appendix – Comparison of key differences between the PRRT Bill introduced on 2 November 2011 and the Exposure Draft of 26 August 2011

2 November 2011 PRRT Bill and EM	26 August 2011 Exposure Draft	Commentary and observations
Starting base (cont)		
<p>Under the look-back starting base method, the holder of an interest in a petroleum project, or an exploration permit or retention lease from which the production licence to which the project relates, which existed before 2 May 2010, is able to include in its starting base, the allowable PRRT expenditures incurred by that person from 1 July 2002 at the earliest.</p> <p>The holder of an interest in a petroleum project, or an exploration permit or retention lease from which the production licence to which the project relates, which came into existence after 2 May 2010, is able to include in its starting base the allowable PRRT expenditures incurred by that person from 2 May 2010.</p>	<p>Under the look-back starting base method, the holder of an interest in a production licence to which a petroleum project relates, which existed before 2 May 2010, is able to include in its starting base, the allowable PRRT expenditures incurred by that person from 1 July 2002 at the earliest.</p> <p>The holder of an interest in a production licence to which the project relates, which came into existence after 2 May 2010, is able to include in its starting base the allowable PRRT expenditures incurred by that person from 2 May 2010.</p> <p>The implication of the above is that where the taxpayer merely holds an exploration permit or retention lease as at 2 May 2010, only expenditures incurred by the taxpayer from 2 May 2010 (and not from 1 July 2002) onwards are allowed to be taken into account under the look-back starting base method.</p>	<p>These amendments ensure that the look-back starting base method is effective in implementing PTG's Recommendation 86 which was aimed at allowing deductible expenditure incurred in the exploration and development of a project or other petroleum tenement from 1 July 2002 onwards to be recognised under the look-back starting base method.</p>

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2 November 2011 PRRT Bill and EM	26 August 2011 Exposure Draft	Commentary and observations
Starting base (cont)		
<p>Under the look-back starting base method, the “acquired exploration expenditure” component of the total acquisition expenditure incurred to acquire a petroleum project interest or 100% of the company holding the project interest¹, is determined by reference to the amount allocated to exploration and evaluation assets in the relevant audited financial report relating to the period which includes the day of acquisition. A financial report for these purposes must have been prepared in accordance with the accounting standards (including a special purpose financial report and a consolidated report).</p>	<p>Under the look-back starting base method, the approach for determining the “acquired exploration expenditure” component of the total acquisition expenditure incurred to acquire a petroleum project interest or 100% of the company holding the project interest¹, was not defined.</p>	<p>It is understood that the approach adopted in aligning the “acquired exploration expenditure” component with the acquisition cost allocated to exploration and evaluation assets for financial reporting purposes is intended to provide taxpayers with certainty on starting base allocation outcomes. The PTG, in its 21 December 2010 report, identified an approach used for income tax purposes as potentially being appropriate, however, such an approach has not been adopted – this may be a welcomed move, given the current debate between certain sectors of the industry and the Australian Taxation Office (ATO) as to the interpretation of the term ‘exploration’ for income tax (and PRRT) purposes.</p> <p>While the use of an accounting purchase price allocation approach may potentially be simpler, a number of practical issues will need to be considered. For example, in the case of a company acquisition, the amount allocated to the exploration and evaluation assets of the target is based on the purchase price (approximating net assets), grossed up for the target’s liabilities. In addition, the amount allocated in the accounts on the acquisition date may be different to the amount recorded at the balance date (e.g. due to additions, impairments, write-offs or amortisation) since the acquisition date. These suggest that there will need to be some form of “unbundling” of the accounting values to determine the appropriate amount of “acquired exploration expenditure”.</p>
<p>The look-back starting base provisions explicitly recognise, for eligible acquisitions, the costs of creeping acquisitions and arrangements/transactions first entered into during the 1 July 2007 to 2 May 2010 period that have the effect of resulting in an acquisition of a petroleum project interest or a wholly-owned company holding the interest.</p>	<p>The look-back starting base provisions did not explicitly address the creeping acquisitions or transactions which straddle past the 2 May 2010 date.</p>	<p>This amendment ensures that the costs of a creeping acquisition which are incurred between 1 July 2007 and 2 May 2010 are included in the total acquisition expenditure under the look-back starting base method.</p> <p>Importantly, only acquisition transactions first entered into between 1 July 2007 and 2 May 2010 would be eligible for the acquisition look-back starting base, notwithstanding that the transaction may complete post-2 May 2010. When a transaction is first entered into will need to be carefully reviewed based on the contract’s terms and conditions to determine whether an acquisition transaction occurs within the eligible period (i.e. between 1 July 2007 and 2 May 2010).</p>

¹ The acquisition must be an eligible acquisition. To be eligible, the acquisition must have occurred between 1 July 2007 and 2 May 2010.

