

# Minerals Resource Rent Tax Act 2012

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- C2012C00571

Superseded

View Series

DETAILS

EXPAND



# Minerals Resource Rent Tax Act 2012

## Act No. 13 of 2012 as amended

This compilation was prepared on 17 July 2012  
taking into account amendments up to Act No. 71 of 2012

The text of any of those amendments not in force  
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be  
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## Contents

|                                                |   |
|------------------------------------------------|---|
| <b>Chapter 1—Introduction</b>                  | 1 |
| <b>Part 1-1—Preliminary</b>                    | 1 |
| <b>Division 1—Preliminary</b>                  | 1 |
| 1-1..... Short title [ <i>see</i> Note 1]..... | 1 |
| 1-5..... Commencement.....                     | 1 |
| 1-10..... Object of this Act.....              | 1 |



|                                                                           |           |
|---------------------------------------------------------------------------|-----------|
| 1-15..... Administration of this Act.....                                 | 1         |
| 1-20..... Extension to external Territories.....                          | 2         |
| 1-25..... Extraterritorial application.....                               | 2         |
| <b>Part 1-2—A guide to this Act</b>                                       | <b>3</b>  |
| <b>Division 2—Overview of this Act</b>                                    | <b>3</b>  |
| 2-1..... What this Act is about.....                                      | 3         |
| 2-5..... How this Act is arranged.....                                    | 4         |
| <b>Division 3—Defined terms</b>                                           | <b>5</b>  |
| 3-1..... When defined terms are identified.....                           | 5         |
| 3-5..... When terms are not identified.....                               | 5         |
| 3-10..... Identifying the defined term in a definition.....               | 5         |
| <b>Division 4—Status of guides and other non-operative material</b>       | <b>6</b>  |
| 4-1..... Non-operative material.....                                      | 6         |
| 4-5..... Guides.....                                                      | 6         |
| 4-10..... Other material.....                                             | 6         |
| <b>Chapter 2—General liability rules</b>                                  | <b>7</b>  |
| <b>Part 2-1—Core rules</b>                                                | <b>7</b>  |
| <b>Division 10—Core rules</b>                                             | <b>7</b>  |
| 10-1..... A miner’s liability for MRRT.....                               | 7         |
| 10-5..... The MRRT liability for a mining project interest.....           | 7         |
| 10-10..... MRRT allowances.....                                           | 8         |
| 10-15..... The effect of low profits on a miner’s liability for MRRT..... | 8         |
| 10-20..... Payment of MRRT.....                                           | 9         |
| 10-25..... MRRT years.....                                                | 9         |
| <b>Part 2-2—Mining project interests</b>                                  | <b>10</b> |

|                                                                                       |    |
|---------------------------------------------------------------------------------------|----|
| <b>Part 2—Mining project interests</b>                                                | 10 |
| <b>Division 15—Mining project interests</b>                                           | 10 |
| <b>Guide to Division 15</b>                                                           | 10 |
| 15-1..... What this Division is about.....                                            | 10 |
| <b>Operative provisions</b>                                                           | 10 |
| 15-5..... When an entity has a <i>mining project interest</i> .....                   | 10 |
| 15-10..... Iron ore mining project interests to be kept separate.....                 | 13 |
| 15-15..... Meaning of <i>production right</i> .....                                   | 13 |
| 15-20..... Meaning of <i>project area</i> .....                                       | 13 |
| <b>Division 20—Taxable resources</b>                                                  | 15 |
| <b>Guide to Division 20</b>                                                           | 15 |
| 20-1..... What this Division is about.....                                            | 15 |
| <b>Operative provisions</b>                                                           | 15 |
| 20-5..... What are <i>taxable resources</i> .....                                     | 15 |
| <b>Part 2-3—Mining profits</b>                                                        | 17 |
| <b>Division 25—Mining profits</b>                                                     | 17 |
| <b>Guide to Division 25</b>                                                           | 17 |
| 25-1..... What this Division is about.....                                            | 17 |
| <b>Operative provisions</b>                                                           | 17 |
| 25-5..... How to work out the <i>mining profit</i> for a mining project interest..... | 17 |
| <b>Division 30—Mining revenue</b>                                                     | 19 |
| <b>Guide to Division 30</b>                                                           | 19 |
| 30-1..... What this Division is about.....                                            | 19 |
| <b>Subdivision 30-A—A miner's mining revenue</b>                                      | 19 |
| 30-5..... A miner's <i>mining revenue</i> .....                                       | 20 |

|                                                                                    |    |
|------------------------------------------------------------------------------------|----|
| <b>Subdivision 30-B—Revenue from supply, export or use of taxable resources</b>    | 20 |
| 30-10..... When amounts from taxable resources etc. are included in mining revenue | 20 |
| 30-15..... Meaning of mining revenue event.....                                    | 21 |
| 30-20..... Meaning of <i>initial supply</i> .....                                  | 22 |
| 30-25..... Working out amounts to be included.....                                 | 22 |
| 30-30..... Meaning of <i>arm's length consideration</i> .....                      | 26 |
| 30-35..... When supplies are made.....                                             | 26 |
| <b>Subdivision 30-C—Other revenue</b>                                              | 26 |
| 30-40..... Recoupment or offsetting of mining expenditure.....                     | 27 |
| 30-45..... Recoupment of payments that give rise to royalty credits.....           | 27 |
| 30-50..... Compensation for loss of taxable resources.....                         | 28 |
| 30-55..... Amounts that do not relate to a particular mining revenue event.....    | 29 |
| <b>Subdivision 30-D—Miscellaneous</b>                                              | 29 |
| 30-60..... No double counting.....                                                 | 29 |
| 30-65..... Expenditure incurred in causing amounts to be received etc.....         | 29 |
| 30-70..... Amounts taken to be received.....                                       | 30 |
| 30-75..... GST and increasing adjustments.....                                     | 30 |
| <b>Division 35—Mining expenditure</b>                                              | 31 |
| <b>Guide to Division 35</b>                                                        | 31 |
| 35-1..... What this Division is about.....                                         | 31 |
| <b>Subdivision 35-A—A miner's mining expenditure</b>                               | 31 |
| 35-5..... A miner's <i>mining expenditure</i> .....                                | 31 |
| 35-10..... General expenditure.....                                                | 32 |
| 35-15..... Meaning of <i>upstream mining operations</i> .....                      | 32 |
| 35-20..... Meaning of <i>mining operations</i> .....                               | 33 |

|                                                                                            |    |
|--------------------------------------------------------------------------------------------|----|
| 35-25..... No double counting.....                                                         | 34 |
| <b>Subdivision 35-B—Excluded expenditure</b>                                               | 34 |
| 35-35..... Cost of acquiring rights and interests in projects.....                         | 35 |
| 35-40..... Royalties.....                                                                  | 35 |
| 35-45..... Meanings of <i>mining royalty</i> and <i>private mining royalty</i> .....       | 36 |
| 35-50..... Financing costs.....                                                            | 37 |
| 35-55..... Hire purchase agreements.....                                                   | 37 |
| 35-60..... Non-adjacent land and buildings used in administrative or accounting activities | 38 |
| 35-65..... Hedging or foreign exchange arrangements.....                                   | 38 |
| 35-70..... Rehabilitation bond and trust payments.....                                     | 39 |
| 35-75..... Payments of income tax or GST.....                                              | 39 |
| 35-80..... Unit shortfall charge—clean energy.....                                         | 40 |
| <b>Division 40—Valuation point</b>                                                         | 41 |
| <b>Guide to Division 40</b>                                                                | 41 |
| 40-1..... What this Division is about.....                                                 | 41 |
| <b>Operative provisions</b>                                                                | 41 |
| 40-5..... Meaning of <i>valuation point</i> .....                                          | 41 |
| <b>Part 2-4—Low profit offsets</b>                                                         | 43 |
| <b>Division 45—Low profit offsets</b>                                                      | 43 |
| <b>Guide to Division 45</b>                                                                | 43 |
| 45-1..... What this Division is about.....                                                 | 43 |
| <b>Operative provisions</b>                                                                | 43 |
| 45-5..... Low profit offset—profits not greater than \$75 million.....                     | 43 |
| 45-10..... Low profit offset—profits greater than \$75 million and less than \$125 million | 44 |
| <b>Part 2-5—Payment of MRRT</b>                                                            | 46 |

|                                                                                                 |    |
|-------------------------------------------------------------------------------------------------|----|
| <b>Division 50—How to work out when to pay MRRT</b>                                             | 46 |
| <b>Guide to Division 50</b>                                                                     | 46 |
| 50-1..... What this Division is about.....                                                      | 46 |
| <b>Operative provisions</b>                                                                     | 46 |
| 50-5..... When assessed MRRT is payable.....                                                    | 46 |
| 50-10..... When shortfall interest charge is payable.....                                       | 47 |
| 50-15..... General interest charge payable on unpaid assessed MRRT or shortfall interest charge | 47 |
| <b>Chapter 3—MRRT allowances</b>                                                                | 49 |
| <b>Part 3-1—Royalty allowances</b>                                                              | 49 |
| <b>Division 60—Royalty allowances</b>                                                           | 49 |
| <b>Guide to Division 60</b>                                                                     | 49 |
| 60-1..... What this Division is about.....                                                      | 49 |
| <b>Operative provisions</b>                                                                     | 50 |
| 60-5..... Objects of this Division.....                                                         | 50 |
| 60-10..... When a miner has a royalty allowance.....                                            | 50 |
| 60-15..... The amount of a royalty allowance.....                                               | 50 |
| 60-20..... When a royalty credit arises.....                                                    | 51 |
| 60-25..... Amount of a royalty credit.....                                                      | 51 |
| 60-30..... Royalty credits reduced by recoupments.....                                          | 53 |
| <b>Part 3-2—Transferred royalty allowances</b>                                                  | 54 |
| <b>Division 65—Transferred royalty allowances</b>                                               | 54 |
| <b>Guide to Division 65</b>                                                                     | 54 |
| 65-1..... What this Division is about.....                                                      | 54 |
| <b>Operative provisions</b>                                                                     | 54 |

|                                                                             |           |
|-----------------------------------------------------------------------------|-----------|
| 65-5..... Object of this Division.....                                      | 54        |
| 65-10..... When a miner has a transferred royalty allowance.....            | 55        |
| 65-15..... The amount of a transferred royalty allowance.....               | 55        |
| 65-20..... Available royalty credits.....                                   | 55        |
| <b>Part 3-3—Pre-mining loss allowances</b>                                  | <b>57</b> |
| <b>Division 70—Pre-mining loss allowances</b>                               | <b>57</b> |
| <b>Guide to Division 70</b>                                                 | <b>57</b> |
| 70-1..... What this Division is about.....                                  | 57        |
| <b>Subdivision 70-A—Object of this Division</b>                             | <b>57</b> |
| 70-5..... Objects of this Division.....                                     | 57        |
| <b>Subdivision 70-B—When a miner has a pre-mining loss allowance</b>        | <b>58</b> |
| 70-10..... When a miner has a pre-mining loss allowance.....                | 58        |
| 70-15..... The amount of a pre-mining loss allowance.....                   | 58        |
| 70-20..... Available pre-mining losses for a pre-mining loss allowance..... | 59        |
| 70-25..... Meaning of <i>pre-mining project interest</i> etc.....           | 60        |
| <b>Subdivision 70-C—Pre-mining losses</b>                                   | <b>60</b> |
| 70-30..... Pre-mining losses.....                                           | 60        |
| 70-35..... Meaning of <i>pre-mining expenditure</i> etc.....                | 61        |
| 70-40..... Meaning of <i>pre-mining revenue</i> .....                       | 63        |
| <b>Subdivision 70-D—Amounts of pre-mining losses</b>                        | <b>63</b> |
| 70-45..... Pre-mining losses for the MRRT years in which they arise.....    | 64        |
| 70-50..... Pre-mining losses for later MRRT years.....                      | 64        |
| <b>Part 3-4—Mining loss allowances</b>                                      | <b>66</b> |
| <b>Division 75—Mining loss allowances</b>                                   | <b>66</b> |
| <b>Guide to Division 75</b>                                                 | <b>66</b> |

|                                                                                                                       |    |
|-----------------------------------------------------------------------------------------------------------------------|----|
| 75-1..... What this Division is about.....                                                                            | 66 |
| <b>Operative provisions</b>                                                                                           | 66 |
| 75-5..... Objects of this Division.....                                                                               | 66 |
| 75-10..... When a miner has a mining loss allowance.....                                                              | 67 |
| 75-15..... The amount of a mining loss allowance.....                                                                 | 67 |
| 75-20..... Mining losses.....                                                                                         | 67 |
| <b>Part 3-5—Starting base allowances</b>                                                                              | 69 |
| <b>Division 80—Starting base allowances</b>                                                                           | 69 |
| <b>Guide to Division 80</b>                                                                                           | 69 |
| 80-1..... What this Division is about.....                                                                            | 69 |
| <b>Subdivision 80-A—Objects of this Division</b>                                                                      | 70 |
| 80-5..... Objects of this Division.....                                                                               | 70 |
| <b>Subdivision 80-B—When a miner has a starting base allowance</b>                                                    | 70 |
| 80-10..... When a miner has a starting base allowance.....                                                            | 71 |
| 80-15..... The amount of a starting base allowance.....                                                               | 71 |
| 80-20..... When a miner has a starting base loss.....                                                                 | 71 |
| <b>Subdivision 80-C—Starting base assets</b>                                                                          | 72 |
| 80-25..... Meaning of <i>starting base asset</i> .....                                                                | 72 |
| 80-30..... Treating starting base assets as a single starting base asset.....                                         | 73 |
| 80-35..... Mine development expenditure may be a starting base asset.....                                             | 74 |
| <b>Subdivision 80-D—Amounts of starting base losses</b>                                                               | 75 |
| 80-40..... Starting base losses for the MRRT years in which they arise.....                                           | 75 |
| 80-45..... Starting base losses for later MRRT years.....                                                             | 77 |
| 80-50..... Mining project interests originating from pre-mining project interests with different valuation approaches | 78 |

|                                                                                       |    |
|---------------------------------------------------------------------------------------|----|
| <b>Division 85—Valuation approaches</b>                                               | 80 |
| <b>Guide to Division 85</b>                                                           | 80 |
| 85-1..... What this Division is about.....                                            | 80 |
| <b>Operative provisions</b>                                                           | 80 |
| 85-5..... Choosing a valuation approach.....                                          | 80 |
| 85-10..... Restriction on specifying the book value approach.....                     | 81 |
| 85-15..... The valuation approach for a mining project interest.....                  | 81 |
| <b>Division 90—Declines in value of starting base assets</b>                          | 83 |
| <b>Guide to Division 90</b>                                                           | 83 |
| 90-1..... What this Division is about.....                                            | 83 |
| <b>Subdivision 90-A—How to work out the decline in value of a starting base asset</b> | 83 |
| 90-5..... How to work out the decline in value of a starting base asset.....          | 84 |
| 90-10..... Write off rates under the book value approach.....                         | 84 |
| 90-15..... Write off rates under the market value approach.....                       | 85 |
| <b>Subdivision 90-B—Base values under the book value approach</b>                     | 86 |
| 90-20..... Application of this Subdivision.....                                       | 87 |
| 90-25..... Initial base value.....                                                    | 87 |
| 90-30..... Later base values.....                                                     | 90 |
| <b>Subdivision 90-C—Base values under the market value approach</b>                   | 90 |
| 90-35..... Application of this Subdivision.....                                       | 90 |
| 90-40..... Initial base value.....                                                    | 91 |
| 90-45..... Mining project interest originating from pre-mining project interests etc. | 92 |
| 90-50..... Later base values.....                                                     | 92 |
| <b>Subdivision 90-D—Miscellaneous</b>                                                 | 92 |
| 90-55..... Meaning of <i>interim expenditure</i> .....                                | 93 |



|                                                                                    |            |
|------------------------------------------------------------------------------------|------------|
| 90-60..... Partial disposal of a starting base asset before the start time.....    | 95         |
| 90-65..... Recoupment of the value of a starting base asset.....                   | 95         |
| <b>Part 3-6—Transferred pre-mining loss allowances</b>                             | <b>98</b>  |
| <b>Division 95—Transferred pre-mining loss allowances</b>                          | <b>98</b>  |
| <b>Guide to Division 95</b>                                                        | <b>98</b>  |
| 95-1..... What this Division is about.....                                         | 98         |
| <b>Operative provisions</b>                                                        | <b>98</b>  |
| 95-5..... Object of this Division.....                                             | 98         |
| 95-10..... When a miner has a transferred pre-mining loss allowance.....           | 99         |
| 95-15..... The amount of a transferred pre-mining loss allowance.....              | 99         |
| 95-20..... Available pre-mining losses for a transferred pre-mining loss allowance | 99         |
| 95-25..... Cap on available pre-mining losses.....                                 | 101        |
| 95-30..... The <i>pre-mining loss cap</i> .....                                    | 102        |
| <b>Part 3-7—Transferred mining loss allowances</b>                                 | <b>104</b> |
| <b>Division 100—Transferred mining loss allowances</b>                             | <b>104</b> |
| <b>Guide to Division 100</b>                                                       | <b>104</b> |
| 100-1..... What this Division is about.....                                        | 104        |
| <b>Operative provisions</b>                                                        | <b>104</b> |
| 100-5..... Object of this Division.....                                            | 104        |
| 100-10... When a miner has a transferred mining loss allowance.....                | 105        |
| 100-15... The amount of a transferred mining loss allowance.....                   | 105        |
| 100-20... Available mining losses.....                                             | 105        |
| 100-25... Common ownership test.....                                               | 106        |
| <b>Chapter 4—Specialist liability rules</b>                                        | <b>107</b> |
| <b>Part 4-1—Mining project interests</b>                                           | <b>107</b> |

**Part 7—Mining project interests**

107

**Division 115—Combining mining project interests** 107**Guide to Division 115** 107

115-1..... What this Division is about..... 107

**Subdivision 115-A—Object of this Division** 107

115-5..... Object of this Division..... 107

**Subdivision 115-B—When mining project interests are combined** 108

115-10... Mining project interests may be treated as the same mining project interest 108

115-15... Choosing to override non-compliance..... 109

115-20... Transferability of royalty credits..... 110

115-25... Transferability of pre-mining losses..... 110

115-30... Transferability of mining losses..... 110

115-35... Starting base losses and starting base assets..... 111

**Subdivision 115-C—The effect of combining mining project interests** 111

115-40... The effect of combining mining project interests..... 111

115-45... Allowance components arising in preceding MRRT years..... 112

115-50... Different valuation approaches for mining project interests..... 113

115-55... Transferred pre-mining loss allowances..... 114

115-60... Transferred mining loss allowances..... 115

115-65... Choice of the alternative valuation method..... 116

**Division 120—Transferring mining project interests** 117**Guide to Division 120** 117

120-1..... What this Division is about..... 117

**Operative provisions** 117

120-5..... Object of this Division..... 117

120-10... Effect of mining project transfer..... 118

|                                                                                            |     |
|--------------------------------------------------------------------------------------------|-----|
| 120-15... Effect of transferred property.....                                              | 121 |
| 120-20... Events happening after mining project transfer.....                              | 122 |
| 120-25... Start of mining venture taken to be mining project transfer.....                 | 123 |
| <b>Division 125—Splitting mining project interests</b>                                     | 124 |
| <b>Guide to Division 125</b>                                                               | 124 |
| 125-1..... What this Division is about.....                                                | 124 |
| <b>Operative provisions</b>                                                                | 124 |
| 125-5..... Object of this Division.....                                                    | 124 |
| 125-10... Effect of mining project split.....                                              | 125 |
| 125-15... Meaning of <i>split percentage</i> .....                                         | 128 |
| 125-20... Effect of transferred property.....                                              | 129 |
| 125-25... Effect of MRRT liability from earlier years on rehabilitation tax offset amounts | 130 |
| 125-30... Events happening after mining project split.....                                 | 130 |
| 125-35... Start of mining venture taken to be mining project split.....                    | 131 |
| <b>Division 130—Winding down mining project interests</b>                                  | 133 |
| <b>Guide to Division 130</b>                                                               | 133 |
| 130-1..... What this Division is about.....                                                | 133 |
| <b>Operative provisions</b>                                                                | 133 |
| 130-5..... Object of this Division.....                                                    | 133 |
| 130-10... Suspension days for mining project interests.....                                | 133 |
| 130-15... Extinguishing allowance components.....                                          | 134 |
| 130-20... Restarting commercial production.....                                            | 135 |
| <b>Division 135—Ending mining project interests</b>                                        | 136 |
| <b>Guide to Division 135</b>                                                               | 136 |
| 135-1..... What this Division is about.....                                                | 136 |

|                                                                                                                    |     |
|--------------------------------------------------------------------------------------------------------------------|-----|
| <b>Operative provisions</b>                                                                                        | 136 |
| 135-5..... The termination day for a mining project interest.....                                                  | 136 |
| 135-10... The effect of renewing or changing production rights.....                                                | 136 |
| 135-15... The effect of renewing or changing mining ventures.....                                                  | 137 |
| 135-20... The effect of mining project transfers and mining project splits.....                                    | 137 |
| 135-25... Continuation of obligations etc. after the termination day.....                                          | 138 |
| <b>Part 4-2—Pre-mining project interests</b>                                                                       | 139 |
| <b>Division 140—Pre-mining profits and royalty credits</b>                                                         | 139 |
| <b>Guide to Division 140</b>                                                                                       | 139 |
| 140-1..... What this Division is about.....                                                                        | 139 |
| <b>Subdivision 140-A—Pre-mining profits</b>                                                                        | 139 |
| 140-5..... Pre-mining profits.....                                                                                 | 139 |
| 140-10... Treatment of pre-mining profits—general rule.....                                                        | 140 |
| 140-15... Effect on allowance components for other mining project interests.                                       | 141 |
| 140-20... Treatment of pre-mining profits—mining project interest originating from the pre-mining project interest | 141 |
| <b>Subdivision 140-B—Pre-mining royalty credits</b>                                                                | 142 |
| 140-25... Pre-mining royalty credits.....                                                                          | 142 |
| <b>Division 145—Transferring pre-mining project interests</b>                                                      | 144 |
| <b>Guide to Division 145</b>                                                                                       | 144 |
| 145-1..... What this Division is about.....                                                                        | 144 |
| <b>Operative provisions</b>                                                                                        | 144 |
| 145-5..... Object of this Division.....                                                                            | 144 |
| 145-10... Continuation of pre-mining project interest.....                                                         | 145 |
| 145-15... Effects of pre-mining project transfer.....                                                              | 145 |

|                                                                                            |            |
|--------------------------------------------------------------------------------------------|------------|
| 145-20... Effect of transferred property.....                                              | 147        |
| 145-25... Events happening after pre-mining project transfer.....                          | 148        |
| 145-30... Pre-mining project transfer when mining project interest originates              | 149        |
| <b>Division 150—Splitting pre-mining project interests</b>                                 | <b>150</b> |
| 150-1..... Guide to Division 150.....                                                      | 150        |
| <b>Operative provisions</b>                                                                | <b>150</b> |
| 150-5..... Object of this Division.....                                                    | 150        |
| 150-10... Continuation of pre-mining project interest.....                                 | 151        |
| 150-15... Effects of pre-mining project split.....                                         | 151        |
| 150-20... Effect of transferred property.....                                              | 153        |
| 150-25... Effect of MRRT liability from earlier years on rehabilitation tax offset amounts | 154        |
| 150-30... Events happening after pre-mining project split.....                             | 155        |
| 150-35... Pre-mining project split when mining project interest originates.....            | 156        |
| <b>Division 155—Ending pre-mining project interests</b>                                    | <b>157</b> |
| <b>Guide to Division 155</b>                                                               | <b>157</b> |
| 155-1..... What this Division is about.....                                                | 157        |
| <b>Operative provisions</b>                                                                | <b>157</b> |
| 155-5..... The termination day for a pre-mining project interest.....                      | 157        |
| 155-10... The effect of renewing or changing exploration rights.....                       | 157        |
| 155-15... The effect of pre-mining project transfers and pre-mining project splits..       | 158        |
| 155-20... Continuation of obligations etc. after the termination day.....                  | 158        |
| 155-25... Extinguishing allowance components.....                                          | 159        |
| <b>Part 4-3—Adjusting MRRT liabilities</b>                                                 | <b>160</b> |
| <b>Division 160—Adjustments to revenue and expenditure of project interests</b>            | <b>160</b> |
| <b>Guide to Division 160</b>                                                               | <b>160</b> |

|                                                                                                          |     |
|----------------------------------------------------------------------------------------------------------|-----|
| 160-1..... What this Division is about.....                                                              | 160 |
| <b>Operative provisions</b>                                                                              | 160 |
| 160-5..... Object of this Division.....                                                                  | 160 |
| 160-10... Mining adjustments.....                                                                        | 161 |
| 160-15... Effect of mining adjustments on mining revenue, mining expenditure etc.                        | 162 |
| <b>Division 165—Starting base adjustments</b>                                                            | 165 |
| <b>Guide to Division 165</b>                                                                             | 165 |
| 165-1..... What this Division is about.....                                                              | 165 |
| <b>Subdivision 165-A—Starting base adjustment events and starting base adjustment amounts</b>            | 165 |
| 165-5..... Starting base adjustment events.....                                                          | 165 |
| 165-10... Starting base adjustment amounts.....                                                          | 166 |
| 165-15... Reductions in declines in value of starting base assets.....                                   | 168 |
| <b>Subdivision 165-B—General rules for starting base adjustments</b>                                     | 169 |
| 165-20... Starting base adjustments.....                                                                 | 169 |
| 165-25... The effect of starting base adjustments on starting base losses.....                           | 170 |
| 165-30... The effect of negative starting base adjustments on mining revenue                             | 171 |
| <b>Subdivision 165-C—Partial disposal of starting base assets</b>                                        | 171 |
| 165-35... Starting base adjustments for partial disposal of starting base assets                         | 171 |
| 165-40... Declines in value of retained parts of starting base assets.....                               | 172 |
| 165-45... Reductions in starting base losses.....                                                        | 174 |
| 165-50... Base value for the next MRRT year.....                                                         | 175 |
| <b>Subdivision 165-D—Miscellaneous</b>                                                                   | 175 |
| 165-55... Use etc. of starting base assets for other mining project interests etc.                       | 175 |
| 165-60... Effect on base value of use etc. of starting base assets after starting base adjustment events | 178 |

## Part 4-4—Valuation

179

|                                                                                                    |     |
|----------------------------------------------------------------------------------------------------|-----|
| <b>Division 170—Valuation principles</b>                                                           | 179 |
| <b>Guide to Division 170</b>                                                                       | 179 |
| 170-1..... What this Division is about.....                                                        | 179 |
| <b>Operative provisions</b>                                                                        | 179 |
| 170-5..... Valuations to comply with valuation principles.....                                     | 179 |
| 170-10... The valuation principles.....                                                            | 180 |
| <b>Division 175—Alternative valuation method</b>                                                   | 182 |
| <b>Guide to Division 175</b>                                                                       | 182 |
| 175-1..... What this Division is about.....                                                        | 182 |
| <b>Subdivision 175-A—Object of this Division</b>                                                   | 182 |
| 175-5..... Object of this Division.....                                                            | 183 |
| <b>Subdivision 175-B—Choosing to use the alternative valuation method</b>                          | 183 |
| 175-10... Choosing to use the alternative valuation method.....                                    | 183 |
| 175-15... Group production of taxable resources.....                                               | 184 |
| <b>Subdivision 175-C—Amounts included in mining revenue under the alternative valuation method</b> | 185 |
| 175-20... When amounts are included in mining revenue under the alternative valuation method       | 185 |
| 175-25... How to work out the single amount.....                                                   | 185 |
| 175-30... Unadjusted revenue amounts.....                                                          | 186 |
| 175-35... Downstream operating costs.....                                                          | 187 |
| 175-40... Depreciation of assets.....                                                              | 187 |
| 175-45... Return on capital costs.....                                                             | 189 |
| <b>Division 180—Valuation of starting base assets using the look-back approach</b>                 | 190 |
| <b>Guide to Division 180</b>                                                                       | 190 |
| 180-1..... What this Division is about.....                                                        | 190 |
| <b>Operative provisions</b>                                                                        | 190 |

|                                                                                         |     |
|-----------------------------------------------------------------------------------------|-----|
| <b>Operative provisions</b>                                                             | 190 |
| 180-5..... Choosing to apply the look-back approach.....                                | 190 |
| 180-10... The effect of the look-back approach on valuation of mining project interests | 191 |
| <b>Part 4-5—Accounting for MRRT</b>                                                     | 193 |
| <b>Division 185—Currency translation</b>                                                | 193 |
| <b>Guide to Division 185</b>                                                            | 193 |
| 185-1..... What this Division is about.....                                             | 193 |
| <b>Operative provisions</b>                                                             | 193 |
| 185-5..... Objects of this Division.....                                                | 193 |
| 185-10... Translation of amounts into Australian currency.....                          | 194 |
| 185-15... Functional currency rules.....                                                | 195 |
| 185-20... Functional currency rules—Australian permanent establishments..               | 197 |
| 185-25... Special translation rules.....                                                | 198 |
| <b>Division 190—Substituted accounting periods</b>                                      | 203 |
| <b>Guide to Division 190</b>                                                            | 203 |
| 190-1..... What this Division is about.....                                             | 203 |
| <b>Operative provisions</b>                                                             | 203 |
| 190-5..... Object of this Division.....                                                 | 203 |
| 190-10... Accounting periods recognised for income tax purposes.....                    | 203 |
| 190-15... Changes in accounting periods.....                                            | 204 |
| 190-20... The effect of transitional accounting periods on threshold amounts            | 205 |
| 190-25... The effect of transitional accounting periods on uplift factors.....          | 207 |
| <b>Division 195—Non-cash benefits</b>                                                   | 208 |
| <b>Guide to Division 195</b>                                                            | 208 |
| 195-1..... What this Division is about.....                                             | 208 |



|                                                                                        |     |
|----------------------------------------------------------------------------------------|-----|
| <b>Operative provisions</b>                                                            | 208 |
| 195-5..... Object of this Division.....                                                | 208 |
| 195-10... Barter transactions.....                                                     | 209 |
| 195-15... Gift transactions.....                                                       | 209 |
| <b>Division 200—Simplified MRRT method</b>                                             | 211 |
| <b>Guide to Division 200</b>                                                           | 211 |
| 200-1..... What this Division is about.....                                            | 211 |
| <b>Operative provisions</b>                                                            | 211 |
| 200-5..... Effect of the simplified MRRT method.....                                   | 211 |
| 200-10... Choosing to use the simplified MRRT method.....                              | 212 |
| 200-15... Working out an entity's profit for simplified MRRT method purposes           | 213 |
| <b>Part 4-6—Integrity measures</b>                                                     | 215 |
| <b>Division 205—Anti-profit shifting</b>                                               | 215 |
| <b>Guide to Division 205</b>                                                           | 215 |
| 205-1..... What this Division is about.....                                            | 215 |
| <b>Operative provisions</b>                                                            | 215 |
| 205-5..... Object of Division.....                                                     | 215 |
| 205-10... Amounts to reflect independent dealings.....                                 | 216 |
| 205-15... Method to be used when determining amounts for the purposes of this Division | 217 |
| 205-20... Commissioner may compensate entity or another entity.....                    | 218 |
| 205-25... Commissioner determinations.....                                             | 219 |
| <b>Division 210—Anti-avoidance</b>                                                     | 221 |
| <b>Guide to Division 210</b>                                                           | 221 |
| 210-1..... What this Division is about.....                                            | 221 |
| <b>Subdivision 210-A—Application of this Division</b>                                  | 221 |

|                                                                                           |     |
|-------------------------------------------------------------------------------------------|-----|
| 210-5..... Object of this Division.....                                                   | 222 |
| 210-10... When does this Division apply?.....                                             | 222 |
| 210-15... When does an entity get an MRRT benefit from a scheme?.....                     | 223 |
| 210-20... Matters to be considered in determining purpose.....                            | 224 |
| <b>Subdivision 210-B—Commissioner may negate effects of schemes for MRRT benefits</b>     | 224 |
| 210-25... Commissioner may negate entity's MRRT benefits.....                             | 225 |
| 210-30... Commissioner may compensate entity or another entity.....                       | 225 |
| 210-35... One determination may cover several MRRT years etc.....                         | 226 |
| 210-40... Commissioner must give copy of determination to entity affected..               | 226 |
| <b>Part 4-7—Entities</b>                                                                  | 228 |
| <b>Division 215—Consolidated groups</b>                                                   | 228 |
| <b>Guide to Division 215</b>                                                              | 228 |
| 215-1..... What this Division is about.....                                               | 228 |
| <b>Operative provisions</b>                                                               | 229 |
| 215-5..... Objects of this Division.....                                                  | 229 |
| 215-10... Choice to consolidate for MRRT purposes.....                                    | 229 |
| 215-15... Single entity rule.....                                                         | 230 |
| 215-20... Project interests transferred to head company etc. on joining.....              | 231 |
| 215-25... Project interests transferred to leaving entity on leaving.....                 | 231 |
| 215-30... Mining project interests etc. split to leaving entity on leaving.....           | 232 |
| 215-35... Acquisition of consolidated group by another consolidated group etc.            | 232 |
| 215-40... Instalment rates for leaving entity or new head company.....                    | 233 |
| 215-45... Effect of choice to continue group after shelf company becomes new head company | 233 |
| 215-50... Effect of change of head company or provisional head company of a MEC group     | 234 |
| 215-55... Effect of group conversions involving MEC groups.....                           | 235 |

|                                                                                      |     |
|--------------------------------------------------------------------------------------|-----|
| <b>Division 220—Partnerships and unincorporated associations and bodies</b>          | 236 |
| <b>Guide to Division 220</b>                                                         | 236 |
| 220-1..... What this Division is about.....                                          | 236 |
| <b>Operative provisions</b>                                                          | 236 |
| 220-5..... Partnerships.....                                                         | 236 |
| 220-10... Unincorporated associations and bodies.....                                | 237 |
| <b>Part 4-8—Miscellaneous</b>                                                        | 238 |
| <b>Division 225—Rehabilitation tax offsets</b>                                       | 238 |
| <b>Guide to Division 225</b>                                                         | 238 |
| 225-1..... What this Division is about.....                                          | 238 |
| <b>Operative provisions</b>                                                          | 238 |
| 225-5..... Object of this Division.....                                              | 238 |
| 225-10... Entitlement to rehabilitation tax offsets.....                             | 238 |
| 225-15... Rehabilitation tax offset amounts relating to mining project interests     | 240 |
| 225-20... Rehabilitation tax offset amounts relating to pre-mining project interests | 241 |
| 225-25... Application of rehabilitation tax offsets.....                             | 242 |
| <b>Chapter 5—Miscellaneous</b>                                                       | 244 |
| <b>Division 235—Miscellaneous</b>                                                    | 244 |
| 235-1..... Regulations.....                                                          | 244 |
| <b>Chapter 6—Interpreting this Act</b>                                               | 245 |
| <b>Part 6-1—Rules for interpreting this Act</b>                                      | 245 |
| <b>Division 245—Rules for interpreting this Act</b>                                  | 245 |
| 245-1..... What forms part of this Act.....                                          | 245 |
| 245-5..... What does not form part of this Act.....                                  | 245 |

|                                                                   |     |
|-------------------------------------------------------------------|-----|
| <b>Part 6-2—Meaning of some important concepts</b>                | 247 |
| <b>Division 250—Meaning of hold</b>                               | 247 |
| <b>Guide to Division 250</b>                                      | 247 |
| 250-1..... What this Division is about.....                       | 247 |
| <b>Operative provisions</b>                                       | 247 |
| 250-5..... Meaning of <i>hold</i> .....                           | 247 |
| 250-10... When certain starting base assets are held.....         | 248 |
| 250-15... Things that are jointly held.....                       | 248 |
| <b>Division 255—Integrated mining project interests</b>           | 249 |
| <b>Guide to Division 255</b>                                      | 249 |
| 255-1..... What this Division is about.....                       | 249 |
| <b>Operative provisions</b>                                       | 249 |
| 255-5..... Upstream integration of mining project interests.....  | 249 |
| 255-10... Downstream integration of mining project interests..... | 250 |
| 255-15... Meaning of <i>downstream mining operations</i> .....    | 250 |
| 255-20... Choice to integrate.....                                | 251 |
| <b>Part 6-3—Dictionary</b>                                        | 252 |
| <b>Division 300—Dictionary</b>                                    | 252 |
| 300-1..... Dictionary.....                                        | 252 |
| <b>Notes</b>                                                      | 265 |

## **An Act about a minerals resource rent tax, and for related purposes**

### **Chapter 1—Introduction**

## Part 1-1—Preliminary

### Division 1—Preliminary

#### 1-1 Short title [see Note 1]

This Act may be cited as the *Minerals Resource Rent Tax Act 2012*.

#### 1-5 Commencement

This Act commences on 1 July 2012.

#### 1-10 Object of this Act

The object of this Act is to ensure that the Australian community receives an adequate return for its \*taxable resources, having regard to:

- (a) the inherent value of the resources; and
- (b) the non-renewable nature of the resources; and
- (c) the extent to which the resources are subject to Commonwealth, State and Territory royalties.

This Act does this by taxing above normal profits made by miners (also known as economic rents) that are reasonably attributable to the resources in the form and place they were in when extracted.

#### 1-15 Administration of this Act

The Commissioner has the general administration of this Act.

Note: An effect of this provision is that people who acquire information under this Act are subject to the confidentiality obligations in Division 355 in Schedule 1 to the *Taxation Administration Act 1953*.

#### 1-20 Extension to external Territories

The \*MRRT law extends to every external Territory other than the Australian Antarctic Territory.

#### 1-25 Extraterritorial application

**1-25 Extrajurisdictional application**

The \*MRRT law extends to acts, omissions, matters and things outside \*Australia (except where a contrary intention appears).

**Part 1-2—A guide to this Act****Division 2—Overview of this Act****2-1 What this Act is about**

This Act works out a miner's MRRT liability on mining profits made from extracting taxable resources (mainly coal and iron ore) for a mining project interest for a year.

A mining project interest is principally a share of the output of an undertaking to extract taxable resources. Mining profit consists of mining revenue less mining expenditure. The sum of the miner's mining profits for its interests are taxed at the MRRT rate.

Mining revenue is mainly that part of the revenue the miner makes from supplying, exporting or using extracted taxable resources (or things produced from them) that reasonably relates to the form and place the resources were in at their valuation point (usually when leaving the run-of-mine stockpile).

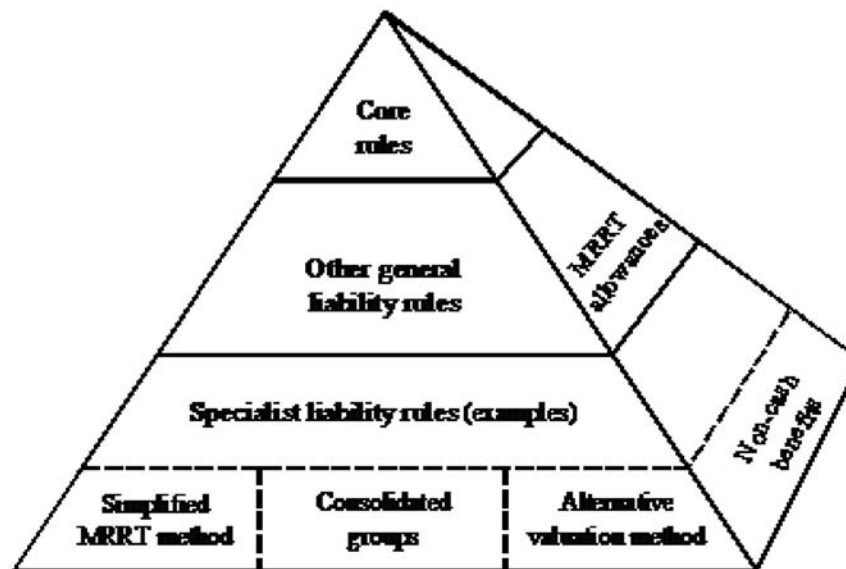
Mining expenditure is mainly the costs of finding and extracting the taxable resources and getting them to their valuation point.

Mining profit may be reduced by allowances for past losses, for the miner's existing investments at 2 May 2010 (called a starting base allowance), and for the miner's Commonwealth, State and Territory mining royalty amounts. Some allowances can be transferred to other mining project interests to reduce their mining profits.

If the total mining profits of the miner and certain connected entities is \$75 million or less, a low-profit offset will ensure that the miner has no liability for MRRT. The offset is phased-out for profits between \$75 million and \$125 million.

## 2-5 How this Act is arranged

- (1) This Act is arranged in a way that reflects the principle of moving from the general case to the particular.
- (2) In this respect, the conceptual structure of the Act is something like a pyramid. The pyramid shape illustrates the way the MRRT law is organised, moving down from the central or core provisions at the top of the pyramid, to general rules of wide application and then to the more specialised topics.



Note: Provisions relating to the administration of the MRRT and to collection and recovery of amounts of MRRT or instalments of MRRT are contained in Schedule 1 to the *Taxation Administration Act 1953*.

## Division 3—Defined terms

### 3-1 When defined terms are identified

- (1) Many of the terms used in the MRRT law are defined.
- (2) Most defined terms in this Act are identified by an asterisk appearing at the start of the term: as in “\*MRRT year”.

### 3-5 When terms are not identified

- (1) Once a defined term has been identified by an asterisk, later occurrences of the term in the same subsection are not usually asterisked.
- (2) Terms are not asterisked in the non-operative material contained in this Act.  
Note: The non-operative material is described in Division 4.
- (3) The following basic terms used throughout the Act are not identified with an asterisk:

| Common definitions that are not asterisked |                         |
|--------------------------------------------|-------------------------|
| Item                                       | Term                    |
| 1                                          | Commissioner            |
| 2                                          | extract                 |
| 3                                          | miner                   |
| 4                                          | mining project interest |
| 5                                          | MRRT                    |

### 3-10 Identifying the defined term in a definition

Within a definition, the defined term is identified by ***bold italics***.

## Division 4—Status of guides and other non-operative material



## 4-1 Non-operative material

- (1) In addition to the operative provisions themselves, this Act contains other material to help readers identify accurately and quickly the provisions that are relevant to them and to help them understand those provisions.
- (2) This other material falls into 2 main categories, see sections 4-5 and 4-10.

## 4-5 Guides

- (1) One category is the guide in many Divisions. Under the heading “What this Division is about”, a short explanation of the Division appears in boxed text.
- (2) Guides form part of this Act but are not operative provisions. In interpreting an operative provision, guides may only be considered for limited purposes. These are set out in subsection 245-10(2).

## 4-10 Other material

The other category consists of material such as notes and examples. These also form part of the Act. They are usually distinguished by font size from the operative provisions, but are not kept separate from them.

# Chapter 2—General liability rules

## Part 2-1—Core rules

## Division 10—Core rules

### Table of sections

- |      |                                                  |
|------|--------------------------------------------------|
| 10-1 | A miner’s liability for MRRT                     |
| 10-5 | The MRRT liability for a mining project interest |

- 10-10 MRRT allowances
- 10-15 The effect of low profits on a miner's liability for MRRT
- 10-20 Payment of MRRT
- 10-25 MRRT years

## 10-1 A miner's liability for MRRT

A miner is liable to pay MRRT, for an \*MRRT year, equal to the sum of its \*MRRT liabilities for each of its mining project interests for that year.

Note: For *mining project interests*, see Part 2-2.

## 10-5 The MRRT liability for a mining project interest

Work out the miner's **MRRT liability** for a mining project interest for an \*MRRT year as follows:

$$\mathbf{MRRT\ liability = MRRT\ rate \times (Mining\ profit - MRRT\ allowances)}$$

### *Method statement*

Step 1. Work out the miner's \*mining profit for the mining project interest for the \*MRRT year.

Note: For the *mining profit*, see Part 2-3.

Step 2. Work out the miner's \*MRRT allowances for the mining project interest for the \*MRRT year.

Note: For **MRRT allowances**, see section 10-10.

Step 3. Subtract the \*MRRT allowances from the \*mining profit.

Step 4. Multiply the result by the \*MRRT rate. This is the miner's **MRRT liability** for the mining project interest for the \*MRRT year.

Note 1: For the **MRRT rate**, see section 300-1.

Note 2: If the result from step 3 is zero, the miner's MRRT liability will also be zero.

## 10-10 MRRT allowances

The **MRRT allowances**, and the order in which they are applied in working out \*MRRT liabilities, are as follows:

| <b>MRRT allowances</b> |                                              |             |
|------------------------|----------------------------------------------|-------------|
| <b>Item</b>            | <b>Order of applying the MRRT allowances</b> | <b>See:</b> |
| 1                      | *Royalty allowance                           | Part 3-1    |
| 2                      | *Transferred royalty allowance               | Part 3-2    |
| 3                      | *Pre-mining loss allowance                   | Part 3-3    |
| 4                      | *Mining loss allowance                       | Part 3-4    |
| 5                      | *Starting base allowance                     | Part 3-5    |
| 6                      | *Transferred pre-mining loss allowance       | Part 3-6    |
| 7                      | *Transferred mining loss allowance           | Part 3-7    |

Note: MRRT allowances are made up of allowance components, up to the amount of the relevant mining profit.

## 10-15 The effect of low profits on a miner's liability for MRRT

If the miner has an offset under section 45-5 or 45-10 for the \*MRRT year, the amount of MRRT that the miner must pay for the MRRT year is reduced by the amount of the offset.

Note 1: For low profit offsets, see Part 2-4.

Note 2: A miner is not liable to pay MRRT for the MRRT year if the miner has chosen to use the simplified MRRT method under Division 200.

## 10-20 Payment of MRRT

The miner must pay to the Commonwealth its \*assessed MRRT for the \*MRRT year on or before the day on which the assessed MRRT becomes due and payable.

Note 1: For payment of MRRT, see Part 2-5.

Note 2: Division 115 in Schedule 1 to the *Taxation Administration Act 1953* provides for payment of MRRT by instalments.

Note 3: Rehabilitation tax offsets reduce the amount of MRRT that the miner must pay: see section 225-25.

## 10-25 MRRT years

An **MRRT year** is a \*financial year starting on or after 1 July 2012.

Note: Other accounting periods may be MRRT years if a miner uses, for income tax purposes, an accounting period other than a financial year: see Division 190 (Substituted accounting periods).

## Part 2-2—Mining project interests

### Division 15—Mining project interests

#### Guide to Division 15

#### 15-1 What this Division is about

The concept of a mining project interest is central to the MRRT. A miner's liability is based on its MRRT liabilities for each of its mining project interests.

Note: Chapter 4 contains special rules about mining project interests, including combining, transferring and splitting of mining project interests, and their suspension and termination.

#### Table of sections

##### Operative provisions

- 15-5 When an entity has a *mining project interest*
- 15-10 Iron ore mining project interests to be kept separate
- 15-15 Meaning of *production right*
- 15-20 Meaning of *project area*

#### Operative provisions

#### 15-5 When an entity has a *mining project interest*

*Mining project interest arising from a mining venture*

- (1) An \*entity has a **mining project interest** to the extent that the entity is entitled to share in the output of a \*mining venture in which the entity participates (whether actively or otherwise, and whether alone or with one or more other entities).

Note 1: There may be more than one mining venture to extract taxable resources from an area covered by a production right.

Note 2: Changing or renewing a mining venture does not necessarily cause the termination day of a mining project interest: see section 135-15.

- (2) If the \*mining venture relates to one or more \*production rights, the \*entity has a separate **mining project interest** in relation to each production right.

Example: Scouting Resources participates in a mining venture relating to the extraction of taxable resources from an area covered by 3 production rights. Scouting Resources has 3 mining project interests, one in relation to each production right.

*Meaning of mining venture*

- (3) An undertaking is a **mining venture** if the purpose, or a purpose, of the undertaking is:
- (a) to extract some or all of the \*taxable resources from the area covered by one or more \*production rights; and
  - (b) to produce an output that is a taxable resource extracted under the authority of the production right or rights, or something produced using such a taxable resource.

Example: CheckCo and BelCo enter into a contractual arrangement under which they agree to jointly extract and process iron ore from the whole area covered by a mining lease, and each take an equal share of the ore once it has been pelletised.

Participation in this undertaking gives rise to a mining project interest for each of CheckCo and BelCo, comprising their respective entitlements to share in the pellets produced from the mining venture.

*Residual mining project interest*

- (4) An \*entity has a **mining project interest** to the extent that:
- (a) the entity is entitled to extract \*taxable resources from the area covered by a \*production right; and
  - (b) there is no \*mining venture, relating to the extraction of those taxable resources, that gives rise to a mining project interest for one or more entities under subsection (1).

Note 1: The start of a mining venture relating to the extraction of those taxable resources is treated as a mining project transfer

- Note 1: The start of a mining venture relating to the extraction of those minerals resources is treated as a mining project transfer (if the venture relates to all of the resources), or otherwise, a mining project split: see section 120-25 (for transfers) or 125-35 (for splits).
- Note 2: Changing or renewing a production right does not necessarily cause the termination day of a mining project interest: see section 135-10.
- Example: LesseeCo holds a mining lease, with a term of 21 years, to extract coal from an area. LesseeCo enters into a sublease with DiggerCo, giving DiggerCo the exclusive right to extract coal from the whole area for a period of 3 years.
- LesseeCo has a mining project interest under this subsection comprising its entitlement to extract coal from the area after the expiration of the 3 year sublease.
- If there is no mining venture relating to the coal that may be extracted under the sublease, DiggerCo has a mining project interest under this subsection comprising its entitlement to extract the coal under the sublease.

*Further entitlements constitute new mining project interest*

- (5) If, after the \*entity becomes entitled as mentioned in subsection (1) or (4), the entity becomes so entitled to a further extent, the entity is taken to have a separate **mining project interest** corresponding to that further extent.