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Starting base (cont)		
<p>Under the look-back starting base method, allowable PRRT expenditure incurred post-30 June 2010 can only be taken into account if the expenditure meets the full substantiation requirements, while allowable PRRT expenditure incurred from 1 July 2002 to 30 June 2010 is taken into account if the expenditure can be reasonably substantiated.</p>	<p>Under the look-back starting base method, allowable PRRT expenditure incurred post-30 June 2007 can only be taken into account if the expenditure meets the full substantiation requirements, while allowable PRRT expenditure incurred from 1 July 2002 to 30 June 2007 is taken into account if the expenditure can be reasonably substantiated.</p>	<p>This amendment recognises that prior to 2 July 2010 when the Gillard Government announced the current structure of the extended PRRT regime, many transitioning taxpayers not previously subject to the PRRT may not have maintained records in the exact form and manner required under the substantiation rules in the PRRTAA. This is a positive change that reflects a pragmatic approach being applied to taxpayers adopting the look-back starting base method. It is, however, acknowledged that there may remain a degree of uncertainty in practice as to how the ATO will administer the requirement for relevant expenditure to be “reasonably substantiated”.</p>
<p>Under the book value starting base method, the book value of starting base assets is the accounting value of the assets recorded in the most recent audited financial report available before 2 May 2010 that has been prepared, and is for the financial period ended, during the 18 months preceding 2 May 2010.</p>	<p>Under the book value starting base method, the book value of starting base assets is the accounting value of the assets recorded in the most recent audited financial report available before 2 May 2010 that has been prepared, and is for the financial period ended, during the 12 months preceding 2 May 2010.</p>	<p>This amendment lengthens the period in which an entity may have an eligible financial report from which it is able to determine the book value of its starting base assets.</p>
<p>Once something has become a starting base asset relating to a petroleum project interest derived from an exploration permit or retention lease, it cannot become a starting base of another project derived from that permit or lease.</p>	<p>No equivalent provision.</p>	<p>The value of a person’s interest in an exploration permit or retention lease will be taken to be a starting base amount in respect of the first production licence that is excised from that permit or lease. The person’s interest in the remaining permit or lease area (outside the production licence area) is taken to commence at the time the first production licence was derived and hence, will not be entitled to a starting base amount, although subsequent allowable PRRT expenditures incurred on that remaining permit or lease area will be taken into account as part of any future licence that is issued over the remaining permit or lease area (this is consistent with the limited look-back rule introduced in <i>Tax Laws Amendment (2009 Measures No. 3) Act 2009</i>).</p>

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2 November 2011 PRRT Bill and EM	26 August 2011 Exposure Draft	Commentary and observations
Assessable receipts		
<p>The assessable petroleum receipts provision (s24(1) of the PRRTAA) is being amended to provide a gateway for onshore Coal Seam Gas (CSG)-to-LNG taxpayers to access the integrated GTL regulations to determine the value of the resource at the taxing point, where a sale of CSG occurs before an MPC (in the form of sales gas) emerges such that the sale triggers a taxing point under section 24(1)(a) of the PRRTAA.</p>	<p>No equivalent provision.</p>	<p>In response to calls by industry to ensure that onshore CSG-to-LNG taxpayers are able to access the GTL regulations (as recommended by the PTG) and are not disadvantaged by their unique operational and commercial structure, this amendment is being introduced to specifically cater for situations where the integrated CSG-to-LNG value chain is segmented because there is a sale of CSG, before an MPC (i.e. sales gas relevantly) is produced, at some point along the value chain. Under current law, the sale triggers a taxing point and the consideration receivable at that point is assessable (subject to arm's length rules). The amendment will ensure that where the GTL regulations apply to the CSG (project natural gas), the regulations will take precedence.</p> <p>This amendment, while it provides the gateway to accessing the GTL regulations, will need to be further supplemented by changes to the GTL regulations themselves to ensure that they apply appropriately in the CSG context, including ensuring that the Residual Pricing Methodology (RPM) is provided as a genuine default option and that the RPM is applied at the relevant taxing point. The EM indicates that the GTL regulations will be reviewed following passage of the PRRT Bill. It is hoped that Treasury will continue to consult with industry on the proposed changes to the GTL regulations, as committed to by the Government in the Minister's first reading speech introducing the PRRT Bill into Parliament on 2 November 2011.</p>
<p>A new category of assessable receipts from the sale of incidental products or the provision of incidental carbon capture and storage services will be introduced. The amount that is assessable is the consideration receivable for the sale of the product or the provision of the service, less the expenditure incurred in deriving the receipt that was not deductible for PRRT purposes. The Commissioner is able to substitute market value consideration if the product is sold, or the service is provided, under a non-arm's length transaction.</p>	<p>A new category of assessable receipts from the sale of incidental products and the provision of incidental services will be introduced. The amount that is assessable is the consideration receivable, less any expenses payable, for the sale of the product or the provision of the service. No deemed market value proceeds apply.</p>	<p>In response to comments by industry that its scope may be unintentionally broad, the new category of assessable receipts is now more targeted in its application such that it only applies specifically to income from the sale of incidental products and the provision of carbon capture and storage services that are linked to the incurring of deductible PRRT expenditure.</p> <p>In addition, the provision allows expenses to be deducted against the assessable amount to the extent such expenses are not deductible when incurred. This effectively provides a mirror or matching provision, such that effectively only the net profit from the relevant product or service is assessable. Additional examples have been provided in the EM to clarify the practical operation of this provision and its interaction with other parts of the PRRTAA. One of these examples confirms that collateral hedging gains are not assessable under the assessable incidental receipts provision as such gains are too remote.</p> <p>The EM also confirms that there will be no double taxation of any given assessable receipt where more than one assessable receipts provision could potentially apply. However, there is no ordering convention specified as to which of the multiple assessable receipts provisions applies so it would be open to taxpayers to apply the most appropriate provision. Note that the determination of the assessable amount under this new category of assessable receipts is unique compared to other assessable receipts provisions, so different outcomes may potentially arise under alternative provisions.</p>