- Note: The separate mining project interests are combined into a single mining project interest under Division 115 if the requirements of that Division are met.
- Example: CheckCo and BelCo each have a mining project interest comprising an entitlement to share in the output of a mining venture in which they both participate.
- CheckCo transfers its interest in the mining venture to BelCo (Division 120, about transferring mining project interests, applies). BelCo then has a mining project interest comprising the entitlement it acquired from CheckCo to share in the output of the venture. That mining project interest is separate from CheckCo's original mining project interest.

*Royalties not to give rise to mining project interest*

- (6) To avoid doubt, a \*mining royalty or a \*private mining royalty is not an output mentioned in subsection (1), unless it is a private mining royalty that is payable in kind.
- Example: CheckCo and BelCo each participate in a mining venture that produces pelletised iron ore from the area covered by a production right. Under the contractual arrangement between the parties, CheckCo is entitled to take all the pelletised iron ore, and is required to pay BelCo an amount of money calculated by reference to the quantity of iron ore extracted under the mining venture.
- CheckCo has a mining project interest under subsection (1), BelCo does not.
- However, if CheckCo was required to pay BelCo in pelletised iron ore, BelCo would also have a mining project interest under subsection (1).

## 15-10 Iron ore mining project interests to be kept separate

If, apart from this section, a mining project interest would relate to both iron ore and \*taxable resources

11, apart from this section, a mining project interest would relate to both non ore and taxable resources other than iron ore, treat the interest as:

- (a) a mining project interest relating to iron ore; and
- (b) another mining project interest relating to taxable resources other than iron ore.

### 15-15 Meaning of *production right*

(1) A *production right* is:

- (a) an authority or right (however described) under an \*Australian law to extract a \*taxable resource from a particular area in \*Australia; or
- (b) if an authority or right (however described) under an Australian law is not required to extract a taxable resource from a particular area—an interest in an area in \*Australia that allows a person to extract a taxable resource from the area.

Examples: The following are some examples of production rights:

- (a) a mining lease;
- (b) a mining lease subject to environmental approval;
- (c) a mining licence.

(2) However, an \*exploration right is not a *production right*.

Note: An exploration right may give rise to a pre-mining project interest: see section 70-25.

### 15-20 Meaning of *project area*

The *project area* for a mining project interest is so much of the area covered by a \*production right as is:

- (a) for a mining project interest arising under subsection 15-5(1)—the area to which the \*mining venture mentioned in that subsection relates; or
- (b) for a mining project interest arising under subsection 15-5(4)—the area to which the entitlement giving rise to the mining project interest relates.

Note: The project area for a mining project interest may also be, or be part of, the project area for another mining project interest.

## Division 20—Taxable resources

### Guide to Division 20

#### 20-1 What this Division is about

The concept of a taxable resource is central to whether an entity has a mining project interest, and to the other concepts (such as mining profits) that govern an entity's MRRT liabilities.

#### Table of sections

##### Operative provisions

20-5 What are *taxable resources*

### Operative provisions

#### 20-5 What are *taxable resources*

(1) A *taxable resource* is a quantity of any of the following:

- (a) iron ore;
- (b) coal;
- (c) anything produced from a process that results in iron ore or coal being consumed or destroyed without extraction;
- (d) coal seam gas extracted as a necessary incident of mining coal.

Example: Gas extracted on an ongoing basis from a coal mine, or a proposed coal mine (if it is not extracted as part of a separate commercial operation) in order to comply with engineering requirements, mine safety laws or environmental conditions would be a taxable resource because its extraction is a necessary incident of mining the coal.

Gas extracted before coal mining begins as part of an independent commercial operation would not be a taxable resource because its extraction would not be a necessary incident of coal mining. Instead, that gas would be subject to taxation under the *Petroleum Resource Rent Tax Assessment Act 1987*.

(2) In deciding whether something is a *taxable resource*, disregard:



- (a) the use to which it is or will be put; and
  - (b) what is or will be produced from it after extraction.
- (3) A quantity of a thing may be a **taxable resource** even if its extent is not known (for example, before it is extracted).

## Part 2-3—Mining profits

### Division 25—Mining profits

#### Guide to Division 25

##### 25-1 What this Division is about

A miner's mining profit is a component of its MRRT liability for a mining project interest for an MRRT year. It is the excess of mining revenue over mining expenditure for the interest for the year.

#### Table of sections

##### Operative provisions

25-5 How to work out the **mining profit** for a mining project interest

#### Operative provisions

##### 25-5 How to work out the **mining profit** for a mining project interest

Work out a miner's **mining profit** for a mining project interest for an \*MRRT year as follows:

**Mining profit = Mining revenue – Mining expenditure**

*Method statement*

Step 1. Work out the miner's \*mining revenue for the mining project interest for the \*MRRT year.

Note: For the *mining revenue*, see Division 30.

Step 2. Work out the miner's \*mining expenditure for the mining project interest for the \*MRRT year.

Note: For the *mining expenditure*, see Division 35.

Step 3. If the \*mining revenue exceeds the \*mining expenditure, the difference is the miner's *mining profit* for the mining project interest for the \*MRRT year.

Step 4. If the \*mining revenue does not exceed the \*mining expenditure, the miner's *mining profit* for the mining project interest for the \*MRRT year is zero.

Note: Mining expenditure that exceeds mining revenue is a mining loss that may be applied in working out a mining loss allowance (see Part 3-4) or a transferred mining loss allowance (see Part 3-7).

## Division 30—Mining revenue

### Table of Subdivisions

#### Guide to Division 30

- 30-A A miner's mining revenue
- 30-B Revenue from supply, export or use of taxable resources
- 30-C Other revenue
- 30-D Miscellaneous

### Guide to Division 30

#### 30-1 What this Division is about

A miner's mining revenue for a mining project interest may consist of revenue from:

- (a) taxable resources extracted from the project area for the mining project interest, to the extent that the revenue is reasonably attributable to the taxable resources in the form and place they were in when they were at their valuation point; and
- (b) recoupment of mining expenditure relating to the mining project interest; and
- (c) compensation for loss of taxable resources for the mining project interest; and
- (d) amounts for supply of taxable resources if the amounts are not attributable to particular taxable resources.

## Subdivision 30-A—A miner's mining revenue

### Table of sections

30-5 A miner's *mining revenue*

### 30-5 A miner's *mining revenue*

A miner's *mining revenue* for a mining project interest that the miner has, for an \*MRRT year, is the sum of all the amounts that, under this Act, are included in the miner's mining revenue for that interest for that year.

Note: Most of the amounts are covered by this Division. However, the following amounts may also be included in a miner's mining revenue:

- (a) amounts that are in effect recoupment of the value of starting base assets (see section 90-65);
- (b) certain pre-mining profits (see section 140-20);
- (c) amounts arising as a result of adjustments to take account of changes in circumstances (see Division 160);
- (d) amounts arising as a result of balancing adjustment events for starting base assets (see Division 165).

## Subdivision 30-B—Revenue from supply, export or use of taxable resources

### Table of sections

30-10 When amounts from taxable resources etc. are included in mining revenue

- 30-15 Meaning of mining revenue event
- 30-20 Meaning of *initial supply*
- 30-25 Working out amounts to be included
- 30-30 Meaning of *arm's length consideration*
- 30-35 When supplies are made

### 30-10 When amounts from taxable resources etc. are included in mining revenue

An amount is included in a miner's *mining revenue* for a mining project interest for an \*MRRT year if:

- (a) a \*taxable resource has been extracted from the \*project area for the mining project interest; and
- (b) during the year, a \*mining revenue event happens in relation to the taxable resource.

### 30-15 Meaning of mining revenue event

- (1) A *mining revenue event* happens in relation to a \*taxable resource extracted from the \*project area for a mining project interest if the miner who has the interest:
  - (a) makes an \*initial supply of the taxable resource, but not after its exportation from \*Australia; or
  - (b) exports the taxable resource from Australia, but not after paragraph (a) has applied to the taxable resource; or
  - (c) makes an initial supply of or uses, or exports from Australia, something produced using the taxable resource, but not after:
    - (i) paragraph (a) or (b) has already applied in relation to the taxable resource; or
    - (ii) this paragraph has already applied in relation to the thing produced using the taxable resource.

Note: There is at least one mining revenue event in relation to each quantity of taxable resource. However, there could only be more than one mining revenue event in relation to a quantity of taxable resource if more than one thing is produced from it.

Example: There are 2 mining revenue events in relation to a quantity of coal if it is extracted then consumed producing both electricity and fly-ash.

- (2) However, a *mining revenue event* does not happen for use of a thing produced using a \*taxable

resource, to the extent that:

- (a) the use takes place in the course of operations or activities of a kind mentioned in paragraph 35-20(1)(a) for the mining project interest; and
- (b) those operations or activities do not involve doing anything to, or with, other taxable resources extracted from the \*project area for the interest after those other taxable resources reach the form and location they are in when a mining revenue event happens in relation to them; and
- (c) the use does not give rise to:
  - (i) an amount of \*mining expenditure for the miner; or
  - (ii) an amount that is taken into account for the miner under step 2 of the method statement in section 30-25; or
  - (iii) an amount that is taken into account for the miner under step 3 of the method statement in section 175-25 (alternative valuation method).

### **30-20 Meaning of *initial supply***

- (1) An *initial supply* of a \*taxable resource, or something produced using a taxable resource, is the first \*supply of the taxable resource or thing a miner makes, disregarding a supply covered by subsection (2).
- (2) However, a \*supply of a \*taxable resource, or something produced using such a taxable resource, is not an *initial supply* if:
  - (a) the supply is made between \*entities in the course of a \*mining venture in relation to which each of the entities has a mining project interest; or
  - (b) the supply does not result in a change in the ownership of the taxable resource or the thing produced using such a taxable resource.

### **30-25 Working out amounts to be included**

- (1) Work out the amount to be included under section 30-10, in relation to a \*mining revenue event that happens in relation to a \*taxable resource, as follows:

*Method statement*

Step 1. Work out under subsection (2) the revenue amount for the \*mining revenue event.

Step 2. Using the method that satisfies subsection (3), work out how much of that revenue amount is reasonably attributable to the \*taxable resource:

- (a) in the form in which it existed when it was at its \*valuation point; and
- (b) at the place where it was located when it was at its valuation point.

The amount worked out under this step is the amount to be included under section 30-10.

*Revenue amount*

(2) The revenue amount mentioned in step 1 of the method statement in subsection (1) is:

| <b>Working out the revenue amount</b> |                                                                                                         |                                                                                                                                                                       |
|---------------------------------------|---------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Item</b>                           | <b>Column 1<br/>If the amount to be included relates<br/>to ...</b>                                     | <b>Column 2<br/>Then the revenue amount is ...</b>                                                                                                                    |
| 1                                     | A *supply of the *taxable resource, or a thing produced using the taxable resource                      | The consideration received or receivable for the supply                                                                                                               |
| 2                                     | An exportation from *Australia of the *taxable resource, or a thing produced using the taxable resource | What would be the *arm's length consideration for a *supply of the taxable resource or thing at the time and place the taxable resource or thing is loaded for export |
| 3                                     | Use of a thing produced from the *taxable resource                                                      | What would be the *arm's length consideration for a *supply of the thing at the time and place of the use.                                                            |

Note: Supplies covered by item 1 of the table that are not at arm's length may, in appropriate cases, attract the operation of Division 205 (anti-profit shifting).

- (3) The method to use in step 2 of the method statement in subsection (1) is the one that produces the most appropriate and reliable measure of how much of the revenue amount is reasonably attributable as mentioned in that step, having regard to:
  - (a) the miner's circumstances, including, but not limited to, the functions performed, assets used, and risks borne by the miner in carrying on its \*mining operations, \*transformative operations and \*resource marketing operations for the mining project interest; and
  - (b) the available information.
- (4) In using the method that satisfies subsection (3), make the following assumptions, to the extent that they are relevant to that method:
  - (a) that a distinct and separate \*entity (the ***notional downstream entity***) does all the things (including using all the assets) that the miner actually does in carrying on the \*downstream mining operations, \*transformative operations and \*resource marketing operations for the mining project interest;
  - (b) that the notional downstream entity does not acquire an interest in the \*taxable resource;
  - (c) that the miner and the notional downstream entity deal wholly independently with one another;
  - (d) that:
    - (i) there is a market for what the notional downstream entity is assumed by paragraph (a) to do; and
    - (ii) that market is competitive in the sense that the returns to the notional downstream entity would be no more or less than are necessary for it to commit capital, and in particular are commensurate with the non-diversifiable risks inherent in the things it does.
- (5) Without limiting subsection (3), a miner is taken for the purposes of step 2 in the method statement in subsection (1) to use the method that satisfies subsection (3) if the miner works out how much of the revenue amount is reasonably attributable as mentioned in that step by:
  - (a) reducing the revenue amount by an amount that, having regard to the matters mentioned in

paragraphs (3)(a) and (b), is sufficient for a notional downstream entity to recover the following costs relating to the things it is assumed by subsection (4) to do, and the circumstances in which it is assumed by that subsection to do them:

- (i) any operating costs;
  - (ii) any depreciation of assets;
  - (iii) a cost of capital sufficient to justify the continued commitment of the capital; and
- (b) adding back to the revenue amount so much (if any) of the costs mentioned in paragraph (a) of this subsection as relate to things done to the extent that they were not taken into account in the revenue amount.

However, the costs mentioned in paragraph (a) of this subsection only include costs to the extent that they reasonably relate to the \*mining revenue event.

*Meaning of **transformative operations***

- (6) Operations or activities are **transformative operations**, for a mining project interest, to the extent that the operations or activities:
- (a) are operations or activities of a kind mentioned in paragraph 35-20(1)(a) for the mining project interest; and
  - (b) involve doing something to, or with, the \*taxable resources after they reach the form and location they are in when they are first applied to producing something in relation to which a \*mining revenue event of a kind mentioned in paragraph 30-15(1)(c) happens; and
  - (c) do not involve doing anything to, or with, those taxable resources after they reach the form and location they are in when that mining revenue event happens.

*Meaning of **resource marketing operations***

- (7) Operations or activities are **resource marketing operations**, for a mining project interest, to the extent that the operations or activities involve marketing, selling, shipping or delivering of \*taxable resources in relation to which a \*mining revenue event happens.



### 30-30 Meaning of *arm's length consideration*

- (1) The *arm's length consideration* for a \*supply is the amount that would reasonably be expected to be received or receivable by the miner as consideration for the supply if:
  - (a) the miner made the supply under an agreement between the miner and another \*entity; and
  - (b) they were dealing wholly independently with one another in relation to the supply.
- (2) The method used to determine that amount is to be the method that produces the most appropriate and reliable measure of that amount having regard to:
  - (a) the miner's circumstances, including, but not limited to, the functions performed, assets used, and risks borne by the miner in carrying on its \*mining operations, \*transformative operations and \*resource marketing operations for the mining project interest; and
  - (b) the available information.
- (3) However, if it is not possible to work out the arm's length consideration in accordance with subsections (1) and (2), the *arm's length consideration* for a \*supply is the amount that is, in the Commissioner's opinion, fair and reasonable.

### 30-35 When supplies are made

Treat the time when a miner makes a \*supply for the purposes of this Act as the earliest of the following:

- (a) when consideration for the supply is received or becomes receivable;
- (b) when what is being supplied is delivered;
- (c) when ownership of what is being supplied passes.

## Subdivision 30-C—Other revenue

### Table of sections

30-40 Recoupment or offsetting of mining expenditure

- 30-45 Recoupment of payments that give rise to royalty credits
- 30-50 Compensation for loss of taxable resources
- 30-55 Amounts that do not relate to a particular mining revenue event

### **30-40 Recoupment or offsetting of mining expenditure**

- (1) An amount is included in a miner's \*mining revenue for a mining project interest for an \*MRRT year to the extent that:
  - (a) during the year, the amount is received, or becomes receivable, by any of the following \*entities:
    - (i) the miner;
    - (ii) an entity \*connected with the miner;
    - (iii) an \*affiliate of the miner;
    - (iv) an entity of which the miner is an affiliate;
    - (v) an affiliate of an entity covered by subparagraph (ii);
    - (vi) an entity connected with an entity covered by subparagraph (ii), (iii) or (iv); and
  - (b) payment of the amount has, or would have, the purpose or effect of \*recouping or offsetting some or all of an amount of expenditure (including future expenditure); and
  - (c) the amount does not give rise to an adjustment under Division 160 (adjustments for changes in circumstances).

Example: In the 2012-13 MRRT year, a miner receives a subsidy for employing apprentices. In the 2013-14 MRRT year, the miner incurs mining expenditure for the relevant mining project interest in the form of wages paid to the apprentices. To the extent that the subsidy offsets those wages, it is included in the miner's mining revenue for the mining project interest for the 2012-13 MRRT year.

- (2) However, that amount is reduced (if necessary) to reflect the proportion of the amount of expenditure mentioned in paragraph (1)(b) that is, or will be, included in \*mining expenditure for the mining project interest.

### **30-45 Recoupment of payments that give rise to royalty credits**

An amount is included in a miner's \*mining revenue for a mining project interest for an \*MRRT year if the amount is an excess royalty recoupment mentioned in subsection 60-30(2) for the interest.

Note: Royalty recoupments are generally applied to reduce royalty credits under section 60-30. However, if there are insufficient royalty credits the excess is mining revenue under this section.

### **30-50 Compensation for loss of taxable resources**

- (1) An amount is included in a miner's \*mining revenue for a mining project interest for an \*MRRT year to the extent that:
  - (a) during the year, the amount is received, or becomes receivable, by any of the following \*entities:
    - (i) the miner;
    - (ii) an entity \*connected with the miner;
    - (iii) an \*affiliate of the miner;
    - (iv) an entity of which the miner is an affiliate;
    - (v) an affiliate of an entity covered by subparagraph (ii);
    - (vi) an entity connected with an entity covered by subparagraph (ii), (iii) or (iv); and
  - (b) the amount is by way of insurance, compensation or indemnity relating to loss of, destruction of or damage that:
    - (i) happens to a \*taxable resource extracted from the \*project area for the mining project interest, or to a thing produced using such a taxable resource; and
    - (ii) happens before a \*mining revenue event happens in relation to the taxable resource; and
  - (c) the amount is reasonably attributable to the taxable resource, as mentioned in step 2 of the method statement in subsection 30-25(1).
- (2) Work out the extent to which the amount is reasonably attributable to the \*taxable resource as so mentioned by applying section 30-25 as if the amount were a revenue amount under subsection 30-25(2).

### **30-55 Amounts that do not relate to a particular mining revenue event**

An amount is included in a miner's \*mining revenue for a mining project interest for an \*MRRT year to

the extent that:

- (a) during the year, the amount is received, or becomes receivable, by the miner; and
- (b) the amount is received, or becomes receivable, for a \*supply, or a proposed supply, of:
  - (i) \*taxable resources extracted, or proposed to be extracted, from the \*project area for the mining project interest; or
  - (ii) things produced, or proposed to be produced, using such taxable resources; and
- (c) the amount does not relate to a particular \*mining revenue event.

## Subdivision 30-D—Miscellaneous

### Table of sections

|       |                                                             |
|-------|-------------------------------------------------------------|
| 30-60 | No double counting                                          |
| 30-65 | Expenditure incurred in causing amounts to be received etc. |
| 30-70 | Amounts taken to be received                                |
| 30-75 | GST and increasing adjustments                              |

### 30-60 No double counting

If 2 or more provisions of this Act include the same amount in a miner's \*mining revenue (whether for the same \*MRRT year or different MRRT years), the amount is included only under the provision that is most appropriate.

### 30-65 Expenditure incurred in causing amounts to be received etc.

An amount that, under Subdivision 30-B or 30-C, is to be included in a miner's \*mining revenue for a mining project interest for an \*MRRT year is reduced to the extent that:

- (a) the miner necessarily incurred any expenditure in enforcing the miner's entitlement to receive the amount; and
- (b) the expenditure does not relate to any other amount: and

(c) the expenditure was not \*mining expenditure for the mining project interest; and

(d) the expenditure was not \*excluded expenditure.

Note: This section ensures that the costs associated with mining revenue, but not dealt with under Division 35, are taken into account.

Example: If a miner undertakes litigation to receive compensation for damage to the miner's taxable resources, the amount included in the miner's mining revenue under section 30-50 would be reduced under this section to take account of the miner's litigation costs.

### 30-70 Amounts taken to be received

For the purposes of the \*MRRT law, an amount that is not actually to be paid over to a miner is taken to be received by the miner if it is, and when it is, applied or otherwise dealt with on behalf of the miner or as the miner directs.

### 30-75 GST and increasing adjustments

An amount that, under this Division, is to be included in the miner's \*mining revenue does not include:

- (a) any \*GST payable on a \*supply for which the amount is the consideration, or part of the consideration; or
- (b) any \*increasing adjustments that relate to such a supply.

## Division 35—Mining expenditure

### Table of Subdivisions

Guide to Division 35

35-A A miner's mining expenditure

35-B Excluded expenditure

### Guide to Division 35

## 35-1 What this Division is about

A miner's mining expenditure for a mining project interest includes expenditure necessarily incurred in carrying on mining operations upstream of the valuation point.

However, some expenditure is specifically excluded.

Note: For *pre-mining expenditure*, see section 70-35.

## Subdivision 35-A—A miner's mining expenditure

### Table of sections

|       |                                              |
|-------|----------------------------------------------|
| 35-5  | A miner's <i>mining expenditure</i>          |
| 35-10 | General expenditure                          |
| 35-15 | Meaning of <i>upstream mining operations</i> |
| 35-20 | Meaning of <i>mining operations</i>          |
| 35-25 | No double counting                           |

## 35-5 A miner's *mining expenditure*

- (1) A miner's *mining expenditure* for a mining project interest that the miner has, for an \*MRRT year, is the sum of all the amounts that, under this Act, are included in the miner's mining expenditure for that interest for that year.

Note: Most of the amounts are covered by this Division. However, amounts arising as a result of adjustments to take account of changes in circumstances may also be included in a miner's mining expenditure (see Division 160).

- (2) However, an amount is not included in the miner's *mining expenditure* for the mining project interest for the \*MRRT year to the extent that it is \*excluded expenditure.

Note: For *excluded expenditure*, see Subdivision 35-B.

## 35-10 General expenditure

- (1) An amount of expenditure is included in a miner's \*mining expenditure for a mining project interest for an \*MRRT year to the extent that the miner necessarily incurred the amount, in that year, in the carrying on (by the miner or another \*entity) of \*upstream mining operations for the mining project interest.
- (2) The expenditure may be of either a capital or revenue nature.

### 35-15 Meaning of *upstream mining operations*

\*Mining operations for a mining project interest are *upstream mining operations* for the mining project interest to the extent the operations:

- (a) are operations or activities of a kind mentioned in paragraph 35-20(1)(a) for the mining project interest; and
- (b) do not involve doing anything to, or with, the \*taxable resources extracted from the \*project area for the mining project interest after those taxable resources reach their \*valuation point.

Examples: The following are some examples of operations or activities that might be upstream mining operations:

- (a) obtaining the agreement of native title holders as part of the process of obtaining a production right over the project area;
- (b) exploring for taxable resources in the project area;
- (c) crushing and weighing the taxable resources before they reach their valuation point;
- (d) training, engaging, employing, paying, accommodating and ensuring the safety of personnel, and other supportive head office activities, to the extent they are involved in operations or activities relating to getting the taxable resource to the valuation point;
- (e) developing plans and engineering specifications for, and constructing, facilities (whether in the project area or not) to be used in recovering, transporting and storing the taxable resources before they reach their valuation point;
- (f) acquiring and maintaining plant or equipment for use in recovering, transporting or storing the taxable resources before they reach their valuation point;
- (g) upgrading computer software used to control inventory (like consumables and spare parts) used for recovering, transporting or storing the taxable resources before they reach their valuation point;
- (h) rehabilitation of a project area from damage caused by activities relating to the exploration, extraction and movement of taxable resources to the valuation point.

Note: For *downstream mining operations*, see section 255-15.

### 35-20 Meaning of *mining operations*

- (1) Operations or activities are *mining operations*, for a mining project interest, to the extent that the operations or activities:

- (a) are preliminary or integral to, or consequential upon:
    - (i) extracting or producing \*taxable resources from the \*project area for the mining project interest; or
    - (ii) producing something using those taxable resources; but
  - (b) do not involve doing anything to, or with, those taxable resources after they reach the form and location they are in when:
    - (i) a \*mining revenue event of a kind mentioned in paragraph 30-15(1)(a) or (b) happens in relation to them; or
    - (ii) they are first applied to producing something in relation to which a mining revenue event of a kind mentioned in paragraph 30-15(1)(c) happens.
- (2) Without limiting subsection (1), the following activities are **mining operations** for a mining project interest:
- (a) \*exploration or prospecting for \*taxable resources in the \*project area for the mining project interest;
  - (b) extracting taxable resources from the project area;
  - (c) doing anything to, or with, taxable resources extracted or produced from the project area before they reach the form and location they are in when a \*mining revenue event happens in relation to them;
  - (d) obtaining access to the project area for any of the other activities mentioned in this subsection (other than paragraph (h));
  - (e) acquiring, constructing or maintaining anything to be used, or reasonably expected to be used, for any of the activities mentioned in any of paragraphs (a) to (d) (even if no such activity is happening at the time the acquisition, construction or maintenance happens);
  - (f) rehabilitating the project area, or any other land affected by any activity mentioned in any of paragraphs (a) to (e);
  - (g) closing down any activity mentioned in any of paragraphs (a) to (f);
  - (h) any activity done in furtherance of an activity mentioned in any of paragraphs (a) to (g)



(n) any activity done in furtherance of an activity mentioned in any of paragraphs (a) to (g).