Appendix – Comparison of key differences between the PRRT Bill introduced on 2 November 2011 and the Exposure Draft of 26 August 2011

2 November 2011 PRRT Bill and EM	26 August 2011 Exposure Draft	Commentary and observations
Assessable receipts (cont)		
Amounts receivable by a PRRT taxpayer from the sale of free carbon units that are related to a petroleum project will constitute an assessable miscellaneous compensation receipt.	No equivalent provision.	The amendment clarifies the treatment of income from the sale of free carbon units received by LNG producers under the carbon pricing assistance measures (as provided for under the <i>Clean Energy Act 2011</i>). This is intended to offset any deductible PRRT expenditure incurred by the taxpayer in managing their upstream carbon footprint. Note that any non-arm's length transactions entered into between the taxpayer which received the free units and any of its related parties may attract the operation of the market value deeming rules.
Deductible expenditure		
Payments for carbon unit shortfall charges will be specifically non-deductible for PRRT purposes.	No equivalent provision.	The amendment is intended to ensure that there is no tax shelter for liable entities who defer their emissions liability by incurring a penalty for emissions in excess of the carbon units acquired and surrendered in a given year. This is notwithstanding that the penalty is in effect a cost incurred by the taxpayer in abating its carbon emissions, potentially in unforeseen circumstances.
Further explanations are provided in the EM on the intended scope of the deductibility provisions pertaining to environmental expenditure and the treatment of land access costs.	Limited explanation is provided in the draft explanatory material on the deductibility of costs unique to the onshore CSG sector and the range of environmental costs that may be incurred as part of a project's activities (besides water management costs).	While no amendment is being made to introduce specific deductibility provisions for a range of environmental and land access costs typically encountered by the onshore oil and gas sector, it is positive that the EM now provides explicit commentary confirming the deductibility of: <ul style="list-style-type: none"> a. the costs of acquiring carbon permits to offset carbon emissions (inside the PRRT ringfence) and the costs of abating greenhouse gas emissions (inside the PRRT ringfence) including the cost of bio-sequestration activities (e.g. in establishing carbon sink forests) relating to a petroleum project; and b. payments to landowners associated with accessing production sites for onshore oil and gas operations.

Appendix – Comparison of key differences between the PRRT Bill introduced on 2 November 2011 and the Exposure Draft of 26 August 2011