### 35-25 No double counting

If 2 or more provisions of this Act include the same amount in a miner's \*mining expenditure (whether for the same \*MRRT year or a different MRRT year), the amount is included only under the provision that is most appropriate.

## Subdivision 35-B—Excluded expenditure

### Table of sections

|       |                                                                                 |
|-------|---------------------------------------------------------------------------------|
| 35-35 | Cost of acquiring rights and interests in projects                              |
| 35-40 | Royalties                                                                       |
| 35-45 | Meanings of <i>mining royalty</i> and <i>private mining royalty</i>             |
| 35-50 | Financing costs                                                                 |
| 35-55 | Hire purchase agreements                                                        |
| 35-60 | Non-adjacent land and buildings used in administrative or accounting activities |
| 35-65 | Hedging or foreign exchange arrangements                                        |
| 35-70 | Rehabilitation bond and trust payments                                          |
| 35-75 | Payments of income tax or GST                                                   |
| 35-80 | Unit shortfall charge—clean energy                                              |

### 35-35 Cost of acquiring rights and interests in projects

- (1) An amount of expenditure is *excluded expenditure* to the extent that it relates to acquiring, or acquiring an interest in, a \*production right covering an area, unless the expenditure is in relation to the grant of the production right.
- (2) An amount of expenditure is *excluded expenditure* to the extent that it relates to acquiring a mining project interest.

- (3) An amount of expenditure is ***excluded expenditure*** to the extent that it relates to acquiring an interest in profits, receipts or expenditures of, or relating to, a mining project interest.

### 35-40 Royalties

- (1) An amount of expenditure is ***excluded expenditure*** to the extent that it is any of the following:
- (a) a \*mining royalty;
  - (b) a \*private mining royalty;
  - (c) a payment that gives rise to a \*royalty credit under paragraph 60-20(1)(b) (payments by way of recoupment for mining royalties).
- (2) Despite subsection (1), a \*private mining royalty is not ***excluded expenditure***, to the extent that:
- (a) it is paid to an \*entity as consideration for the entity performing services that form part of \*upstream mining operations for a mining project interest; and
  - (b) it does not represent a share of the profits made from a \*mining venture to which a mining project interest relates.
- (3) Despite subsection (1), a \*private mining royalty is not ***excluded expenditure*** to the extent that it is paid to an entity under an agreement entered into with the entity:
- (a) before 2 May 2010; and
  - (b) at a time when the entity is an STB (within the meaning of Division 1AB of Part III of the *Income Tax Assessment Act 1936*) other than an \*excluded STB.
- (4) Despite subsection (1), a \*private mining royalty is not ***excluded expenditure***, to the extent that it is by way of consideration for the carrying on of \*mining operations in the \*project area for a mining project interest, if it is paid:
- (a) to a native title holder (within the meaning of the *Native Title Act 1993*) whose approved determination of native title (within the meaning of that Act) relates to the project area for the mining project interest; or

- (b) to a registered native title claimant (within the meaning of the *Native Title Act 1993*) whose claimant application (within the meaning of that Act) relates to the project area for the mining project interest; or
  - (c) to a person who holds a right that:
    - (i) arises under another \*Australian law dealing with the rights of \*Aboriginal persons or \*Torres Strait Islanders in relation to land or waters; and
    - (ii) relates to the project area for the mining project interest.
- (5) To the extent a \*private mining royalty is not \*excluded expenditure because of subsection (3) or (4), it is not *excluded expenditure* under section 35-35.

### 35-45 Meanings of *mining royalty* and *private mining royalty*

- (1) An amount of expenditure is a *mining royalty* to the extent the expenditure:
- (a) is made in relation to a \*taxable resource extracted under authority of a \*production right; and
  - (b) is made under a \*Commonwealth law, a \*State law or a \*Territory law; and
  - (c) either:
    - (i) is a \*royalty; or
    - (ii) would be a royalty, if the taxable resource were owned by the Commonwealth, State or Territory (as the case requires) just before the recovery of the resource.

Note: Subparagraph (1)(c)(ii) covers a case where an amount is payable under an Australian law in relation to minerals owned by private landowners.

- (2) An amount of expenditure is a *private mining royalty* if:
- (a) it is:
    - (i) a \*taxable resource or a quantity of something produced using a taxable resource; or
    - (ii) calculated by reference to a taxable resource or a quantity of something produced using a taxable resource; or
    - (iii) calculated by reference to the gross or net value of a taxable resource or something produced using a taxable resource; or

using a taxable resource; or

- (iv) calculated by reference to the revenue, expenditure or profits made or incurred by an \*entity in relation to a taxable resource or a quantity of something produced using a taxable resource; and

- (b) it is not a \*mining royalty.

### 35-50 Financing costs

An amount of expenditure is *excluded expenditure* to the extent that it relates to:

- (a) an \*arrangement that gives rise to a \*financial arrangement; or
- (b) an \*equity interest that is a financial arrangement; or
- (c) a \*scheme that gives rise to an equity interest issued by the miner.

Examples:

- (a) borrowing costs, exit fees or interest payments relating to a loan, or repayments of principal; and
- (b) payments of dividends or payments for buying back or cancelling shares.

### 35-55 Hire purchase agreements

- (1) An amount of expenditure is *excluded expenditure* to the extent that it relates to a \*hire purchase agreement.
- (2) However, if an amount of expenditure is excluded expenditure for a miner under subsection (1) in relation to a \*hire purchase agreement:
  - (a) the miner is taken to have incurred the amount mentioned in subsection (3) at the earliest time at which the property is \*supplied to the miner under the agreement; and
  - (b) the miner is taken to have acquired the property for that amount at the time the amount is incurred; and
  - (c) the amount is not *excluded expenditure* under subsection (1) or section 35-50.
- (3) For the purposes of paragraph (2)(a), the amount is:
  - (a) if an amount is stated to be the cost or value of the property for the purposes of the agreement, and

the miner and the hirer were dealing with each other at \*arm's length in connection with the agreement—the amount so stated; or

- (b) otherwise—the amount that could reasonably have been expected to have been paid by the miner for the purchase of the property if:
  - (i) the hirer had actually sold the property to the miner at the start of the agreement; and
  - (ii) the hirer and the miner were dealing with each other at arm's length in connection with the sale.

Note: The amount may be mining expenditure under this Division.

### **35-60 Non-adjacent land and buildings used in administrative or accounting activities**

An amount of expenditure is *excluded expenditure* to the extent that:

- (a) it relates to land or buildings that are not located at or adjacent to the \*project area for a mining project interest that the miner has; and
- (b) the land or buildings are for use in connection with administrative or accounting activities; and
- (c) the expenditure is of a capital nature.

### **35-65 Hedging or foreign exchange arrangements**

An amount of expenditure is *excluded expenditure* to the extent that it relates to:

- (a) a \*derivative financial arrangement; or
- (b) a \*foreign currency hedge.

### **35-70 Rehabilitation bond and trust payments**

- (1) An amount of expenditure is *excluded expenditure* to the extent that it is provided as security (however described) for rehabilitation of the \*project area for a mining project interest.
- (2) An amount of expenditure that is incurred by a trustee or bondholder out of an amount provided as security as mentioned in subsection (1) is taken to have been incurred by a miner in relation to a mining

project interest to the extent that:

- (a) the amount is for rehabilitation of an area; and
- (b) the area is the \*project area for the mining project interest the miner has at the time the amount is incurred; and
- (c) if more than one miner has a mining project interest in relation to that project area at that time—the rehabilitation reasonably relates to the mining project interest.

Note: The trustee or bondholder is required to give the miner the information it needs to determine the extent, if any, to which the amount is mining expenditure for the miner: see Division 121 in Schedule 1 to the *Taxation Administration Act 1953*.

### 35-75 Payments of income tax or GST

An amount of expenditure is *excluded expenditure* to the extent that it is:

- (a) tax payable under the *Income Tax Assessment Act 1936*, or the *Income Tax Assessment Act 1997*;  
or
- (b) \*GST; or
- (c) an amount relating to:
  - (i) an \*input tax credit to which the miner is entitled; or
  - (ii) a \*decreasing adjustment that the miner has; or
- (d) an amount of penalty or interest payable under a \*taxation law.

### 35-80 Unit shortfall charge—clean energy

An amount of expenditure is *excluded expenditure* to the extent that it is unit shortfall charge (within the meaning of the *Clean Energy Act 2011*).

## Division 40—Valuation point

### Guide to Division 40

## 40-1 What this Division is about

The concept of the valuation point is central to determining the revenue and expenditure that make up mining profit.

The valuation point is a defined point in the extractive process.

### Table of sections

#### Operative provisions

40-5 Meaning of *valuation point*

## Operative provisions

### 40-5 Meaning of *valuation point*

*Resource is stored on run-of-mine stockpile*

- (1) The ***valuation point*** for a \*taxable resource is the point just before the resource is removed from the run-of-mine stockpile on which it is stored.

*Resource is not stored on run-of-mine stockpile*

- (2) The ***valuation point*** for a \*taxable resource that is not stored on a run-of-mine stockpile is:
  - (a) if the resource is moved away from the immediate point of extraction to a place, at or adjacent to the point of extraction, where the resource enters the first beneficiation process after extraction—the point at which the resource enters that beneficiation process; or
  - (b) if paragraph (a) does not apply—the point at which the resource is first moved away from the immediate point of extraction.

*Resource is in gaseous state*

resource is in gaseous state

- (3) However, the **valuation point** for a \*taxable resource that is in a gaseous state at the point mentioned in subsection (2) is the first point at which the gaseous resource exits a wellhead.

*Exception where supply happens first*

- (4) Despite subsections (1), (2) and (3), the **valuation point** for a \*taxable resource is instead the point just before the \*initial supply of the resource, if the time the resource is at that point is before the time it would be at the valuation point for the resource under subsection (1), (2) or (3).

Example: If, under an agreement, a resource is supplied to another party when the resource is delivered to the run-of-mine stockpile, the valuation point is just before the resource is delivered to the stockpile.

Part 2-4—Low profit offsets

Division 45—Low profit offsets

Guide to Division 45

45-1 What this Division is about

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>A miner is entitled to an offset for an MRRT year if the miner’s group mining profit for the year is less than \$125 million.</p> <p>If that profit is less than or equal to \$75 million, an offset reduces the amount of MRRT the miner must pay for the year to nil.</p> <p>An offset phases out between profits of \$75 million and \$125 million, so that the miner is not immediately subjected to a full MRRT liability when the miner’s group profit exceeds \$75 million.</p> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Table of sections



## Operative provisions

45-5 Low profit offset—profits not greater than \$75 million

45-10 Low profit offset—profits greater than \$75 million and less than \$125 million

## Operative provisions

### 45-5 Low profit offset—profits not greater than \$75 million

(1) A miner has an offset for an <sup>\*</sup>MRRT year if the sum of the <sup>\*</sup>mining profits (the miner's *group mining profit*) for the year of each mining project interest of the following <sup>\*</sup>entities is less than or equal to \$75 million:

- (a) the miner;
- (b) an entity <sup>\*</sup>connected with the miner;
- (c) an <sup>\*</sup>affiliate of the miner;
- (d) an entity of which the miner is an affiliate;
- (e) an affiliate of an entity covered by paragraph (b);
- (f) an entity connected with an entity covered by paragraph (b), (c) or (d).

Note 1: An offset under this section reduces the amount of MRRT that a miner must pay for an MRRT year: see section 10-15.

Note 2: If the MRRT year is not a 12-month period, the miner's group mining profit is affected by section 190-20 (substituted accounting periods).

(2) The amount of the miner's offset for the <sup>\*</sup>MRRT year is the sum of the miner's <sup>\*</sup>MRRT liabilities for each of the miner's mining project interests for the year.

### 45-10 Low profit offset—profits greater than \$75 million and less than \$125 million

(1) A miner with a group mining profit greater than \$75 million and less than \$125 million for an <sup>\*</sup>MRRT year has an offset for that year if the amount worked out using the following formula is greater than zero:

$$\left[ \left( \$75 \text{ million} - \text{Taper amount} \right) - \frac{\text{Miner's group MRRT allowances}}{\text{Miner's share of group mining profit}} \right] \times \frac{3}{2}$$

where:

*miner's group MRRT allowances* is the sum of the \*MRRT allowances for each mining project interest for the year that an \*entity mentioned in subsection 45-5(1) has.

*miner's share of group mining profit* is the sum of the miner's \*mining profit for each of its mining project interests for the year, divided by the miner's group mining profit for the year.

*taper amount* is the difference between the miner's group mining profit for the year and \$50 million.

Note 1: An offset under this section reduces the amount of MRRT that a miner must pay for an MRRT year: see section 10-15.

Note 2: If the MRRT year is not a 12-month period, the miner's group MRRT allowances and the miner's share of group mining profit are affected by section 190-20 (substituted accounting periods).

- (2) The amount of the miner's offset for the \*MRRT year is the amount worked out using the formula in subsection (1), multiplied by the \*MRRT rate.

Example: For the 2013-14 MRRT year, Pinder Mines Ltd has a total mining profit of \$80 million, a group mining profit of \$100 million, group MRRT allowances of \$10 million and a taper amount of \$50 million (\$100 million - \$50 million). The amount worked out using the formula in subsection (1) is \$18 million:  $((\$75 \text{ million} - \$50 \text{ million}) - \$10 \text{ million}) \times \frac{4}{5} \times \frac{3}{2}$ . Multiplying this amount by the MRRT rate gives Pinder Mines Ltd an offset for the year of \$4.05 million.

## Part 2-5—Payment of MRRT

### Division 50—How to work out when to pay MRRT

#### Guide to Division 50

##### 50-1 What this Division is about

Assessed MRRT that a miner is liable to pay, and any associated interest charges, must be paid to the Commissioner by the time provided under this Division.

Note 1: For payment of instalments, see Division 115 in Schedule 1 to the *Taxation Administration Act 1953*.

Note 2: For provisions about the collection and recovery of MRRT and other tax-related liabilities, see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

## Table of sections

### Operative provisions

- 50-5 When assessed MRRT is payable
- 50-10 When shortfall interest charge is payable
- 50-15 General interest charge payable on unpaid assessed MRRT or shortfall interest charge

## Operative provisions

### 50-5 When assessed MRRT is payable

- (1) \*Assessed MRRT that a miner must pay under section 10-20 for an \*MRRT year is due and payable on the first day of the sixth month after the end of the MRRT year.

Example: If the miner's MRRT year is the same as the financial year, the assessed MRRT would be due and payable on 1 December.

Note: The Commissioner may defer the time at which the assessed MRRT is due and payable: see section 255-10 in Schedule 1 to the *Taxation Administration Act 1953*.

- (2) To avoid doubt, the \*assessed MRRT may be taken to have been due and payable at a time before the \*assessment was made.
- (3) If the Commissioner amends a miner's \*assessment, any extra \*assessed MRRT resulting from the amendment is due and payable 21 days after the day on which the Commissioner gives the miner notice of the amended assessment.

### 50-10 When shortfall interest charge is payable

An amount of \*shortfall interest charge that a miner is liable to pay is due and payable 21 days after the day on which the Commissioner gives the miner notice of the charge.

- Note 1: Shortfall interest charge may be payable, on any amount of extra assessed MRRT payable as a result of an amended assessment, for each day in the period that:
- (a) starts at the time assessed MRRT was due and payable on the miner's original assessment; and
  - (b) finishes on the day before the day on which the Commissioner gives the miner notice of the amended assessment.
- Note 2: For provisions about liability for shortfall interest charge, see Division 280 in Schedule 1 to the *Taxation Administration Act 1953*.

## 50-15 General interest charge payable on unpaid assessed MRRT or shortfall interest charge

If an amount of \*assessed MRRT or \*shortfall interest charge that a miner is liable to pay remains unpaid after the time by which it is due to be paid, the miner is liable to pay the \*general interest charge on the unpaid amount for each day in the period that:

- (a) starts at the beginning of the day on which the amount was due to be paid; and
- (b) finishes at the end of the last day on which, at the end of the day, any of the following remains unpaid:
  - (i) the assessed MRRT or shortfall interest charge;
  - (ii) general interest charge on any of the assessed MRRT or shortfall interest charge.

- Note 1: The general interest charge is worked out under Part IIA of the *Taxation Administration Act 1953*.
- Note 2: Shortfall interest charge is worked out under Division 280 in Schedule 1 to that Act.

# Chapter 3—MRRT allowances

## Part 3-1—Royalty allowances

### Division 60—Royalty allowances

#### Guide to Division 60

#### 60-1 What this Division is about

Mining royalties paid to the Commonwealth, States and Territories reduce a miner's MRRT liabilities

for a mining project interest.

To work out the royalty allowance, the amount of the royalty is grossed-up using the MRRT rate, in effect reducing the MRRT liability by the amount of the royalty.

Royalty credits that are not applied in an MRRT year are uplifted and may be able to be applied in later years.

Royalty credits are reduced if a miner recoups an amount giving rise to a royalty credit.

Note: Royalty credits that are not applied to a royalty allowance may be applied to transferred royalty allowances for other mining project interests (see Division 65).

## Table of sections

### Operative provisions

|       |                                        |
|-------|----------------------------------------|
| 60-5  | Objects of this Division               |
| 60-10 | When a miner has a royalty allowance   |
| 60-15 | The amount of a royalty allowance      |
| 60-20 | When a royalty credit arises           |
| 60-25 | Amount of a royalty credit             |
| 60-30 | Royalty credits reduced by recoupments |

## Operative provisions

### 60-5 Objects of this Division

The objects of this Division are:

- (a) to reduce a miner's \*MRRT liability relating to profits relating to \*taxable resources, to the extent those taxable resources are subject to Commonwealth, State and Territory royalties; and
- (b) to provide an uplift for unapplied \*royalty credits, which compensates for:
  - (i) the delay where royalty credits are applied in a later year; and

- (ii) the risk that royalty credits may not be able to be applied in a later year.

## 60-10 When a miner has a royalty allowance

A miner has a *royalty allowance* for a mining project interest for an \*MRRT year if:

- (a) the miner has a \*mining profit for the interest for the year; and
- (b) one or more \*royalty credits (*available royalty credits*) relate to the interest.

## 60-15 The amount of a royalty allowance

- (1) The amount of the miner's \*royalty allowance is so much of the sum of the available royalty credits as does not exceed the \*mining profit.
- (2) In working out the amount of a \*royalty allowance, available royalty credits are applied in the order in which they arise.

Note: If an available royalty credit cannot be wholly applied in an MRRT year, the unapplied amount can be carried forward: see section 60-25.

## 60-20 When a royalty credit arises

- (1) A liability a miner incurs gives rise to a *royalty credit* for a mining project interest the miner has to the extent that the liability is to pay, in relation to a \*taxable resource extracted under the authority of the \*production right to which the interest relates:
  - (a) a \*mining royalty; or
  - (b) an amount to another \*entity by way of \*recoupment of a liability the other entity incurs that, because of a previous application of this section:
    - (i) gives rise at any time to a royalty credit for a mining project interest the other entity has that relates to the production right; or
    - (ii) would give rise to such a royalty credit, if the other entity had a mining project interest in relation to the production right.

Note: Sections 60-30 and 30-45 set out consequences for the entity that receives a recoupment of an amount giving rise to a royalty credit.

- (2) The \*royalty credit arises at the time the miner incurs the liability, and relates to the \*MRRT year in which it arises.

Note: If more than one liability satisfying this section is incurred in an MRRT year, more than one royalty credit arises in that year.

- (3) The \*royalty credit ceases to be a royalty credit if it has been fully applied in working out any of the following:
- (a) a \*royalty allowance for the mining project interest;
  - (b) \*transferred royalty allowances for other mining project interests.

## 60-25 Amount of a royalty credit

- (1) To work out the amount of the \*royalty credit in the \*MRRT year in which the royalty credit arises in relation to a liability of a miner:
- (a) work out how much of the liability gives rise to a royalty credit under section 60-20; and
  - (b) divide the result by the \*MRRT rate.

Note: Paragraph (b) grosses-up the royalty payment to an amount that will reduce the ultimate MRRT liability by the amount of the royalty payment.

Example: A miner pays a State royalty of \$22.5 million in an MRRT year. The royalty credit in that year is:

$$\frac{\$22.5 \text{ million}}{\text{MRRT rate}} = \$100 \text{ million}$$

- (2) In a later \*MRRT year, the amount of the \*royalty credit is:

$$\left( \begin{array}{c} \text{Previous} \\ \text{amount of} \\ \text{the royalty} \\ \text{credit} \end{array} - \begin{array}{c} \text{Previous} \\ \text{application} \\ \text{of the royalty} \\ \text{credit} \end{array} \right) \times \text{Uplift factor}$$

where:

*previous amount of the royalty credit* is the amount of the \*royalty credit for the preceding \*MRRT year.

***previous application of the royalty credit*** is the sum of the amounts of those parts (if any) of the \*royalty credit that have been applied in working out, for the preceding \*MRRT year, any of the following:

- (a) a \*royalty allowance for the mining project interest;
- (b) one or more \*transferred royalty allowances for other mining project interests.

***uplift factor*** is:

**\*Long term bond rate for the preceding \*MRRT year + 1.07**

Example: A royalty credit of \$100 million arises in an MRRT year. \$30 million is applied to the royalty allowance in the year the credit arises. In the same year, \$30 million is applied to a transferred royalty allowance under Division 65. Assume the long term bond rate for that year is 5.5%. In the next year, the amount of the royalty credit is: (\$100 million - (\$30 million + \$30 million)) x (0.055 + 1.07) = \$45 million.

## 60-30 Royalty credits reduced by recoupments

- (1) To the extent an amount that is received or becomes receivable by a miner is by way of \*recoupment of a liability that gives rise to a \*royalty credit for a mining project interest the miner has:
  - (a) the amount is to be increased by dividing it by the \*MRRT rate; and
  - (b) that increased amount is applied to reduce royalty credits for the interest:
    - (i) in the \*MRRT year in which the amount is received or becomes receivable (the ***recoupment year***); and
    - (ii) in the order in which the royalty credits arise; and
    - (iii) before applying the royalty credits in working out a \*royalty allowance or a \*transferred royalty allowance for the recoupment year.

Note: Paragraph (a) grosses-up the recoupment in the same way that section 60-25 grosses-up the liability giving rise to the royalty credit.

- (2) If the increased amount exceeds the sum of those \*royalty credits, section 30-45 applies to the excess (the ***excess royalty recoupment***) in the recoupment year.



Part 3-2—Transferred royalty allowances

Division 65—Transferred royalty allowances

Guide to Division 65

65-1 What this Division is about

A miner’s MRRT liability for a mining project interest may be reduced by mining royalties, paid to the Commonwealth, States and Territories, that relate to one or more other mining project interests.

The interests must satisfy an integration test from the time the royalty is incurred to the time it reduces the MRRT liability.

Table of sections

Operative provisions

- 65-5 Object of this Division
- 65-10 When a miner has a transferred royalty allowance
- 65-15 The amount of a transferred royalty allowance
- 65-20 Available royalty credits

Operative provisions

65-5 Object of this Division

The object of this Division is to enable \*royalty credits arising in relation to a mining project interest to reduce the \*MRRT liability of certain other mining project interests, if the interests are \*integrated from the time the royalty credits arise to the end of the \*MRRT year in which they are to be applied.

## 65-10 When a miner has a transferred royalty allowance

A miner has a *transferred royalty allowance* for a mining project interest for an \*MRRT year if:

- (a) there is an amount (a *remaining profit*) by which the miner's \*mining profit for the interest for the year exceeds the \*royalty allowance (if any) that the miner has for the interest for the year; and
- (b) there are one or more \*royalty credits (*available royalty credits*) that, under section 65-20, can be applied in working out the transferred royalty allowance for the interest for the year.

## 65-15 The amount of a transferred royalty allowance

- (1) The amount of the miner's \*transferred royalty allowance is so much of the sum of the available royalty credits as does not exceed the remaining profit.
- (2) In working out the amount of a \*transferred royalty allowance, \*royalty credits are applied in the order in which they arise, but the miner may choose the order in which to apply royalty credits that arise at the same time.

Note: Division 119 in Schedule 1 to the *Taxation Administration Act 1953* is about choices under the MRRT law.

## 65-20 Available royalty credits

- (1) A \*royalty credit can be applied in working out a \*transferred royalty allowance for a mining project interest for an \*MRRT year (the *transfer year*) if:
  - (a) the mining project interest and the mining project interest for which the royalty credit arises are \*integrated at all times in the period:
    - (i) starting at the time the \*royalty credit arises; and
    - (ii) ending at the end of the transfer year; and

Note 1: For when a *royalty credit* arises, see section 60-20.

Note 2: For when mining project interests are *integrated*, see Division 255.

- (b) the royalty credit does not relate to an MRRT year for which there was a choice to use the alternative valuation method under Division 175 in relation to the mining project interest for which the royalty credit arises

the royalty credit arises.

- (2) However, the \*royalty credit cannot be applied to the extent it is applied in working out:
- (a) a \*royalty allowance; or
  - (b) a \*transferred royalty allowance;
- for another mining project interest for the year.

**Part 3-3—Pre-mining loss allowances**

**Division 70—Pre-mining loss allowances**

**Table of Subdivisions**

Guide to Division 70

- 70-A Object of this Division
- 70-B When a miner has a pre-mining loss allowance
- 70-C Pre-mining losses
- 70-D Amounts of pre-mining losses

**Guide to Division 70**

**70-1 What this Division is about**

Pre-mining loss allowances enable expenditure (such as exploration expenditure) incurred during the period before a mining project interest comes into existence to reduce a miner’s MRRT liability for a mining project interest for an MRRT year.

Pre-mining losses that are unapplied at the end of the MRRT year in which they arise are uplifted and may be able to be applied in later years.

Note: Pre-mining losses that are not applied to a pre-mining loss allowance may be applied to transferred pre-mining loss allowances for other mining project interests (see Division 95).

## Subdivision 70-A—Object of this Division

### Table of sections

70-5 Objects of this Division

### 70-5 Objects of this Division

The objects of this Division are:

- (a) to recognise a miner's net expenditure (including exploration expenditure) incurred, before a \*production right is granted, in identifying and evaluating whether \*taxable resources could be extracted from an area; and
- (b) to provide an uplift for unapplied \*pre-mining losses, which compensates for:
  - (i) the delay where pre-mining losses are applied in a later year; and
  - (ii) the risk that pre-mining losses may not be able to be applied in a later year.

## Subdivision 70-B—When a miner has a pre-mining loss allowance

### Table of sections

70-10 When a miner has a pre-mining loss allowance

70-15 The amount of a pre-mining loss allowance

70-20 Available pre-mining losses for a pre-mining loss allowance

70-25 Meaning of *pre-mining project interest* etc.

### 70-10 When a miner has a pre-mining loss allowance

A miner has a *pre-mining loss allowance* for a mining project interest for an \*MRRT year if:

- (a) there is an amount (a *remaining profit*) by which the miner's \*mining profit for the interest for the

year exceeds the sum of all the higher ranking allowances (if any) that the miner has for the interest for the year; and

- (b) there are one or more \*pre-mining losses (*available pre-mining losses*) that, under section 70-20, can be applied in working out a pre-mining loss allowance for the interest for the year.

### 70-15 The amount of a pre-mining loss allowance

- (1) The amount of the miner's \*pre-mining loss allowance is so much of the sum of the available pre-mining losses as does not exceed the remaining profit.

Example: A miner has, for a mining project interest for an MRRT year, a mining profit of \$400 million, a royalty allowance of \$200 million and a transferred royalty allowance of \$100 million. The sum of the available pre-mining losses for the interest for the year is \$20 million.

Under section 70-10, the miner has a pre-mining loss allowance for the interest for the year because the mining profit exceeds the sum of the higher ranked allowances (\$300 million), giving the miner a remaining profit of \$100 million.

Under this section, the amount of the pre-mining loss allowance is the sum of the available pre-mining losses (\$20 million), because that sum does not exceed the remaining profit.

- (2) In working out the amount of a \*pre-mining loss allowance, \*pre-mining losses are applied in the order in which they arise.

Note: If an available pre-mining loss cannot be wholly applied in an MRRT year, the unapplied amount can be carried forward: see section 70-50.

### 70-20 Available pre-mining losses for a pre-mining loss allowance

- (1) A \*pre-mining loss can be applied in working out a \*pre-mining loss allowance for the mining project interest for the year if the mining project interest \*originates from the \*pre-mining project interest to which the pre-mining loss relates.

Note: Once a pre-mining loss has been fully applied, it ceases to be a pre-mining loss (see subsection 70-30(2)), and therefore cannot be applied in working out a pre-mining loss allowance.

- (2) A mining project interest *originates* from a \*pre-mining project interest if:
- (a) the \*termination day for the pre-mining project interest happened; or
  - (b) the pre-mining project interest ceased to apply to the \*project area, or a part of the project area, for the mining project interest;

because the mining project interest started to apply to the project area, or a part of the project area, for the pre-mining project interest.

Note: A mining project interest may originate from more than one pre-mining project interest.

## 70-25 Meaning of *pre-mining project interest* etc.

- (1) A *pre-mining project interest* is an interest in an \*exploration right.
- (2) However, if the \*exploration right relates both to iron ore and to other kinds of \*taxable resources, treat the \*pre-mining project interest as:
  - (a) a pre-mining project interest relating to iron ore; and
  - (b) another pre-mining project interest relating to those other kinds of taxable resources.
- (3) An *exploration right* is an authority or right (however described) under an \*Australian law for a purpose (other than an incidental purpose) of \*exploration or prospecting for \*taxable resources in a particular area in \*Australia.
 

Examples: The following are some examples of an exploration right:

  - (a) a mineral development licence;
  - (b) a retention lease;
  - (c) an exploration permit.
- (4) The *project area* for a \*pre-mining project interest is the area in \*Australia covered by the \*exploration right to which the pre-mining project interest relates.

## Subdivision 70-C—Pre-mining losses

### Table of sections

|       |                                               |
|-------|-----------------------------------------------|
| 70-30 | Pre-mining losses                             |
| 70-35 | Meaning of <i>pre-mining expenditure</i> etc. |
| 70-40 | Meaning of <i>pre-mining revenue</i>          |

## 70-30 Pre-mining losses

- (1) A ***pre-mining loss*** arises for an \*MRRT year if:
- (a) during the year, an \*entity \*holds a \*pre-mining project interest; and
  - (b) the entity's \*pre-mining expenditure for the interest for the year exceeds the entity's \*pre-mining revenue for the interest for the year.
- (2) The pre-mining loss ceases to be a ***pre-mining loss*** if it has been fully applied in working out any of the following:
- (a) a \*pre-mining loss allowance for a mining project interest that \*originates from the \*pre-mining project interest;
  - (b) \*transferred pre-mining loss allowances for other mining project interests.

### 70-35 Meaning of *pre-mining expenditure* etc.

#### *Pre-mining expenditure*

- (1) An \*entity's ***pre-mining expenditure***, for a \*pre-mining project interest for an \*MRRT year, is the sum of all amounts that, under this Act, are included in the entity's pre-mining expenditure for the interest for the year.

Note: Most of the amounts are covered by this section. However, amounts arising as a result of adjustments to take account of changes in circumstances may also be included in an entity's pre-mining expenditure (see Division 160).

- (2) An amount of expenditure is included in an \*entity's \*pre-mining expenditure for a \*pre-mining project interest for an \*MRRT year to the extent that the entity necessarily incurred the amount in that year in carrying on \*pre-mining project operations of the interest.
- (3) The expenditure may be of either a capital or revenue nature.

#### *Excluded expenditure*

- (4) However, an amount is not included in the \*entity's \*pre-mining expenditure for the \*pre-mining project interest for the \*MRRT year to the extent that it:

- (a) is \*excluded expenditure; or
- (b) would be excluded expenditure, if:
  - (i) the pre-mining project interest were a mining project interest; and
  - (ii) the \*exploration right to which the pre-mining project interest relates were a \*production right to which the mining project interest relates; and
  - (iii) in a case where the entity is not a miner—the entity were a miner.

Note: For *excluded expenditure*, see Subdivision 35-B.

*Pre-mining project operations*

- (5) Operations or activities are the *pre-mining project operations* of the \*pre-mining project interest to the extent that, if the pre-mining project interest were a mining project interest, the operations or activities would be \*upstream mining operations in relation to such a mining project interest.
- (6) It does not matter where, or when, the operations or activities are carried on.

*Expenditure for deferred farm-out arrangement where no interest transferred*

- (7) An amount of expenditure is included in an \*entity's \*pre-mining expenditure for a \*pre-mining project interest for an \*MRRT year to the extent that:
  - (a) another entity necessarily incurred the amount in that MRRT year, or an earlier MRRT year, in carrying on \*exploration or prospecting for \*taxable resources in the \*project area for the pre-mining project interest; and
  - (b) the exploration or prospecting was carried on under an \*arrangement with the entity; and
  - (c) the terms of the arrangement gave the other entity a right, or a contingent right, to acquire from the entity an interest in the \*exploration right to which the pre-mining project interest relates; and
  - (d) in that MRRT year, the other entity stops having the right, without acquiring the interest in the exploration right.

*No double counting*



- (8) If 2 or more provisions of this Act include the same amount in an \*entity's \*pre-mining expenditure (whether for the same \*MRRT year or a different MRRT year), the amount is included only under the provision that is most appropriate.
- (9) If:
- (a) a provision of this Act includes an amount in an \*entity's \*pre-mining expenditure; and
  - (b) the same amount is included, by another provision of this Act, in the entity's \*mining expenditure (whether for the same \*MRRT year or a different MRRT year);
- the amount is included only under the provision that is most appropriate.

#### 70-40 Meaning of *pre-mining revenue*

- (1) An \*entity's *pre-mining revenue* for a \*pre-mining project interest that the entity \*holds, for an \*MRRT year, is the sum of all amounts that, under this Act, are included in the entity's pre-mining revenue for the interest for the year.

Note: Most of the amounts are covered by this section. However, amounts arising as a result of adjustments to take account of changes in circumstances may also be included in an entity's pre-mining revenue (see Division 160).

- (2) An amount is included in the \*entity's \*pre-mining revenue for the \*pre-mining project interest for the year if the amount would have been included in the entity's \*mining revenue for a mining project interest that the entity had for the year if:
- (a) to the extent that the amount related to the pre-mining project interest, it had related to the mining project interest; and
  - (b) to the extent that the amount related to \*pre-mining expenditure for the pre-mining project interest, it had related to \*mining expenditure for the mining project interest.
- (3) An amount that, under this section, is to be included in the \*entity's *pre-mining revenue* does not include:
- (a) any \*GST payable on a \*supply for which the amount is the consideration, or part of the

consideration; or

(b) any \*increasing adjustments that relate to such a supply.

## Subdivision 70-D—Amounts of pre-mining losses

### Table of sections

|       |                                                          |
|-------|----------------------------------------------------------|
| 70-45 | Pre-mining losses for the MRRT years in which they arise |
| 70-50 | Pre-mining losses for later MRRT years                   |

### 70-45 Pre-mining losses for the MRRT years in which they arise

In the \*MRRT year in which a \*pre-mining loss arises, the amount of the pre-mining loss is the difference between:

- (a) the \*entity's \*pre-mining expenditure, for the \*pre-mining project interest to which the pre-mining loss relates, for the year; and
- (b) the entity's \*pre-mining revenue for that pre-mining project interest for the year.

### 70-50 Pre-mining losses for later MRRT years

In a later \*MRRT year, the amount of the \*pre-mining loss is:

$$\left( \begin{array}{c} \text{Previous} \\ \text{amount} \\ \text{of the loss} \end{array} - \begin{array}{c} \text{Previous} \\ \text{application} \\ \text{of the loss} \end{array} \right) \times \text{Uplift factor}$$

where:

*previous amount of the loss* is the amount of the \*pre-mining loss for the preceding \*MRRT year.

*previous application of the loss* is the sum of the amounts of those parts (if any) of the \*pre-mining loss that have been applied in working out, for the preceding \*MRRT year, any of the following:

- (a) a \*pre-mining loss allowance for a mining project interest that the \*entity has;
- (b) one or more \*transferred pre-mining loss allowances for other mining project interests

(c) one or more transferred pre-mining loss allowances for other mining project interests.

*uplift factor* is one of the following:

- (a) if the later year is one of the 10 <sup>\*</sup>MRRT years after the MRRT year in which the <sup>\*</sup>pre-mining loss arose:

<sup>\*</sup>Long term bond rate for the  
<sup>\*</sup>MRRT year preceding the later year + 1.07

- (b) if the later year is not one of the 10 MRRT years after the MRRT year in which the pre-mining loss arose:

<sup>\*</sup>Long term bond rate for the  
<sup>\*</sup>MRRT year preceding the later year + 1

Part 3-4—Mining loss allowances

Division 75—Mining loss allowances

Guide to Division 75

75-1 What this Division is about

Mining loss allowances enable mining losses to reduce the miner’s MRRT liability for the same mining project interest for a later MRRT year.

Mining losses that are not applied in an MRRT year are uplifted and may be able to be applied in later years.

Note: Mining losses that are not applied to a mining loss allowance may be applied to transferred mining loss allowances for other mining project interests (see Division 100).

Table of sections

Operative provisions

**Operative provisions**

|       |                                          |
|-------|------------------------------------------|
| 75-5  | Objects of this Division                 |
| 75-10 | When a miner has a mining loss allowance |
| 75-15 | The amount of a mining loss allowance    |
| 75-20 | Mining losses                            |

**Operative provisions****75-5 Objects of this Division**

The objects of this Division are:

- (a) to allow \*mining losses of a mining project interest to be applied in later years; and
- (b) to provide an uplift for unapplied mining losses which compensates for:
  - (i) the delay where mining losses are applied in a later year; and
  - (ii) the risk that mining losses may not be able to be applied in a later year.

**75-10 When a miner has a mining loss allowance**

A miner has a *mining loss allowance* for a mining project interest for an \*MRRT year if:

- (a) there is an amount (a *remaining profit*) by which the miner's \*mining profit for the interest for the year exceeds the sum of all the \*higher ranking allowances (if any) that the miner has for the interest for the year; and
- (b) there are one or more \*mining losses (*available mining losses*) that relate to the interest.

**75-15 The amount of a mining loss allowance**

- (1) The amount of the miner's \*mining loss allowance is so much of the sum of the available mining losses as does not exceed the remaining profit.
- (2) In working out the amount of a \*mining loss allowance, \*mining losses are applied in the order in which they arise

they arise.

## 75-20 Mining losses

- (1) A **mining loss** arises for a mining project interest for an **\*MRRT year** if the **\*mining expenditure** for the interest for the year exceeds the **\*mining revenue** for the interest for the year.
- (2) In that year, the amount of the **\*mining loss** is the amount of the excess.
- (3) In a later **\*MRRT year**, the amount of the **\*mining loss** is:

$$\left( \begin{array}{c} \text{Previous} \\ \text{amount of} \\ \text{the loss} \end{array} - \begin{array}{c} \text{Previous} \\ \text{application} \\ \text{of the loss} \end{array} \right) \times \text{Uplift factor}$$

where:

**previous amount of the loss** is the amount of the **\*mining loss** for the preceding **\*MRRT year**.

**previous application of the loss** is the sum of the parts (if any) of the **\*mining loss** that have been applied in working out, for the preceding **\*MRRT year**, any of the following:

- (a) a **\*mining loss allowance** for the mining project interest;
- (b) one or more **\*transferred mining loss allowances** for other mining project interests.

**uplift factor** is:

**\*Long term bond rate for the preceding \*MRRT year + 1.07**

- (4) The **\*mining loss** ceases to be a mining loss if it has been fully applied in working out any of the following:
  - (a) a **\*mining loss allowance** for the mining project interest;
  - (b) **\*transferred mining loss allowances** for other mining project interests.

## Part 3-5—Starting base allowances

### Division 80—Starting base allowances

#### Table of Subdivisions

##### Guide to Division 80

- 80-A Objects of this Division
- 80-B When a miner has a starting base allowance
- 80-C Starting base assets
- 80-D Amounts of starting base losses

#### Guide to Division 80

##### 80-1 What this Division is about

Starting base allowances enable the following to be taken into account in a miner's MRRT liability for a mining project interest for an MRRT year:

- (a) investments in assets in relation to upstream mining operations before 2 May 2010;
- (b) certain expenditure on such assets (not including expenditure to acquire rights to resources) made by a miner between 2 May 2010 and 1 July 2012.

A starting base allowance consists of a miner's available starting base losses. Starting base losses reflect the declines in value of starting base assets.

Starting base losses that are not applied are increased by one of 2 uplift factors. Which uplift factor to use is governed by whether a book value approach or a market value approach is applied to valuing starting base assets.

Note 1: A starting base allowance can arise in relation to a pre-mining project interest from which a mining project interest originates.

- Note 2: Division 85 deals with the valuation approaches. Division 90 deals with declines in value of starting base assets.
- Note 3: Division 165 deals with starting base adjustments, which apply if starting base assets cease to be part of a miner's starting base. Division 180 allows for valuation of starting base assets using a look-back approach.

## Subdivision 80-A—Objects of this Division

### Table of sections

80-5 Objects of this Division

### 80-5 Objects of this Division

The objects of this Division are:

(a) to:

- (i) recognise the value of mining project interests, and other assets used in \*upstream mining operations, that miners had when resource tax reforms were announced on 2 May 2010; and
- (ii) ensure that considerations relating to MRRT do not deter miners from making further investments in assets used in upstream mining operations in the period after that announcement and before 1 July 2012;

by reducing miners' \*MRRT liabilities based on declines in value of those interests and assets after 1 July 2012; and

(b) to provide an uplift for unapplied \*starting base losses which compensates for:

- (i) the delay where starting base losses are applied in a later year; and
- (ii) under a book value approach to valuation, the risk that starting base losses may not be able to be applied in a later year.

## Subdivision 80-B—When a miner has a starting base allowance

### Table of sections

80-10 When a miner has a starting base allowance

80-15 The amount of a starting base allowance

## 80-20 When a miner has a starting base loss

**80-10 When a miner has a starting base allowance**

A miner has a *starting base allowance* for a mining project interest for an \*MRRT year if:

- (a) there is an amount (a *remaining profit*) by which the miner's \*mining profit for the interest for the year exceeds the sum of all the \*higher ranking allowances (if any) that the miner has for the interest for the year; and
- (b) there are one or more \*starting base losses (*available starting base losses*) that relate to the interest.

**80-15 The amount of a starting base allowance**

- (1) The amount of the miner's \*starting base allowance is so much of the sum of the miner's available starting base losses as does not exceed the remaining profit.
- (2) In working out the amount of a \*starting base allowance, \*starting base losses are applied in the order in which they arise.

Note 1: If an available starting base loss cannot be wholly applied in an MRRT year, the unapplied amount can be carried forward: see section 80-45.

Note 2: Starting base losses can be affected by starting base adjustments under Division 165.

**80-20 When a miner has a starting base loss**

- (1) A *starting base loss* arises for a mining project interest for an \*MRRT year if at the same time during the year, the same miner:
  - (a) has the mining project interest; and
  - (b) \*holds a \*starting base asset relating to the mining project interest.
- (2) The \*starting base loss ceases to be a starting base loss if it has been fully applied in working out one or more \*starting base allowances for the mining project interest.



## Subdivision 80-C—Starting base assets

### Table of sections

|       |                                                               |
|-------|---------------------------------------------------------------|
| 80-25 | Meaning of <i>starting base asset</i>                         |
| 80-30 | Treating starting base assets as a single starting base asset |
| 80-35 | Mine development expenditure may be a starting base asset     |

### 80-25 Meaning of *starting base asset*

(1) Property, or a legal or equitable right that is not property, is a *starting base asset* relating to a mining project interest if at the time mentioned in subsection (2), the property or right was:

- (a) being used; or
- (b) \*installed ready for use; or
- (c) being constructed for use;

in carrying on \*upstream mining operations relating to a mining project interest that a miner had at that time.

Note: Division 165 provides for a starting base adjustment if a starting base asset ceases to be used, or installed ready for use, in a project, or construction of the asset stops.

(2) The time (*start time*) is the later of:

- (a) the start of 1 July 2012; and
- (b) the start of the day on which production (other than incidental production) of \*taxable resources commences from the \*project area for the mining project interest.

(3) However:

(a) if, under Division 85, the book value approach is the valuation approach for the mining project interest, the following are not *starting base assets*:

- (i) rights and interests constituting the mining project interest;
- (ii) \*mining, quarrying or prospecting information, or rights to such information;

(iii) goodwill; and

(iii) goodwill, and

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

- (i) the miner has not made a valid choice under section 85-5 specifying the valuation approach for the mining project interest; or
- (ii) the miner fails to give the Commissioner a valid \*starting base return that covers the property or right.

(4) If, under Division 85, the market value approach is the valuation approach for the mining project interest:

- (a) treat any \*mining, quarrying or prospecting information, or any rights to such information, as property, or a legal or equitable right, for the purposes of subsection (1); and
- (b) treat any improvement to land in the \*project area for the mining project interest as satisfying the requirements of that subsection at the time mentioned in subsection (2) if:
  - (i) the improvement was consumed or destroyed in carrying on \*upstream mining operations relating to the mining project interest; and
  - (ii) the consumption or destruction happened after 1 May 2010 but before that time.

(5) Subject to section 80-30, this Part applies to any improvement to, or any fixture on, land as if it were an asset separate from the land, whether the improvement or fixture is removable or not.

### **80-30 Treating starting base assets as a single starting base asset**

(1) If, under Division 85, the market value approach is the valuation approach for a mining project interest, treat as a single \*starting base asset any 2 or more of the following that would (apart from this subsection) be starting base assets relating to the mining project interest:

- (a) rights and interests that constitute the mining project interest;
- (b) any \*mining, quarrying or prospecting information, or rights to such information, relating to those rights and interests;

(c) goodwill relating to those rights and interests;

(c) ~~goodwill relating to those rights and interests,~~

(d) any improvement to land (but not a fixture) in the \*project area for the mining project interest.

(2) However, if:

(a) the mining project interest is, because of section 115-10, a combined interest; and

(b) a constituent interest (as mentioned in that section) of the combined interest forms part of the combined interest only because a valid choice has been made under section 255-20 (downstream integration);

section 80-25 and subsection (1) of this section apply to the constituent interest as if it were a separate mining project interest, and applies to the combined interest as if it did not include the constituent interest.

### 80-35 Mine development expenditure may be a starting base asset

(1) \*Mine development expenditure is taken to be a ***starting base asset*** relating to a mining project interest if it:

(a) was incurred during the period between 2 May 2010 and 30 June 2012; and

(b) was incurred by a miner:

(i) in relation to that mining project interest; or

(ii) in relation to a \*pre-mining project interest from which that mining project interest  
\*originated; and

(c) is not \*interim expenditure relating to property or a right that is a starting base asset because of section 80-25.

(2) While a miner \*holds the \*starting base asset, it is taken, for the purposes of subsections 80-40(3) and (4), to be used for the purpose of carrying on \*upstream mining operations for the mining project interest.

Note: For when a miner holds a starting base asset that is mine development expenditure, see subsection 250-10(2).

(3) ***Mine development expenditure*** is expenditure that:

(a) is incurred in carrying on \*upstream mining operations relating to a mining project interest or

- \*pre-mining project operations relating to a \*pre-mining project interest; and
- (b) relates to developing the \*project area for the interest for the purposes of extracting \*taxable resources from the area, including expenditure incurred in:
- (i) removing overburden from the area or a part of the area; and
  - (ii) excavating a pit in the area; and
  - (iii) sinking a mineshaft in the area.

Note: This section allows mine development expenditure to be taken into account in a miner's starting base even though it is not related to another starting base asset.

In working out its decline in value under Division 90, the expenditure is added to the base value of the "asset" as interim expenditure.

## Subdivision 80-D—Amounts of starting base losses

### Table of sections

|       |                                                                                                            |
|-------|------------------------------------------------------------------------------------------------------------|
| 80-40 | Starting base losses for the MRRT years in which they arise                                                |
| 80-45 | Starting base losses for later MRRT years                                                                  |
| 80-50 | Mining project interests originating from pre-mining project interests with different valuation approaches |

### 80-40 Starting base losses for the MRRT years in which they arise

- (1) In the \*MRRT year in which a \*starting base loss arises, the amount of the starting base loss is the sum of the declines in value, for the year, of all the \*starting base assets that:
- (a) relate to the mining project interest for which the starting base loss arises; and
  - (b) were \*held, for any time during the year, by a miner that had the mining project interest during the year.
- (2) However, the amount is reduced by the sum of all the reductions (if any) required by subsections (3) and (4) in relation to any of those \*starting base assets for the year.

*Use etc. that is not related to upstream mining operations*

- (3) Reduce the amount under subsection (1) relating to a \*starting base asset, to the extent (if any) that, during the \*starting base days, the asset was:
- (a) used; or
  - (b) \*installed ready for use; or
  - (c) being constructed for use;
- for a purpose other than carrying on \*upstream mining operations relating to the mining project interest.

*Use etc. that is not related to mining expenditure*

- (4) Reduce the amount under subsection (1) relating to a \*starting base asset (or, if that amount is reduced under subsection (3), that amount as so reduced) to the extent (if any) that:
- (a) during the \*starting base days, the asset was:
    - (i) used; or
    - (ii) \*installed ready for use; or
    - (iii) being constructed for use;for carrying on \*upstream mining operations relating to the mining project interest; but
  - (b) that amount would have been \*excluded expenditure if it had been an amount of expenditure that the miner incurred.
- (5) However, subsection (4) does not apply if:
- (a) under Division 85, the market value approach is the valuation approach for the mining project interest; and
  - (b) the amount would have been \*excluded expenditure only because of section 35-35 (cost of acquiring rights and interests in projects).

Note: Subsection (5) ensures that a decline in value of a mining project interest or an interest in the mining project interest is not reduced under the market value approach, even though expenditure incurred in acquiring the interest is excluded expenditure under Division 35.