2 November 2011 PRRT Bill and EM	26 August 2011 Exposure Draft	Commentary and observations
Consolidation		
<p>A modified consolidation regime will be introduced for onshore petroleum projects. A tax consolidated group or Multiple Entry Consolidated (MEC) group that has been formed for income tax purposes can make an irrevocable election to consolidate for PRRT purposes. This allows various interests in the same onshore petroleum project that are held by multiple entities within the tax consolidated or MEC group to be treated as being held by a single entity (i.e. the head company) for PRRT purposes. To achieve this, all the onshore petroleum project interests of the group's subsidiary members are deemed to be transferred to the head company (as if section 48 of the PRRTAA applies) when the PRRT consolidation choice is made. The conversion of a tax consolidated into a MEC group or vice versa, or the interposition of a new head company will generally occur on a seamless basis as the new head company (if any) inherits the old head company's history. The head company is deemed to transfer to a leaving entity the onshore project interest which the leaving entity takes with it on exit (as if section 48A of the PRRTAA applies).</p>	<p>No equivalent provision.</p>	<p>The modified consolidation regime for PRRT purposes is aimed at simplifying PRRT compliance in respect of onshore projects and providing a limited ability to group onshore project interests held by multiple legal entities within a tax consolidated or MEC group, while respecting the framework of PRRT as a project-based tax. As with the income tax experience, it is likely that a “bottom-up approach” would continue to be mainly used given the specifics of the income and expenditure items that are within the PRRT project ringfence.</p> <p>The consolidation choice (which is irrevocable) takes effect no earlier than 21 days prior to the lodgement of a valid election with the Commissioner.</p> <p>The use of the income tax consolidated or MEC group concept (which is only applicable to resident companies) prevents foreign companies of the same group which hold onshore project interests from consolidating their interests.</p> <p>The modified consolidation regime introduces a single entity rule (which treats subsidiary members of the income tax consolidated or MEC group as parts of the head company) for the purposes (“core purposes”) of working out:</p> <ol style="list-style-type: none"> a. the interests in onshore petroleum projects which the entities have; b. the assessable receipts and deductible expenditure arising in relation to those interests; and c. the PRRT payable in relation to those interests. <p>Consequently, transfers of onshore project interests between members of an income tax consolidated or MEC group will be disregarded for PRRT purposes. It is unclear whether other intra-group transactions (e.g. the sale of petroleum or MPC by the legal owner of a tenement interest to another group member, which does not own any tenement interests, for further processing or on-sale) which affect the determination of assessable receipts for the tenement interest holder will be similarly disregarded for PRRT purposes under the single entity rule. There is a further question as to whether expenditures (in the nature of upstream project costs) incurred by subsidiary members which do not hold any onshore project interest would be deductible for PRRT purposes under the single entity rule in determining the head company's consolidated PRRT liability. As such, the precise impacts of opting into the PRRT consolidation regime will need to be carefully considered and balanced against any anticipated compliance savings that may result.</p> <p>For groups which choose not to consolidate for PRRT purposes, there will be no grouping of project interests as the PRRT Bill does not allow for <i>onshore project interests</i> (as opposed to projects) to be combined, notwithstanding that such project interests may be commercially and operationally integrated.</p> <p>It is hoped that consideration will be given by the Economics Committee as to the consequence of the PRRT consolidation regime and the inability to combine integrated project interests. Consideration should also be given to clarifying the scope and operation of the single entity rule for PRRT purposes.</p> <p>Tax sharing and tax funding arrangements will need to be modified to cater for the consolidation of onshore PRRT interests, if elected.</p>

Appendix – Comparison of key differences between the PRRT Bill introduced on 2 November 2011 and the Exposure Draft of 26 August 2011

2 November 2011 PRRT Bill and EM	26 August 2011 Exposure Draft	Commentary and observations
Other transitional measures		
An election to be bound by the functional currency rules applies with effect from 1 July 2012 if the election is made within 30 days from 1 July 2012.	No equivalent provision.	Transitioning taxpayers who will commence operating in the PRRT regime from 1 July 2012 will have the ability to apply a non-AUD functional currency as of 1 July 2012 provided the functional currency election is made by 30 July 2012. Without this transitional measure, an election to be bound by the functional currency rules applies with effect from the start of the PRRT year following the year in which the election is made (i.e. 1 July 2013 at the earliest for transitioning taxpayers). While this amendment is aimed to cater for transitioning taxpayers, the drafting appears broad enough to allow existing offshore PRRT taxpayers a once-off opportunity to have until 30 July 2012 to apply a functional currency election retrospectively from 1 July 2012.
PRRT instalment arrangements do not apply in relation to the PRRT year commencing on 1 July 2012 in relation to projects transitioning into the PRRT regime on 1 July 2012.	No equivalent provision, although reference was made to this effect in the draft explanatory material.	This transitional rule now formally provides the mechanism by which the PRRT instalment arrangements are switched off for transitioning projects in respect of the first PRRT year (2012/2013). The normal instalment arrangements resume from 1 July 2013 (with the first instalment potentially due by 21 October 2013). This is aimed at providing adequate time for transitioning taxpayers to determine their starting base amounts, apply for project combinations (if necessary) and put in place the appropriate systems and processes to transition into the PRRT regime. However, as the PRRT liability for the first year is not spread out over instalments, funding requirements for any PRRT liability for the full year ended 30 June 2013 (due on 30 August 2013) will need to be managed.

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