*Starting base days*

- (6) The ***starting base days*** in relation to a \*starting base asset are the days, during the \*MRRT year but on or after the \*start time for the asset:
- (a) on which a miner both \*held the asset and had the mining project interest; and
  - (b) on which the asset was, for any purpose:
    - (i) used; or
    - (ii) \*installed ready for use; or
    - (iii) being constructed for use.
- (7) However:
- (a) if a \*starting base adjustment event for the asset happens during the \*MRRT year—any days in the MRRT year after that event are not ***starting base days*** relating to the asset; and
  - (b) any days after the \*termination day for the mining project interest are not ***starting base days*** relating to the asset.

#### 80-45 Starting base losses for later MRRT years

- (1) In a later \*MRRT year, the amount of the \*starting base loss is:

$$\left( \begin{array}{c} \text{Previous} \\ \text{starting} \\ \text{base loss} \end{array} - \begin{array}{c} \text{Previous} \\ \text{application} \\ \text{of the amount} \end{array} \right) \times \text{Uplift factor}$$

where:

***previous application of the amount*** is the sum of the parts (if any) of the \*starting base loss that have been applied in working out, for the preceding \*MRRT year, a \*starting base allowance for the mining project interest.

***previous starting base loss*** is the \*starting base loss for the preceding \*MRRT year.

***uplift factor*** is one of the following:

- (a) if, under Division 85, the book value approach is the valuation approach for the mining project

interest:

**\*Long term bond rate for  
the preceding \*MRRT year + 1.07**

- (b) if, under Division 85, the market value approach is the valuation approach for the mining project interest:

**$$\frac{\text{Sum of the *index numbers for the  
quarters in the year ending on 31 March  
just before the start of the *MRRT year}}{\text{Sum of the *index numbers for the  
quarters in the year ending on the  
previous 31 March}}$$**

- (2) The amount worked out under paragraph (b) of the definition of *uplift factor* in subsection (1) is to be worked out to 3 decimal places (rounding up if the fourth decimal place is 5 or more).

## **80-50 Mining project interests originating from pre-mining project interests with different valuation approaches**

- (1) If a mining project interest \*originates from 2 or more \*pre-mining project interests, and those that have a valuation approach under Division 85 do not all have the same valuation approach:
- (a) in the circumstances mentioned in subsection (2), there are 2 \*starting base losses, for the mining project interest for the same \*MRRT year, of the amounts provided in subsection (3); and
  - (b) in working out the amount of a \*starting base allowance for the mining project interest for an MRRT year, the starting base losses for the mining project interest in the year are to be applied in the order specified in subsection (4); and
  - (c) in working out under Division 90 the decline in value of any \*starting base asset during an MRRT year, assume that the applicable valuation approach is the valuation approach specified under subsection (5).
- (2) There are 2 \*starting base losses, for the mining project interest for the same \*MRRT year, if, for the year:

- (a) there would have been a starting base loss (the *book value starting base loss*) for the mining

- (a) there would have been a starting base loss (the *book value starting base loss*) for the mining project interest for that MRRT year if it had \*originated only from the \*pre-mining project interests for which the book value approach is the valuation approach under Division 85; and
  - (b) there would have been another starting base loss (the *market value starting base loss*) for the mining project interest for that MRRT year if it had originated only from the pre-mining project interests for which the market value approach is the valuation approach under Division 85.
- (3) The amounts of those 2 \*starting base losses are the book value starting base loss and the market value starting base loss.
- (4) Despite subsection 80-15(2), the order for applying the \*starting base losses for the mining project interest for the year is:
- (a) the book value starting base loss; then
  - (b) the market value starting base loss.
- (5) The valuation approach is:
- (a) the book value approach if the asset relates to a \*pre-mining project interest for which the book value approach is the valuation approach under Division 85; or
  - (b) the market value approach if the asset relates to a pre-mining project interest for which the market value approach is the valuation approach under Division 85.

## Division 85—Valuation approaches

### Guide to Division 85

#### 85-1 What this Division is about

The 2 valuation approaches are the book value approach and the market value approach.

An entity can choose which valuation approach to apply to all of its starting base assets relating to a



mining project interest (or a pre-mining project interest).

Note: In some limited cases in which the market value approach would otherwise apply, a look-back approach to valuation can be chosen: see Division 180.

## Table of sections

### Operative provisions

- 85-5 Choosing a valuation approach
- 85-10 Restriction on specifying the book value approach
- 85-15 The valuation approach for a mining project interest

## Operative provisions

### 85-5 Choosing a valuation approach

- (1) An \*entity may choose which valuation approach to apply to all \*starting base assets (and all property or rights that are expected to be starting base assets after the time mentioned in subsection 80-25(2)) that the entity \*holds that relate to:

- (a) a mining project interest that the entity has; or
- (b) a \*pre-mining project interest that the entity holds.

Note: Division 119 in Schedule 1 to the *Taxation Administration Act 1953* is about choices under the MRRT law.

- (2) The choice must specify whether the \*entity has chosen:
- (a) the book value approach; or
  - (b) the market value approach.
- (3) The choice is not valid unless notice of the choice is given in the \*starting base return relating to the mining project interest or \*pre-mining project interest.
- (4) The choice may specify that it applies to every mining project interest or \*pre-mining project interest that the \*entity has that relates to a specified area.

- (5) The choice applies, in relation to the mining project interest or \*pre-mining project interest, to the first \*MRRT year and all later MRRT years.

### **85-10 Restriction on specifying the book value approach**

- (1) The choice cannot specify the book value approach unless:
- (a) during the 18 months preceding 2 May 2010, an \*entity that had the mining project interest, or \*held the \*pre-mining project interest, in that period prepared a financial report relating to the interest in accordance with \*accounting standards; and
  - (b) the report relates to a financial period that ended in the 18 months preceding 2 May 2010; and
  - (c) the report has been audited in accordance with \*auditing standards.
- (2) If, during the 18 months preceding 2 May 2010, the \*entity was a part of a consolidated entity (within the meaning of the *Corporations Act 2001*), for the purposes of paragraph (1)(a), treat any financial report for the consolidated entity, relating to the mining project interest, as a report that the entity prepared.

### **85-15 The valuation approach for a mining project interest**

The valuation approach, for a mining project interest that an \*entity has, is the approach specified in the choice under section 85-5 relating to:

- (a) the mining project interest; or
- (b) a \*pre-mining project interest from which the mining project interest \*originates.

Note 1: For mining project interests that originate from pre-mining project interests that have different valuation approaches, see section 80-50.

Note 2: For combined mining project interests in which constituent interests have different valuation approaches, see section 115-50.

## **Division 90—Declines in value of starting base assets**

## Table of Subdivisions

### Guide to Division 90

- 90-A How to work out the decline in value of a starting base asset
- 90-B Base values under the book value approach
- 90-C Base values under the market value approach
- 90-D Miscellaneous

## Guide to Division 90

### 90-1 What this Division is about

The decline in value of a starting base asset during an MRRT year counts towards the miner's starting base loss for a mining project interest for the year.

Under the book value approach, the base value of a starting base asset includes its value in the most recent financial report before 2 May 2010. Under the market value approach, the base value includes its market value as at 1 May 2010. Under either approach, the base value may also include expenditure incurred before 1 July 2012.

Under the book value approach, an uplift factor, based on the long term bond rate plus 7%, is applied to components of the asset's base value. Under the market value approach, an uplift factor is not applied.

### Subdivision 90-A—How to work out the decline in value of a starting base asset

#### Table of sections

- 90-5 How to work out the decline in value of a starting base asset
- 90-10 Write off rates under the book value approach
- 90-15 Write off rates under the market value approach

90-5 How to work out the decline in value of a starting base asset

- (1) The decline in value of a *\*starting base asset*, relating to a mining project interest, during an *\*MRRT* year is as follows:

$$\text{Base value} \times \frac{\text{Number of starting base days}}{365} \times \text{Write off rate}$$

where:

*base value* is the base value of the asset for that year worked out under whichever of the following is applicable:

- (a) Subdivision 90-B (book value approach);
- (b) Subdivision 90-C (market value approach);
- (c) section 165-60 (use etc. of starting base assets after starting base adjustment events).

However, the base value may be reduced under section 90-60 (partial disposal) or section 90-65 (recoupment).

*number of starting base days* is the number of *\*starting base days*, in relation to the *\*starting base asset*, during the *\*MRRT* year.

*write off rate* is the write off rate under section 90-10 or 90-15 (whichever is applicable) for the asset for the year.

- (2) The decline in value during an *\*MRRT* year cannot be more than the asset’s *\*base value* for that year.

90-10 Write off rates under the book value approach

If, under Division 85, the book value approach is the valuation approach for the mining project interest, the write off rate of the *\*starting base asset* for an *\*MRRT* year is:

| Write off rates under the book value approach |                            |
|-----------------------------------------------|----------------------------|
| Item                                          | For this <i>*MRRT</i> year |
| The write off rate is:                        |                            |

| <b>Item</b> | <b>For this MRRT year</b>                                     | <b>The write off rate is:</b> |
|-------------|---------------------------------------------------------------|-------------------------------|
| 1           | the *MRRT year in which the *start time for the asset happens | 36%                           |
| 2           | the first *MRRT year commencing after the *start time         | 37.5%                         |
| 3           | the second *MRRT year commencing after the *start time        | 37.5%                         |
| 4           | the third *MRRT year commencing after the *start time         | 60%                           |
| 5           | the fourth *MRRT year commencing after the *start time        | 100%                          |

### 90-15 Write off rates under the market value approach

- (1) If, under Division 85, the market value approach is the valuation approach for the mining project interest, the write off rate of the \*starting base asset for each \*MRRT year is as follows:

$$\frac{100\%}{\text{Remaining effective life of the asset}}$$

where:

*remaining effective life* is:

- (a) if the asset is a \*depreciating asset—the shortest of the following:
  - (i) the unelapsed part, as at the start of the \*MRRT year, of what was the asset's \*effective life worked out as at its \*start time;
  - (ii) the unelapsed part, as at the start of the MRRT year, of the longest effective life, worked out as at its start time, of any right or interest that is \*held by the miner holding the \*starting base asset and that constitutes the whole or part of the mining project interest;
  - (iii) the number of years specified in subsection (2); or
- (b) if the asset is not a depreciating asset—the shorter of the following:
  - (i) the unelapsed part, as at the start of the MRRT year, of the longest effective life, worked out

as at its start time, of any right or interest that is held by the miner holding the starting base asset and that constitutes the whole or part of the mining project interest;

(ii) the number of years specified in subsection (2).

(2) The number of years is the number of years (including parts of years) between:

(a) the start of the \*MRRT year; and

(b) 1 July 2037.

However, if the MRRT year starts after 30 June 2036, the number of years is one.

(3) If the asset is an asset that is treated as a single \*starting base asset because of section 80-30, for the purposes of the definition of *remaining effective life* in subsection (1):

(a) treat the asset as a \*depreciating asset, unless none of the \*constituent assets of the single starting base asset are depreciating assets; and

(b) treat the single starting base asset's \*effective life, at its \*start time, as the longest effective life, worked out as at that time, of any of the constituent assets that are depreciating assets.

(4) For the purpose of working out the \*effective life of a \*starting base asset as at its \*start time:

(a) the miner may make the choices for the purposes of this section; and

(b) the Commissioner may make the decisions for the purposes of this section;

that the miner or Commissioner could have made under Division 40 of the *Income Tax Assessment Act 1997*, relating to working out the effective life of the asset under that Division.

## Subdivision 90-B—Base values under the book value approach

### Table of sections

|       |                                 |
|-------|---------------------------------|
| 90-20 | Application of this Subdivision |
| 90-25 | Initial base value              |
| 90-30 | Later base values               |

### 90-20 Application of this Subdivision

This Subdivision applies to a \*starting base asset relating to a mining project interest if, under Division 85, the book value approach is the valuation approach for mining project interest.

Note: A base value for an MRRT year during which the asset “rejoins” the starting base after a starting base adjustment event happened is worked out under section 165-60.

## 90-25 Initial base value

*Working out the initial base value of a starting base asset*

- (1) The **base value** of the \*starting base asset, for the \*MRRT year in which the \*start time for the asset happens, is:
  - (a) if at all times between 2 May 2010 and 30 June 2012 the \*entity that \*held it also had the mining project interest (or held the \*pre-mining project interest from which the mining project interest \*originated), and subsection (2) applies to the mining project interest—the sum of:
    - (i) the initial book value of the asset under subsection (3) or (4) (whichever is applicable); and
    - (ii) the sum of the valuation amounts under subsection (6) for amounts of \*interim expenditure incurred in relation to the asset (other than amounts of interim expenditure incurred in relation to acquiring or bringing into existence another starting base asset); or
  - (b) if paragraph (a) does not apply—the sum of the valuation amounts under subsection (6) for amounts of interim expenditure in relation to the asset.
- (2) This subsection applies to a mining project interest if:
  - (a) the mining project interest existed (or is a part of a mining project interest that existed) just before 2 May 2010; or
  - (b) the mining project interest \*originates from a \*pre-mining project interest that existed (or that is a part of a pre-mining project interest that existed) just before 2 May 2010.

*Initial book value of a starting base asset*

- (3) If:

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

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

the initial book value of the asset is as follows:

$$\text{Accepted value} \times \left( \frac{\text{Long term bond rate for the initial valuation period} + 1.07}{100} \right)^n$$

where:

*accepted value* is:

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

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

*long term bond rate for the initial valuation period* is the \*long term bond rate for the initial valuation period under subsection (5).

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

(4) Despite subsection (3), the initial book value of the asset is zero if the value of the asset is not recorded as mentioned in subsection (3).

Note: If the asset is mine development expenditure, it will not have an initial book value.

*Initial valuation period for a starting base asset*

(5) The initial valuation period for the asset is the period:

(a) starting:

(i) on the date of the most recent audited financial report, prepared before 2 May 2010, from the accounts in which the value of the asset is recorded, unless subparagraph (ii) of this paragraph applies; or

(ii) if the value of the asset recorded in those accounts is inconsistent with an auditor's report on



- (a) if the value of the asset recorded in those accounts is inconsistent with an auditor's report on the financial report—on the date of the auditor's report; and
- (b) ending at the end of the \*MRRT year in which the \*start time for the asset happens.

*Valuation amounts for interim expenditure*

- (6) If the \*entity that \*held the asset incurred an amount of \*interim expenditure relating to the asset, the valuation amount for the amount of interim expenditure in relation to the asset is:

$$\text{Amount of the } * \text{interim expenditure} \times \left( \frac{\text{Long term bond rate for the interim valuation period} + 1.07}{100} \right)^n$$

where:

*long term bond rate for the interim valuation period* is the \*long term bond rate for the interim valuation period under subsection (7).

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

*Interim valuation period for interim expenditure*

- (7) The interim valuation period for an amount of \*interim expenditure is the period:
- (a) starting on the day on which the \*entity incurred the amount; and
- (b) ending at the end of the \*MRRT year in which the \*start time for the asset happens.

## 90-30 Later base values

The *base value* of the \*starting base asset, for an \*MRRT year that is after the MRRT year in which the \*start time for the asset happens, is:

$$\left( \text{Preceding base value} - \text{Preceding decline in value} \right) \times \text{Uplift factor}$$

where:

*preceding base value* is the base value of the asset for the preceding \*MRRT year.

*preceding decline in value* is the decline in value of the asset, worked out under section 90-5, for the preceding \*MRRT year.

*uplift factor* is:

**\*Long term bond rate for the preceding \*MRRT year + 1.07**

## Subdivision 90-C—Base values under the market value approach

### Table of sections

|       |                                                                            |
|-------|----------------------------------------------------------------------------|
| 90-35 | Application of this Subdivision                                            |
| 90-40 | Initial base value                                                         |
| 90-45 | Mining project interest originating from pre-mining project interests etc. |
| 90-50 | Later base values                                                          |

### 90-35 Application of this Subdivision

This Subdivision applies to a \*starting base asset relating to a mining project interest if, under Division 85, the market value approach is the valuation approach for the mining project interest.

Note: A base value for an MRRT year during which the asset “rejoins” the starting base after a starting base adjustment event happened is worked out under section 165-60.

### 90-40 Initial base value

- (1) The *base value* of the \*starting base asset, for the \*MRRT year in which the \*start time for the asset happens, is:
  - (a) if at all times between 2 May 2010 and 30 June 2012 the \*entity that \*held it also had the mining project interest (or held the \*pre-mining project interest from which the mining project interest \*originated), and subsection (2) applies to the mining project interest—the sum of:

(i) the \*market value of the asset on 1 May 2010; and

- (i) the market value of the asset on 1 May 2010; and
- (ii) the sum of the amounts of \*interim expenditure incurred in relation to the asset (other than amounts of interim expenditure incurred in relation to acquiring or bringing into existence another starting base asset); or
- (b) if paragraph (a) does not apply—the sum of the amounts of interim expenditure incurred in relation to the asset.

Note 1: Division 180 allows a “look-back” approach to valuation to be chosen in some cases.

Note 2: If the asset is mine development expenditure, its market value on 1 May 2010 will be zero.

- (2) This subsection applies to a mining project interest if:
  - (a) the mining project interest existed (or is a part of a mining project interest that existed) just before 2 May 2010; or
  - (b) the mining project interest \*originates from a \*pre-mining project interest that existed, or that is a part of a pre-mining project interest that existed, just before 2 May 2010.
- (3) In working out the \*market value of an asset that is treated as a single \*starting base asset because of section 80-30, disregard any liability of the \*entity to pay any \*private mining royalty to the extent that:
  - (a) the royalty relates to \*taxable resources extracted from the \*project area for the mining project interest, or for a \*pre-mining project interest from which the mining project interest \*originates; and
  - (b) subsection 35-40(3) does not apply to the royalty.

Note: Subsection 35-40(3) provides that private mining royalties paid under a pre-2 May 2010 arrangement are not covered by the rule that private mining royalties are excluded expenditure.

#### **90-45 Mining project interest originating from pre-mining project interests etc.**

- (1) For the purpose of working out under section 90-40 the \*base value of a \*starting base asset, relating to a mining project interest, for the \*MRRT year in which the \*start time for the asset happens, if:
  - (a) the asset is, or includes, the rights and interests that constitute the mining project interest; and
  - (b) the mining project interest did not exist on 1 May 2010; and

(c) the mining project interest \*originates from one or more \*pre-mining project interests, or one or more parts of pre-mining project interests, that existed just before 2 May 2010;

assume that the \*market value of the asset on 1 May 2010 was an amount equal to the market value, on that day, of the rights and interests that constitute the pre-mining project interest or pre-mining project interests, or the part or parts, from which the mining project interest originates.

(2) However, this section does not apply if the \*entity has made a choice under section 180-5 (look-back approach) relating to the mining project interest.

## 90-50 Later base values

The **base value** of the \*starting base asset, for an \*MRRT year that is not the MRRT year in which the \*start time for the asset happens, is an amount equal to the difference between:

- (a) the base value of the asset for the preceding MRRT year; and
- (b) the decline in value of the asset, worked out under section 90-5, for the preceding MRRT year.

## Subdivision 90-D—Miscellaneous

### Table of sections

|       |                                                                 |
|-------|-----------------------------------------------------------------|
| 90-55 | Meaning of <i>interim expenditure</i>                           |
| 90-60 | Partial disposal of a starting base asset before the start time |
| 90-65 | Recoupment of the value of a starting base asset                |

## 90-55 Meaning of *interim expenditure*

### *General interim expenditure*

(1) An amount that an \*entity incurs in relation to a \*starting base asset that the entity \*holds in relation to a mining project interest (including in relation to acquiring or bringing into existence such an asset) is ***interim expenditure*** relating to the asset if:

(a) the amount:

(a) the amount,

- (i) if the starting base asset is a \*depreciating asset—is included in the cost of the asset under Subdivision 40-C of the *Income Tax Assessment Act 1997*; or
- (ii) if the starting base asset is a \*CGT asset (but not a depreciating asset)—is included in the \*cost base of the asset; and

(b) the entity incurs the amount during the period starting on the day provided under subsection (4) or (5) and ending at the end of 30 June 2012.

(2) However, if the \*starting base asset is a \*CGT asset (but not a \*depreciating asset), treat the amount of the \*interim expenditure as not including any part of the amount that consists of the third element of the \*cost base under subsection 110-25(4) of the *Income Tax Assessment Act 1997*.

(3) Subsections (1) and (2) apply to a \*starting base asset that is treated as a single \*starting base asset because of section 80-30 or subsection 180-10(3) to the extent that they would apply to the \*constituent assets of the single starting base asset if the constituent assets were starting base assets.

#### *Start of the expenditure period*

(4) If, under Division 85, the book value approach is the valuation approach for the mining project interest, the period starts:

- (a) if the \*entity \*held the asset at all times from the start of 2 May 2010 until the end of 30 June 2012—on the date of the financial report mentioned in paragraph 90-25(3)(a) in relation to the accounts in which the value of the asset is recorded; or
- (b) otherwise—on the first day, before the end of 30 June 2012, from which the entity held the asset at all times until the end of 30 June 2012.

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

The expenditure incurred in buying the asset the first time (on 1 January 2011) is not interim expenditure, because the miner did not hold the asset until the end of 30 June 2012, as required by paragraph (4)(b).

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

- (5) If, under Division 85, the market value approach is the valuation approach for the mining project interest, the period starts:
- (a) if the \*entity \*held the asset at all times from the start of 2 May 2010 until the end of 30 June 2012—on 2 May 2010; or
  - (b) otherwise—on the first day, before the end of 30 June 2012, from which the entity held the asset at all times until the end of 30 June 2012.

*Mine development expenditure as interim expenditure*

- (6) An amount that an \*entity incurs in relation to a mining project interest is ***interim expenditure*** if the amount is \*mine development expenditure to which subsection (1) does not apply.
- (7) To avoid doubt, \*mine development expenditure that is \*interim expenditure cannot also be interim expenditure relating to another amount of mine development expenditure.

*Excluded expenditure*

- (8) Despite subsections (1) and (6), the amount is not ***interim expenditure*** to the extent (if any) that the amount would have been \*excluded expenditure if it had been incurred after 1 July 2012.

## 90-60 Partial disposal of a starting base asset before the start time

- (1) The ***base value*** of a \*starting base asset, relating to a mining project interest that a miner has, for the \*MRRT year in which the \*start time for the asset happens, is reduced to the extent (if any) that any of the miner's interest in the asset is disposed of during the period:
- (a) starting on the day provided under subsection (2); and
  - (b) ending just before the start time for the asset.
- (2) The period starts:
- (a) if, under Division 85, the book value approach is the valuation approach for the mining project interest—on the date of the financial report mentioned in paragraph 90-25(3)(a) in relation to the

accounts in which the value of the asset is recorded; or

(b) if, under Division 85, the market value approach is the valuation approach for the mining project interest—on 2 May 2010.

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

## 90-65 Recoupment of the value of a starting base asset

### *Reducing the base value*

- (1) The **base value** of the \*starting base asset for an \*MRRT year is reduced to the extent (if any) that:
- (a) an amount is received, or becomes receivable, by the miner that has the mining project interest to which the asset relates:
    - (i) if the year is the MRRT year in which the \*start time for the asset happens—during the period starting on the day provided under subsection (2) and ending just before the end of that year; or
    - (ii) in any other case—during the year; and
  - (b) payment of the amount has, or would have, the purpose or effect of \*recouping or offsetting some or all of what would (apart from this subsection) be the asset's base value; and
  - (c) the amount does not relate to a \*starting base adjustment event for the asset; and
  - (d) the amount is not taken into account through a reduction under section 90-60.
- (2) The period starts:
- (a) if, under Division 85, the book value approach is the valuation approach for the mining project interest—on the date of the financial report mentioned in paragraph 90-25(3)(a) in relation to the accounts in which the value of the asset is recorded; or
  - (b) if, under Division 85, the market value approach is the valuation approach for the mining project interest—on 2 May 2010.

- (3) However, subsection (1) does not apply to the extent that:
- (a) the \*starting base asset is or includes the rights and interests that constitute a mining project interest; and
  - (b) the amount mentioned in paragraph (1)(a) relates to disposal of any of those rights and interests.

*Including amounts in mining revenue*

- (4) If what would otherwise be the amount of the reduction under subsection (1) exceeds what would (apart from that subsection) be the \*base value of the \*starting base asset, the amount of the excess is included in the miner's \*mining revenue for the \*MRRT year.
- (5) However, if there have been reductions to a \*starting base loss, for that \*MRRT year or an earlier MRRT year, under subsection 80-40(3) or (4) relating to the \*starting base asset, the amount included in the miner's \*mining revenue under subsection (4) is reduced by the following:

$$\text{Excess amount} \times \frac{\text{Sum of reductions}}{\text{Total decline}}$$

where:

**excess amount** is the amount of the excess mentioned in subsection (4).

**sum of reductions** is the sum of the reductions made relating to the asset under subsections 80-40(3) and (4) during that \*MRRT year or any earlier MRRT year.

**total decline** is the sum of the declines in value of the asset that have happened during that \*MRRT year or any earlier MRRT year.

Note: Reductions happen under subsection 80-40(3) or (4) if the asset is used, installed for use, or constructed for use for a purpose other than carrying on upstream mining operations relating to the mining project interest, or in connection with excluded expenditure.



Part 3-6—Transferred pre-mining loss allowances

Division 95—Transferred pre-mining loss allowances

Guide to Division 95

95-1 What this Division is about

Transferred pre-mining loss allowances enable a miner’s MRRT liability for a mining project interest for an MRRT year to be reduced by pre-mining losses relating to certain other pre-mining project interests that the miner has, or that a closely associated entity has.

Table of sections

Operative provisions

- 95-5 Object of this Division
- 95-10 When a miner has a transferred pre-mining loss allowance
- 95-15 The amount of a transferred pre-mining loss allowance
- 95-20 Available pre-mining losses for a transferred pre-mining loss allowance
- 95-25 Cap on available pre-mining losses
- 95-30 The *pre-mining loss cap*

Operative provisions

95-5 Object of this Division

The object of this Division is to enable \*pre-mining losses related to a \*pre-mining project interest to be transferred to mining project interests that are sufficiently connected to the pre-mining losses (even if the mining project interests did not \*originate from the pre-mining project interest).

95-10 When a miner has a transferred pre-mining loss allowance

A miner has a ***transferred pre-mining loss allowance*** for a mining project interest for an \*MRRT year if:

- (a) there is an amount (a ***remaining profit***) by which the miner's \*mining profit for the mining project interest for the year exceeds the sum of all the \*higher ranking allowances (if any) that the miner has for the mining project interest for the year; and
- (b) there are one or more \*pre-mining losses (***available pre-mining losses***) that, under section 95-20, can be applied in working out a transferred pre-mining loss allowance for the interest for the year.

### 95-15 The amount of a transferred pre-mining loss allowance

- (1) The amount of the miner's \*transferred pre-mining loss allowance is so much of the sum of the available pre-mining losses as does not exceed the remaining profit.
- (2) In working out the amount of a \*transferred pre-mining loss allowance, \*pre-mining losses are applied in the order in which they arise, but the miner may choose the order in which to apply pre-mining losses that arise at the same time.

Note: Division 119 in Schedule 1 to the *Taxation Administration Act 1953* is about choices under the MRRT law.

### 95-20 Available pre-mining losses for a transferred pre-mining loss allowance

- (1) A \*pre-mining loss can be applied in working out a \*transferred pre-mining loss allowance for the mining project interest (the ***receiving interest***) for the year in the circumstances set out in subsection (2) or (3).

Note: Once a pre-mining loss has been fully applied, it ceases to be a pre-mining loss (see subsection 70-30(2)), and therefore cannot be applied in working out a transferred pre-mining loss allowance.

*Pre-mining project interest in force*

- (2) The \*pre-mining loss can be applied if:
  - (a) the \*entity that has the \*pre-mining project interest (the ***loss project interest***) to which the pre-mining loss relates is

pre-mining loss relates to:

- (i) the miner; or
  - (ii) another entity that is \*closely associated with the miner at the end of the year; and
- (b) either:
- (i) both the receiving interest and the loss project interest relate to iron ore; or
  - (ii) both the receiving interest and the loss project interest do not relate to iron ore.

*Pre-mining project interest replaced by a different mining project interest*

- (3) The \*pre-mining loss can be applied if:
- (a) a mining project interest \*originates from the \*pre-mining project interest to which the pre-mining loss relates; and
  - (b) the \*entity that has that mining project interest (also the ***loss project interest***) is:
    - (i) the miner; or
    - (ii) another entity that is \*closely associated with the miner at the end of the year; and
  - (c) either:
    - (i) both the receiving interest and the loss project interest relate to iron ore; or
    - (ii) both the receiving interest and the loss project interest do not relate to iron ore.

*Competing applications of a pre-mining loss*

- (4) Despite subsections (2) and (3), the \*pre-mining loss cannot be applied to the extent that it is applied in working out, for the year:
- (a) a \*pre-mining loss allowance; or
  - (b) a \*transferred pre-mining loss allowance;
- for another mining project interest.

*Meaning of closely associated*

- (5) A miner is ***closely associated*** with another \*entity at a time if, at that time, they:

- (a) are both \*members of the same \*consolidatable group; or
- (b) would both be members of the same consolidatable group if the otherwise applicable requirements in column 3 of the table in subsection 703-15(2) of the *Income Tax Assessment Act 1997* (Australian residence requirements) were disregarded.

Note: The members of a consolidated group are closely associated, since a consolidatable group continues to exist even after the day on and after which the consolidatable group is taken to be consolidated.

## 95-25 Cap on available pre-mining losses

- (1) Despite section 95-20, a \*pre-mining loss that could otherwise be applied in working out a \*transferred pre-mining loss allowance cannot be applied, to the extent the application of the loss would result in:
  - (a) pre-mining losses that count towards the loss project interest's \*pre-mining loss cap exceeding that cap; or
  - (b) pre-mining losses that count towards the receiving interest's pre-mining loss cap exceeding that cap.
- (2) A \*pre-mining loss that has been, or is to be, applied in working out a \*transferred pre-mining loss allowance counts towards the \*pre-mining loss cap of an interest if:
  - (a) the interest is the loss project interest or receiving interest for that application of the loss; and
  - (b) the common ownership test in subsection (3) is not met for that application of the loss; and
  - (c) the pre-mining loss arose in the \*MRRT year in which the interest's pre-mining loss cap arose (the *cap year*), or an earlier year; and
  - (d) the transferred pre-mining loss allowance is for the cap year, or a later year.

### *Common ownership test for transfer of pre-mining losses*

- (3) The common ownership test is met for a \*pre-mining loss that is to be applied in working out a \*transferred pre-mining loss allowance if the \*entity that has the loss project interest is the same as, or \*closely associated with, the entity that has the receiving interest, at all times in the period:

- (a) starting at the start of the "MRR1" year for which the loss arises; and
- (b) ending at the end of the MRRT year for which the loss is to be applied.

Note 1: It is not a requirement that the same entity has an interest at all times in the period mentioned.

Note 2: Section 115-55 sets out further restrictions on applying pre-mining losses if a mining project interest is a combined interest under Division 115.

### 95-30 The *pre-mining loss cap*

- (1) A *pre-mining loss cap* arises for a mining project interest or a \*pre-mining project interest if:
  - (a) an entity starts to have the interest, other than:
    - (i) because the interest came into existence; or
    - (ii) because of the operation of section 215-20, 215-25 or 215-30 (interests joining or leaving a consolidated group); or
  - (b) the entity that has the interest:
    - (i) joins or leaves a \*consolidatable group; or
    - (ii) would join or leave a consolidatable group if the requirements in column 3 of the table in subsection 703-15(2) of the *Income Tax Assessment Act 1997* (Australian residence requirements) for an entity to be a \*head company or \*subsidiary member of a consolidatable group were disregarded.
- (2) The amount of the \*pre-mining loss cap for a mining project interest or \*pre-mining project interest is worked out by dividing by the \*MRRT rate:
  - (a) if paragraph (1)(a) applies—the amount paid or payable by the entity for starting to have the interest; or
  - (b) if paragraph (1)(b) applies—so much of the amount paid or payable for the joining or leaving as is reasonably attributable to the interest.
- (3) However, if a mining project interest or \*pre-mining project interest would, apart from this subsection, have more than one \*pre-mining loss cap, the *pre-mining loss cap* for the interest is the one that arises last.

## Part 3-7—Transferred mining loss allowances

### Division 100—Transferred mining loss allowances

#### Guide to Division 100

##### 100-1 What this Division is about

A miner's MRRT liability for a mining project interest may be reduced by mining losses from one or more other mining project interests.

The interests must satisfy a common ownership test from the year the loss arises to the year the loss is applied.

#### Table of sections

##### Operative provisions

|        |                                                      |
|--------|------------------------------------------------------|
| 100-5  | Object of this Division                              |
| 100-10 | When a miner has a transferred mining loss allowance |
| 100-15 | The amount of a transferred mining loss allowance    |
| 100-20 | Available mining losses                              |
| 100-25 | Common ownership test                                |

#### Operative provisions

##### 100-5 Object of this Division

The object of this Division is to enable \* mining losses of a mining project interest to be transferred to

other mining project interests, subject to certain limitations primarily designed to ensure that the interests constitute a single economic unit.

### 100-10 When a miner has a transferred mining loss allowance

A miner has a *transferred mining loss allowance* for a mining project interest for an \*MRRT year if:

- (a) there is an amount (a *remaining profit*) by which the miner's \*mining profit for the interest for the year exceeds the sum of all the \*higher ranking allowances (if any) that the miner has for the interest for the year; and
- (b) there are one or more \*mining losses (*available mining losses*) that, under section 100-20, can be applied in working out the transferred mining loss allowance for the interest for the year.

### 100-15 The amount of a transferred mining loss allowance

- (1) The amount of the miner's \*transferred mining loss allowance is so much of the sum of the available mining losses as does not exceed the remaining profit.
- (2) In working out the amount of a \*transferred mining loss allowance, \*mining losses are applied in the order in which they arise, but the miner may choose the order in which to apply mining losses that arise at the same time.

Note: Division 119 in Schedule 1 to the *Taxation Administration Act 1953* is about choices under the MRRT law.

### 100-20 Available mining losses

- (1) A \*mining loss can be applied in working out a \*transferred mining loss allowance for a mining project interest (the *receiving interest*) for an \*MRRT year (the *transfer year*) if:
  - (a) the condition in section 100-25 (common ownership test) is met; and
  - (b) the mining loss does not relate to an MRRT year for which the alternative valuation method under Division 175 was chosen in relation to the mining project interest for which the mining loss arises (the *loss project interest*); and

(2) With an

(c) either:

- (i) both the loss project interest and the receiving interest relate to iron ore; or
- (ii) both the loss project interest and the receiving interest do not relate to iron ore.

(2) Despite subsection (1), the \*mining loss cannot be applied to the extent it is applied in working out:

- (a) a \*mining loss allowance; or
- (b) a \*transferred mining loss allowance;

for another mining project interest for the year.

Note: Section 115-60 sets out further restrictions on applying mining losses if a mining project interest is a combined interest under Division 115.

## 100-25 Common ownership test

(1) At all times in the period mentioned in subsection (2), the miner who has the loss project interest and the miner who has the receiving interest must be:

- (a) the same miner; or
- (b) \*closely associated with each other.

(2) The period:

- (a) starts at the start of the \*MRRT year for which the \*mining loss arises; and
- (b) ends at the end of the transfer year.

(3) To avoid doubt, it is not a requirement of subsection (1) that the same miner has an interest at all times in the period mentioned.

Example: At the start of the period, the loss project interest and the receiving interest are held by the same miner. Part way through the period, the loss project interest is transferred to another entity in the same consolidatable group. The condition in this section is met because, at all times in the period, the interests were held by either the same miner, or a closely associated miner.

## Chapter 4—Specialist liability rules



## **Part 4-1—Mining project interests**

### **Division 115—Combining mining project interests**

#### **Table of Subdivisions**

##### Guide to Division 115

- 115-A Object of this Division
- 115-B When mining project interests are combined
- 115-C The effect of combining mining project interests

#### **Guide to Division 115**

##### **115-1 What this Division is about**

Mining project interests are combined in a single mining project interest if certain requirements are met (in particular, they must be integrated with each other). The combined mining project interest in effect takes the place of those mining project interests.

#### **Subdivision 115-A—Object of this Division**

##### **Table of sections**

- 115-5 Object of this Division

##### **115-5 Object of this Division**

The object of this Division is to treat mining project interests that are \*integrated as a single interest (unless it would compromise the quarantining rules for \*allowance components), so that the single interest becomes the basis for ascertaining the \*MRRT liability for all those interests.

#### **Subdivision 115-B—When mining project interests are combined**

## Table of sections

|        |                                                                             |
|--------|-----------------------------------------------------------------------------|
| 115-10 | Mining project interests may be treated as the same mining project interest |
| 115-15 | Choosing to override non-compliance                                         |
| 115-20 | Transferability of royalty credits                                          |
| 115-25 | Transferability of pre-mining losses                                        |
| 115-30 | Transferability of mining losses                                            |
| 115-35 | Starting base losses and starting base assets                               |

### 115-10 Mining project interests may be treated as the same mining project interest

- (1) For the purposes of the \*MRRT law (other than this Division and Division 255), 2 or more mining project interests (*constituent interests*) are taken to be the same mining project interest (the *combined interest*) from a particular time (the *combining time*) during an \*MRRT year if:
- (a) each of the constituent interests is \*integrated with each of the other constituent interests; and
  - (b) each \*royalty credit relating to any of the constituent interests complies with section 115-20; and
  - (c) each amount (an *existing pre-mining loss*) that:
    - (i) is a \*pre-mining loss relating to any of the constituent interests; or
    - (ii) if the MRRT year were to end at the combining time, would be a pre-mining loss relating to any of the constituent interests;
 complies with section 115-25; and
  - (d) each amount (an *existing mining loss*) that:
    - (i) is a \*mining loss relating to any of the constituent interests; or
    - (ii) if the MRRT year were to end at the combining time, would be a mining loss relating to any of the constituent interests;
 complies with section 115-30; and
  - (e) each \*starting base loss, or \*starting base asset that has a \*base value greater than zero, relating to any of the constituent interests complies with section 115-35.

Note: For when interests are *integrated*, see Division 255.

- (2) Any of the constituent interests may be mining project interests to which this section has already applied.
- (3) However, if the \*suspension day for a mining project interest has happened, the mining project interest cannot be a constituent interest.

## 115-15 Choosing to override non-compliance

- (1) The fact that:
  - (a) a \*royalty credit relating to a constituent interest does not comply with section 115-20; or
  - (b) an existing pre-mining loss relating to a constituent interest does not comply with section 115-25; or
  - (c) an existing mining loss relating to a constituent interest does not comply with section 115-30; or
  - (d) a \*starting base loss, or \*starting base asset does not comply with section 115-35;

does not prevent section 115-10 applying to the constituent interest if the miner who has the constituent interest chooses to have the constituent interest treated as part of the combined interest despite the non-compliance.

Note: Division 119 in Schedule 1 to the *Taxation Administration Act 1953* is about choices under the MRRT law.

- (2) If the miner makes that choice:
  - (a) any such \*royalty credit, existing pre-mining loss, existing mining loss or \*starting base loss is extinguished; and
  - (b) the \*base value of any such \*starting base asset is reduced to zero.

## 115-20 Transferability of royalty credits

A \*royalty credit that relates to one of the constituent interests complies with this section if, under section 65-20 (available royalty credits), the royalty credit could be applied in working out a \*transferred

..... of the ..... for the \*MRRT .....

royalty allowance for each of the other constituent interests for the \*MRRT year if:

- (a) the year were to end at the combining time; and
- (b) subsection 65-20(2) were disregarded.

### **115-25 Transferability of pre-mining losses**

An existing pre-mining loss that relates to one of the constituent interests complies with this section if:

- (a) under section 95-20 (available pre-mining losses), the existing pre-mining loss could be applied in working out a \*transferred pre-mining loss allowance for each of the other constituent interests for the \*MRRT year if:
  - (i) the year were to end at the combining time; and
  - (ii) subsection 95-20(4) were disregarded; and
- (b) in a case where one or more of the constituent interests is a combined interest under a previous application of this Division—section 115-55 does not prevent the existing pre-mining loss from being so applied.

Note: Section 95-25 (cap on available pre-mining losses) may impose additional limits on the availability of pre-mining losses under section 95-20.

### **115-30 Transferability of mining losses**

An existing mining loss that relates to one of the constituent interests complies with this section if:

- (a) under subsection 100-20(1) (available mining losses), the existing mining loss could be applied in working out a \*transferred mining loss allowance for each of the other constituent interests for the \*MRRT year if:
  - (i) the year were to end at the combining time; and
  - (ii) subsection 100-20(2) were disregarded; and
- (b) in a case where one or more of the constituent interests is a combined interest under a previous application of this Division—section 115-60 does not prevent the existing mining loss from being so applied.

## 115-35 Starting base losses and starting base assets

A \*starting base loss, or a \*starting base asset, that relates to one of the constituent interests complies with this section if:

- (a) the constituent interest:
  - (i) existed on 2 May 2010; or
  - (ii) \*originates from a \*pre-mining project interest that existed on 2 May 2010; and
- (b) the miner who has the constituent interest is, and at all times since 2 May 2010 has been, the miner who has each other constituent interest (or the pre-mining project interest from which the interest originates).

## Subdivision 115-C—The effect of combining mining project interests

### Table of sections

|        |                                                             |
|--------|-------------------------------------------------------------|
| 115-40 | The effect of combining mining project interests            |
| 115-45 | Allowance components arising in preceding MRRT years        |
| 115-50 | Different valuation approaches for mining project interests |
| 115-55 | Transferred pre-mining loss allowances                      |
| 115-60 | Transferred mining loss allowances                          |
| 115-65 | Choice of the alternative valuation method                  |

## 115-40 The effect of combining mining project interests

In the \*MRRT year (the *combining year*) in which the constituent interests are taken to be the combined interest, the miner is liable to pay any MRRT that is payable in relation to:

- (a) the constituent interests; and
- (b) the part of the year before the constituent interests become the combined interest;

as if the constituent interests were taken to be the combined interest at the start of the year.

Note 1: If the whole of the combined interest is transferred later in the same year to a new miner, the new miner's MRRT

liability in relation to the year will include the liability under this section: see Division 120.

Note 2: If a part of the combined interest is transferred later in the same year to a new miner, the new miner's MRRT liability in relation to the year will include a part of the liability under this section: see Division 125.

## **115-45 Allowance components arising in preceding MRRT years**

### *Royalty credits*

- (1) Any \*royalty credit for a constituent interest for an \*MRRT year preceding the combining year is taken to be a royalty credit for the combined interest for that year.

### *Pre-mining losses*

- (2) If, for an \*MRRT year preceding the combining year, there is a \*pre-mining loss for at least one of the constituent interests:
  - (a) all of the pre-mining losses for the constituent interests for the year are taken to be a single pre-mining loss for the combined interest for that MRRT year; and
  - (b) the amount of the single pre-mining loss is taken to be the sum of those pre-mining losses.

### *Mining losses*

- (3) If, for an \*MRRT year preceding the combining year, there is a \*mining loss for at least one of the constituent interests:
  - (a) all of the mining losses for the constituent interests for the year are taken to be a single mining loss for the combined interest for that MRRT year; and
  - (b) the amount of the single mining loss is taken to be the sum of those mining losses.

### *Starting base losses*

- (4) If, for an \*MRRT year preceding the combining year, there is a \*starting base loss for at least one of the constituent interests:
  - (a) all of the starting base losses for the constituent interests for the year are taken to be a single starting base loss for the combined interest for that MRRT year; and

starting base loss for the combined interest for that MRRT year, and

(b) the amount of the single starting base loss is taken to be the sum of those starting base losses.

(5) However, subsection (4) does not apply in circumstances covered by section 115-50.

### 115-50 Different valuation approaches for mining project interests

- (1) If, under Division 85, there is not the same valuation approach, for all the constituent interests:
  - (a) in the circumstances mentioned in subsection (2), there are 2 \*starting base losses, for the combined interest for the same \*MRRT year, of the amounts provided in subsection (3); and
  - (b) in working out the amount of a \*starting base allowance for the combined interest for an MRRT year, the starting base losses for the combined interest in the year are to be applied in the order specified in subsection (4); and
  - (c) in working out under Division 90 the decline in value of any \*starting base asset relating to the constituent interest during an MRRT year, assume that the applicable valuation approach is the valuation approach specified under subsection (5).
- (2) There are 2 \*starting base losses, for the combined interest for the same \*MRRT year, if, for the year:
  - (a) there would have been one or more starting base losses (*book value starting base losses*) for the constituent interests for which the book value approach is the valuation approach under Division 85; and
  - (b) there would have been one or more starting base losses (*market value starting base losses*) for the constituent interests for which the market value approach is the valuation approach under Division 85;
 if the combined interest had not existed.
- (3) The amounts of those 2 \*starting base losses are:
  - (a) an amount equal to the sum of the book value starting base losses; and
  - (b) an amount equal to the sum of the market value starting base losses.

(4) Despite subsection 80-15(2), the order for applying the \*starting base losses for the combined interest for

the year is:

- (a) the starting base loss relating to the book value starting base losses; then
- (b) the starting base loss relating to the market value starting base losses.

(5) The valuation approach is:

- (a) the book value approach if the asset relates to a constituent interest for which the book value approach is the valuation approach under Division 85; or
- (b) the market value approach if the asset relates to a constituent interest for which the market value approach is the valuation approach under Division 85.

(6) For the purposes of this section, if any of the constituent interests has, under section 80-50, 2 \*starting base losses for the same \*MRRT year, treat the interest as 2 constituent interests for which the valuation approaches under Division 85 are different.

### **115-55 Transferred pre-mining loss allowances**

- (1) A \*pre-mining loss relating to a mining project interest other than the combined interest (or any of the constituent interests) cannot be applied in working out a \*transferred pre-mining loss allowance for the combined interest for an \*MRRT year if:
  - (a) in relation to at least one of the constituent interests—section 95-25 (cap on available pre-mining losses) would have prevented the loss from being applied in working out a transferred pre-mining loss allowance for the constituent interest for the year (if the combined interest had not existed); and
  - (b) the loss arose in relation to an MRRT year preceding the combined interest coming into existence.
- (2) A \*pre-mining loss relating to the combined interest (or any of the constituent interests) cannot be applied in working out a \*transferred pre-mining loss allowance for another mining project interest for an \*MRRT year if:
  - (a) in relation to at least one of the constituent interests—section 95-25 (cap on available pre-mining



losses) would have prevented the loss from being applied in working out a transferred pre-mining loss allowance for the other mining project interest for the year if:

- (i) the combined interest had not existed; and
  - (ii) the loss had related to the constituent interest; and
- (b) the loss arose in relation to an MRRT year preceding the combined interest coming into existence.
- (3) This section has effect despite section 95-25 (cap on available pre-mining losses).

## **115-60 Transferred mining loss allowances**

- (1) A \*mining loss relating to a mining project interest other than the combined interest (or any of the constituent interests) cannot be applied in working out a \*transferred mining loss allowance for the combined interest for an \*MRRT year if:
- (a) in relation to at least one of the constituent interests—subsection 100-20(1) (available mining losses) would not have allowed the loss to be applied in working out a transferred mining loss allowance for the constituent interest for the year (if the combined interest had not existed); and
  - (b) the loss arose in relation to an MRRT year preceding the combined interest coming into existence.
- (2) A \*mining loss relating to the combined interest (or any of the constituent interests) cannot be applied in working out a \*transferred mining loss allowance for another mining project interest for an \*MRRT year if:
- (a) in relation to at least one of the constituent interests—subsection 100-20(1) (available mining losses) would not have allowed the loss to be applied in working out a transferred mining loss allowance for the other mining project interest for the year if:
    - (i) the combined interest had not existed; and
    - (ii) the loss had related to the constituent interest; and
  - (b) the loss arose in relation to an MRRT year preceding the combined interest coming into existence.
- (3) This section has effect despite section 100-20 (available mining losses).

## 115-65 Choice of the alternative valuation method

- (1) A choice by the miner to use the alternative valuation method under Division 175 in relation to any of the constituent interests for the combining year has no effect.
- (2) The miner may choose to use the alternative valuation method under Division 175 in relation to the combined interest for the year in the circumstances set out in Subdivision 175-B. The choice relates to the whole of the year.

## Division 120—Transferring mining project interests

### Guide to Division 120

#### 120-1 What this Division is about

If a mining project interest is transferred, in most respects the new miner takes over from the original miner in relation to MRRT matters. In particular, the new miner bears the MRRT liability for the transfer year.

#### Table of sections

##### Operative provisions

|        |                                                             |
|--------|-------------------------------------------------------------|
| 120-5  | Object of this Division                                     |
| 120-10 | Effect of mining project transfer                           |
| 120-15 | Effect of transferred property                              |
| 120-20 | Events happening after mining project transfer              |
| 120-25 | Start of mining venture taken to be mining project transfer |

##### Operative provisions

## 120-5 Object of this Division

The object of this Division is to ensure that, if a mining project interest is transferred:

- (a) consistent with the MRRT being a project-based tax, matters relevant to the MRRT that are connected with the interest before the transfer remain connected with the interest after the transfer; and
- (b) in particular, the \*MRRT liability for the interest for the part of the \*MRRT year before the transfer attaches to the miner who has the interest after the transfer, and not to the miner who had the interest before the transfer.

## 120-10 Effect of mining project transfer

*Liability for MRRT moves with interest*

- (1) Any MRRT that would otherwise be payable by a miner in relation to a mining project interest in relation to the part of an \*MRRT year before a \*mining project transfer happens (the ***pre-transfer part year***) is payable instead, in accordance with this Division:

- (a) by the miner that has the mining project interest after the transfer; and
- (b) in the MRRT year for that miner in which the transfer happens.

- Note 1: The MRRT liability for the miner that has the interest after the transfer is worked out in accordance with this Division. It may be more, or less, than the liability the other miner would have had, depending on circumstances such as choices, offsets and available allowances.
- Note 2: For any period after the transfer that the new miner has the interest, its liability for MRRT (if any) is worked out under the ordinary rules.
- Note 3: The miner that has the interest after the transfer may have an additional amount of instalment income in the instalment quarter in which the transfer happens: see section 115-95 in Schedule 1 to the *Taxation Administration Act 1953*.

*Continuation of mining project interest*

- (2) The mining project interest (the ***new interest***) that a miner (the ***new miner***) has just after a \*mining project transfer is taken to be a continuation of the mining project interest (the ***original interest***) a miner (the ***original miner***) had just before the transfer.

- Note: This means, for example, that:
- (a) the mining project interest retains the history of when it started, and of the miners who have had the interest at various times; and
  - (b) a choice made, under Division 85, of the valuation approach for the mining project interest continues to have effect; and
  - (c) starting base assets that have been used to an extent in relation to the mining project interest before the transfer retain the history of that use.

*Meaning of **mining project transfer***

(3) A **mining project transfer** happens if:

- (a) an \*arrangement that has the effect of transferring the whole of the entitlement comprising a mining project interest from one miner to a single other \*entity comes into force; and
- (b) the mining project interest the other entity starts to have covers the same \*project area.

- Note: If the arrangement relates to a combined interest (see Division 115) that is integrated because the original miner chose downstream integration:
- (a) the interest will not be a combined interest after the transfer unless the new miner has chosen downstream integration; and
  - (b) under Division 125, there will be a split of the combined interest until the new miner makes such a choice.

*MRRT amounts move with interest*

(4) For the purposes of the application of the \*MRRT law in the \*MRRT year in which the transfer happens or a later MRRT year, each of the following amounts that, apart from this Division, would be an amount for the original miner and the original interest is instead an amount for the new miner and the new interest:

- (a) an amount included in \*mining revenue for the pre-transfer part year or an earlier MRRT year;
- (b) an amount included in \*mining expenditure for the pre-transfer part year or an earlier MRRT year;
- (c) an amount of a \*royalty credit arising for the original interest in the pre-transfer part year;
- (d) an amount of an \*allowance component arising in an earlier MRRT year.

- Note: If the original miner's MRRT year starts before the new miner's MRRT year, the effect of this provision is that amounts from before the start of the new miner's MRRT year are taken into account for the new miner in the new miner's MRRT year.

Example: The original miner has a substituted accounting period of 12 months from 1 April to 31 March. The new miner has an MRRT year of 1 July to 30 June. The transfer happens on 1 July. The amounts covered by subsection (4) are all

amounts that would be amounts for the original miner for the period from 1 April to 30 June, so these will be amounts for the new miner for the MRRT year 1 July to 30 June.

### *Choices*

- (5) Despite subsection (4), in working out under that subsection an amount for the \*MRRT year in which the transfer happens or a later MRRT year, a choice of the following kind made by the new miner is taken into account, but a choice of that kind made by the original miner is disregarded:
- (a) a choice under Division 175 to use the alternative valuation method in relation to the mining project interest for the \*MRRT year in which the mining project transfer happens;
  - (b) a choice under Division 200 to use the simplified MRRT method for that year.

Note: The effect of a simplified MRRT method choice made for a year before the transfer year is not affected: all allowance components are extinguished (see Division 200).

Example: An original miner had made a choice to use the alternative valuation method in the MRRT year in which a mining project transfer happens. The new miner makes no choices.

The new miner works out the amounts to include in its mining revenue for the pre-transfer part year by working out the amount the original miner would have included if the original miner had not chosen to use the alternative valuation method.

### *Suspension day*

- (6) If there is a \*suspension day for the mining project interest that was chosen under paragraph 130-10(1)
- (a):
    - (a) the \*mining project transfer does not affect:
      - (i) any extinguishment under section 130-15 of \*allowance components relating to the mining project interest; or
      - (ii) any \*rehabilitation tax offset amounts, for any earlier \*MRRT years, relating to the mining project interest; and
    - (b) that suspension day:
      - (i) does not affect any further allowance components relating to the mining project interest and that MRRT year or later MRRT years; but
      - (ii) is no longer to be taken into account in determining whether there are any rehabilitation tax

offset amounts, for that MKK1 year or any later MKK1 years, relating to the mining project interest.

Note: The new miner may make a suspension day choice in the circumstances set out in Division 130.

## 120-15 Effect of transferred property

- (1) This section applies if:
  - (a) any property, or any legal or equitable right that is not property, (the *transferred property*) is transferred to the new miner under the \*mining project transfer; and
  - (b) the original miner used the transferred property in \*mining operations for the mining project interest; and
  - (c) the transferred property:
    - (i) gave rise to an amount of \*mining expenditure for the original miner, or another miner who preceded the original miner, in relation to the mining project interest; or
    - (ii) is, or may become, a \*starting base asset, in relation to the mining project interest.
- (2) Despite section 30-40, no amount is included in the original miner's \*mining revenue for the mining project interest in relation to any part of the consideration for the transfer that relates to the transferred property.
- (3) For the new miner, any part of the consideration for the transfer that relates to the transferred property is taken, for the purposes of section 35-35, to be expenditure relating to the acquisition of the mining project interest.
- (4) To avoid doubt, the \*mining project transfer, and the transfer of the transferred property, is not an event or circumstance giving rise to an adjustment under Division 160.

Note: Events or circumstances happening after the transfer may give rise to adjustment under Division 160, for instance if the new miner uses the transferred property in relation to the mining project interest to a greater or lesser extent than the original miner.

## 120-20 Events happening after mining project transfer

- (1) A thing that happens at a particular time in relation to an entity (the *first entity*) is taken instead to happen in relation to another entity, and to have the effect mentioned in paragraph (c) in relation to a mining project interest the other entity has, if:
  - (a) the other entity has the interest at the time as a result of a mining project transfer; and
  - (b) the first entity had the interest at an earlier time; and
  - (c) if the first entity still had the interest, the thing would affect the first entity's MRRT liability, allowance components or rehabilitation tax offsets for the interest.
- (2) However, if one or more mining project splits or pre-mining project splits has happened in relation to the interest in the period from when the first entity last had the interest until the time the thing happens:
  - (a) the thing is taken to happen in relation to the other entity in relation to the interest; but
  - (b) the extent to which the thing affects the other entity's MRRT liability, allowance components or rehabilitation tax offsets is reduced to reflect:
    - (i) if only one split (whether a mining project split or a pre-mining project split) happened in the period—the split percentage relating to that split; or
    - (ii) if 2 or more such splits happened in the period—a percentage worked out by multiplying the split percentages for each of those splits.

Note: The first entity is required to advise the other entity about the thing that happens: see Division 121 in Schedule 1 to the *Taxation Administration Act 1953*.

Example: After a mining project transfer happens, the original miner makes an initial supply of taxable resources that would have given rise to an amount of mining revenue for the miner if it still had the interest. Instead, the new miner is taken to have made the initial supply, and includes the amount in mining revenue for the interest.

## 120-25 Start of mining venture taken to be mining project transfer

- (1) The start of a mining venture is taken to be a mining project transfer of a mining project interest that existed, just before that start, under subsection 15-5(4) if:
  - (a) the start of the mining venture gives rise to a single mining project interest under subsection 15-5(1); and
  - (b) the mining venture relates to all of the taxable resources to which the mining project interest

under subsection 15-5(4) related.

- (2) In applying this Division for the purposes of subsection (1), disregard subsection 120-10(5) and paragraph 120-10(6)(b).

**Example:** TressCo has a mining project interest under subsection 15-5(4) as a result of being granted a production right entitling it to extract coal from an area.

TressCo later starts a mining venture, in which it is the sole participant, to extract the whole coal deposit from the whole of the area to which the production right relates. The start of this mining venture gives rise to a mining project interest for TressCo under subsection 15-5(1) and is taken to be a mining project transfer of the mining project interest TressCo had under subsection 15-5(4).

One effect of this is that the interest TressCo has in the mining venture (the new interest) is taken to be a continuation of the mining project interest it had under subsection 15-5(4) (the original interest).

## Division 125—Splitting mining project interests

### Guide to Division 125

#### 125-1 What this Division is about

If a mining project interest is split, in most respects the new miners take over from the original miner in relation to MRRT matters, each to an extent appropriate to their share of the split. In particular, each new miner bears an appropriate share of the MRRT liability for the year of the split.

#### Table of sections

##### Operative provisions

|        |                                                                                  |
|--------|----------------------------------------------------------------------------------|
| 125-5  | Object of this Division                                                          |
| 125-10 | Effect of mining project split                                                   |
| 125-15 | Meaning of <i>split percentage</i>                                               |
| 125-20 | Effect of transferred property                                                   |
| 125-25 | Effect of MRRT liability from earlier years on rehabilitation tax offset amounts |



- 125-30 Events happening after mining project split
- 125-35 Start of mining venture taken to be mining project split

## Operative provisions

### 125-5 Object of this Division

The object of this Division is to ensure that, if a mining project interest is split:

- (a) consistent with the MRRT being a project-based tax, matters relevant to the MRRT that are connected with the interest before the split remain connected (to the appropriate extents) with the split interests after the split; and
- (b) in particular, the \*MRRT liability for the interest for the part of the \*MRRT year before the split attaches (to the appropriate extents) to the miners who have the split interests after the split.

### 125-10 Effect of mining project split

*Liability for MRRT moves with interest*

- (1) Any MRRT that would otherwise be payable by a miner in relation to a mining project interest in relation to the part of an \*MRRT year before a \*mining project split happens (the *pre-split part year*) is payable instead, in accordance with this Division:
  - (a) by each miner that has the mining project interest after the split; and
  - (b) in the MRRT year for each such miner in which the split happens.

Note 1: The MRRT liability for each split interest is worked out in accordance with this Division. The sum total of those liabilities may be more, or less, than the liability the original miner would have had, depending on circumstances such as choices, offsets and available allowances.

Note 2: For any period after the split that the new miner has the interest, its liability for MRRT (if any) is worked out under the ordinary rules.

Note 3: The miner that has the interest after the split may have an additional amount of instalment income in the instalment quarter in which the split happens: see section 115-95 in Schedule 1 to the *Taxation Administration Act 1953*.

*Continuation of mining project interest*

- (2) Each mining project interest (a ***new interest***) that a miner (a ***new miner***) has just after a \*mining project split is taken to be a continuation of the mining project interest (the ***original interest***) a miner (the ***original miner***) had just before the split.

Note: This means, for example, that:

- (a) each split interest retains the history of when the mining project interest started, and of the entities who have held the interest at various times; and
- (b) a choice made, under Division 85, of the valuation approach for the mining project interest continues to have effect; and
- (c) starting base assets that have been used to an extent in relation to the mining project interest before the transfer retain the history of that use.

*Meaning of mining project split*

- (3) A ***mining project split*** happens if:

- (a) an \*arrangement comes into force that has the effect of transferring, from one miner to 2 or more other \*entities, the whole of the entitlement comprising a mining project interest; or
- (b) an arrangement comes into force that has the effect of transferring, from one miner to one or more other entities, a part of the entitlement comprising a mining project interest; or
- (c) under an \*Australian law, the \*production right to which a mining project interest relates is split into 2 or more production rights; or
- (d) 2 or more constituent interests that are taken to be the same mining project interest because of Division 115 stop being \*integrated.

Note: A new miner may also be the original miner, in the situations described in paragraphs (b), (c) and (d).

*MRRT amounts move with interest*

- (4) For the purposes of the application of the \*MRRT law in the \*MRRT year in which the split happens or a later MRRT year, each of the following amounts that, apart from this Division, would be an amount for the original miner and the original interest is instead, to the extent of a new interest's \*split percentage, an amount for the new miner and the new interest:
- (a) an amount included in \*mining revenue for the pre-split part year or an earlier MRRT year;
  - (b) an amount included in \*mining expenditure for the pre-split part year or an earlier MRRT year;

- (c) an amount of a \*royalty credit arising for the original interest in the pre-split part year;
- (d) an amount of an \*allowance component arising in an earlier MRRT year.

**Note:** If the original miner's MRRT year starts before a new miner's MRRT year, the effect of this provision is that amounts from before the start of the new miner's MRRT year are taken into account for the new miner in the new miner's MRRT year.

**Example:** The original miner has a substituted accounting period of 12 months from 1 April to 31 March. The new miner has an MRRT year of 1 July to 30 June. The split happens on 1 July. The amounts covered by subsection (4) are all amounts that would be amounts for the original miner for the period from 1 April to 30 June, so these will, to the extent of the new interest's split percentage, be amounts for the new miner for the MRRT year 1 July to 30 June.

### *Choices*

- (5) Despite subsection (4), in working out under that subsection an amount for the \*MRRT year in which the split happens or a later MRRT year, a choice of the following kind made by the new miner is taken into account, but a choice of that kind made by the original miner is disregarded:
  - (a) a choice under Division 175 to use the alternative valuation method in relation to the mining project interest for the \*MRRT year in which the \*mining project split happens;
  - (b) a choice under Division 200 to use the simplified MRRT method for the MRRT year in which the split happens.

**Note:** The effect of a simplified MRRT method choice made for a year before the split year is not affected: all allowance components are extinguished (see Division 200).

**Example:** A mining project interest is split into 2 mining project interests held by 2 different new miners. The original miner had made a choice to use the alternative valuation method for the interest for the MRRT year in which the split happens. One of the new miners also chooses to use the alternative valuation method and one does not.

The new miner that chooses to use the alternative valuation method works out the amounts to include in its mining revenue for the pre-split part year by working out the amount the original explorer would have included, then applying its split percentage.

The other new miner works out the amount to include in its mining revenue for the pre-split part year by working out the amount the original miner would have included if no choices were made, then applying its split percentage.

### *Suspension day*

- (6) If there is a \*suspension day for the mining project interest that was chosen under paragraph 130-10(1)
  - (a):
    - (a) the \*mining project split does not affect:

- (i) any extinguishment under section 130-15 of \*allowance components relating to the mining project interest; or
- (ii) any \*rehabilitation tax offset amounts, for any earlier \*MRRT years, relating to the mining project interest; and
- (b) that suspension day:
  - (i) does not affect any further allowance components relating to a new interest and to that MRRT year or later MRRT years; but
  - (ii) is no longer to be taken into account in determining whether there are any rehabilitation tax offset amounts, for that MRRT year or any later MRRT years, relating to a new interest.

Note: The new miner may make a suspension day choice in the circumstances set out in Division 130.

*Exception for new miner that is the same entity as original miner*

- (7) If a new miner in relation to a \*mining project split is the same \*entity as the original miner:
  - (a) a choice that would otherwise be disregarded under subsection (5) in working out an amount for that new miner is not disregarded; and
  - (b) paragraph (6)(b) does not apply in relation to the new interest that that new miner has.

Note: This subsection does not affect the operation of subsection (5) and paragraph (6)(b) for a new miner that is not the original miner.

## 125-15 Meaning of *split percentage*

- (1) The *split percentage* for a new interest a miner has just after a \*mining project split is the percentage that best reflects a reasonable approximation of the \*market value of the new interest, expressed as a percentage of the sum of the market values of all the new interests arising from the split.
- (2) The \*market values mentioned in subsection (1) are those values just after the \*mining project split to which the new interest relates.
- (3) To avoid doubt, the sum of the \*split percentages for the new interests must equal 100%.

## 125-20 Effect of transferred property

- (1) This section applies if:
  - (a) any property, or any legal or equitable right that is not property, (the *transferred property*) is transferred to a new miner under the \*mining project split; and
  - (b) the original miner used the transferred property in \*mining operations for the mining project interest; and
  - (c) the transferred property:
    - (i) gave rise to an amount of \*mining expenditure for the original miner, or another miner who preceded the original miner, in relation to the mining project interest; or
    - (ii) is, or may become, a \*starting base asset, in relation to the mining project interest.
- (2) Despite section 30-40, no amount is included in the original miner's \*mining revenue for the mining project interest in relation to any part of the consideration for the transfer that relates to the transferred property.
- (3) For the new miner, any part of the consideration for the transfer that relates to the transferred property is taken, for the purposes of section 35-35, to be expenditure relating to the acquisition of the mining project interest.
- (4) To avoid doubt, the \*mining project split, and the transfer of the transferred property, is not an event or circumstance giving rise to an adjustment under Division 160.

Note: Events or circumstances happening after the split may give rise to an adjustment under Division 160, for instance if the new miner uses the transferred property in relation to the mining project interest to a greater or lesser extent than the original miner.

## 125-25 Effect of MRRT liability from earlier years on rehabilitation tax offset amounts

For the purposes of section 225-15, only a proportion, worked out on a reasonable basis, of an \*MRRT liability, of the original miner or any other miner, for the mining project interest for an \*MRRT year before the year in which a \*mining project split happens, is taken to have been paid in relation to a new

interest.

Note: The original miner is required to give the new miner the information it needs to work out the amount of a rehabilitation tax offset: see Division 121 in Schedule 1 to the *Taxation Administration Act 1953*.

## 125-30 Events happening after mining project split

- (1) A thing that happens at a time in relation to an \*entity (the *first entity*) is taken instead to happen in relation to another entity, and to have the effect mentioned in paragraph (c) in relation to a mining project interest the other entity has, if:
  - (a) the other entity has the interest at the time as a result of a \*mining project split; and
  - (b) the first entity had the interest at an earlier time; and
  - (c) if the first entity still had the interest, the thing would affect the first entity's \*MRRT liability, \*allowance components or \*rehabilitation tax offsets for the interest.
- (2) However, the extent to which the thing affects the other entity's \*MRRT liability, \*allowance components or \*rehabilitation tax offsets is reduced to reflect:
  - (a) if only one \*mining project split happened in the period from when the first entity last had the interest until the time the thing happens—the \*split percentage relating to that split; or
  - (b) if 2 or more mining project splits or \*pre-mining project splits happened in the period—a percentage worked out by multiplying the split percentages for each of those splits.

Note 1: The first entity is required to advise the other entity about the thing that happens: see Division 121 in Schedule 1 to the *Taxation Administration Act 1953*.

Note 2: A mining project transfer or pre-mining project transfer may also have happened in the period, but will not affect the extent worked out under subsection (2).

Example: After a mining project split happens, the original miner makes an initial supply of taxable resources that would have given rise to an amount of mining revenue for the miner if it still had the interest. Instead, each new miner is taken to have made the initial supply, and includes its split percentage of the amount in mining revenue for the interest.

## 125-35 Start of mining venture taken to be mining project split

- (1) The start of a \*mining venture that gives rise to a mining project interest under subsection 15-5(1) is taken to be a \*mining project split of a mining project interest that existed, just before that start, under subsection 15-5(1) if:

## SUBSECTION 15-5(4) II.

- (a) the mining venture relates to some (but not all) of the \*taxable resources to which the mining project interest under subsection 15-5(4) related; or
- (b) the mining venture relates to all of those resources, and more than one entity has a mining project interest in relation to the mining venture at the time it starts.

Example: VioletCo has a mining project interest under subsection 15-5(4) as a result of being granted a production right entitling it to extract iron ore from an area in which 2 bodies of ore have been identified.

VioletCo and DiggerCo later start a mining venture, in which they both participate, to extract one of the bodies of ore. There is no mining venture in relation to the other body of ore.

The start of this mining venture gives rise to mining project interests for VioletCo and DiggerCo under subsection 15-5(1). There is taken to be a mining project split of the mining project interest VioletCo had under subsection 15-5(4) after which there are 3 new interests: the 2 interests in the mining venture and VioletCo's reduced residual interest under subsection 15-5(4). VioletCo is the original miner and both VioletCo and DiggerCo are the new miners.

One effect of this is that each of the new interests is taken to be a continuation of the mining project interest VioletCo had under subsection 15-5(4) (the original interest).

- (2) To avoid doubt, the start of a \*mining venture may be taken to be a \*mining project split for more than one mining project interest, if the start of the mining venture has the effect mentioned in paragraph (1) (a) or (b) in relation to more than one mining project interest.

## Division 130—Winding down mining project interests

### Guide to Division 130

#### 130-1 What this Division is about

From the suspension day for a mining project interest (a day primarily related to the ceasing of commercial production), allowance components are extinguished unless they can be applied in relation to the current year.

#### Table of sections

**Operative provisions**

- 130-5 Object of this Division
- 130-10 Suspension days for mining project interests
- 130-15 Extinguishing allowance components
- 130-20 Restarting commercial production

**Operative provisions****130-5 Object of this Division**

The object of this Division is to provide for the winding down of mining project interests, and to ensure that allowance components cannot be carried forward when a mining project interest is winding down.

**130-10 Suspension days for mining project interests**

- (1) The *suspension day* for a mining project interest is the earliest of the following:
    - (a) the day, occurring after the day on which commercial production of \*taxable resources from the \*project area for the mining project interest ceased, chosen by the miner who has the mining project interest;
    - (b) the day occurring 10 years after the day on which commercial production of taxable resources from the project area for the mining project interest most recently took place;
    - (c) the \*termination day for the mining project interest.
  - (2) A miner may choose the \*suspension day for a mining project interest that the miner has if commercial production of \*taxable resources from the \*project area for the mining project interest has ceased.
- Note: Division 119 in Schedule 1 to the *Taxation Administration Act 1953* is about choices under the MRRT law.
- (3) Without limiting the matters that may be taken into account in determining, for the purposes of this section, whether commercial production of \*taxable resources from the \*project area takes place, the following are to be taken into account:

- (a) past and current production of taxable resources from the project area;



- (a) past and current production of taxable resources from the project area,
- (b) past and current expenditure relating to the \*upstream mining operations for the mining project interest;
- (c) the extent to which mining equipment used in carrying on those upstream mining operations has been decommissioned.

(4) The choice must be given to the Commissioner.

### 130-15 Extinguishing allowance components

If the \*suspension day for a mining project interest happens in a particular \*MRRT year (the *suspension year*), an \*allowance component relating to the mining project interest:

- (a) is extinguished if it relates to the suspension year or an earlier MRRT year, except to the extent that it is applied in working out, for the suspension year, an \*MRRT allowance for that mining project interest or any other mining project interest; and
- (b) is extinguished if it relates to a later MRRT year, except to the extent that it is applied in working out, for that later MRRT year, an MRRT allowance for that mining project interest or any other mining project interest.

Example: The suspension day for a mining project interest happens in the 2015-16 year. For that year, the mining profit for the mining project interest is \$15 million, and there is a royalty credit of \$5 million. From the previous year, the only allowance component is a mining loss that, in the 2015-16 year, is \$12 million.

The royalty credit is applied as a royalty allowance of \$5 million to reduce the mining profit, and is not extinguished under this section.

The mining loss from the previous year is applied as a mining loss allowance of \$10 million, but the remaining \$2 million of the mining loss is extinguished under this section (unless it can be used as a transferred mining loss allowance, relating to the suspension year, for another mining project interest).

### 130-20 Restarting commercial production

- (1) If, after the \*suspension day for a mining project interest happens, the miner that has the interest is carrying on \*upstream mining operations for the interest with a view to restarting commercial production of \*taxable resources from the \*project area for the interest, for the purposes of the \*MRRT law:

- (a) the interest (the *original interest*) is taken to cease to exist; and

- (b) a separate mining project interest relating to extraction of taxable resources from the project area is taken to come into existence at that time.
- (2) To avoid doubt, the original interest ceasing to exist and the separate mining project interest coming into existence do not constitute a \*mining project transfer.

## Division 135—Ending mining project interests

### Guide to Division 135

#### 135-1 What this Division is about

The last entity to have a particular mining project interest is treated, for the purpose of accounting for MRRT, as continuing to have the mining project interest after the termination day.

#### Table of sections

##### Operative provisions

- 135-5 The termination day for a mining project interest
- 135-10 The effect of renewing or changing production rights
- 135-15 The effect of renewing or changing mining ventures
- 135-20 The effect of mining project transfers and mining project splits
- 135-25 Continuation of obligations etc. after the termination day

### Operative provisions

#### 135-5 The termination day for a mining project interest

The *termination day* for a mining project interest is the day on which there is no longer any entity that

has the mining project interest.

Note 1: For when an entity has a mining project interest, see section 15-5.

Note 2: If the suspension day for the mining project interest has not already happened, the termination day will also be the suspension day under section 130-10.

### **135-10 The effect of renewing or changing production rights**

- (1) A change in, or a renewal of, the \*production right to which a mining project interest relates does not cause the \*termination day for the mining project interest to happen.
- (2) However, if the change in, or the renewal of, the \*production right would otherwise result in the mining project interest covering an additional area:
  - (a) the \*project area for the mining project interest does not include that additional area; and
  - (b) to avoid doubt, the additional area is the project area for another mining project interest.

Note: The other mining project interest may be combined with the original mining project interest under Division 115.

### **135-15 The effect of renewing or changing mining ventures**

- (1) A change in, or a renewal of, a \*mining venture to which a mining project interest relates does not cause the \*termination day for the mining project interest to happen.
- (2) However, if the change in, or the renewal of, the \*mining venture would otherwise result in the mining project interest covering an additional area:
  - (a) the \*project area for the mining project interest does not include that additional area; and
  - (b) to avoid doubt, the additional area is the project area for another mining project interest.

Note: The other mining project interest may be combined with the original mining project interest under Division 115.

### **135-20 The effect of mining project transfers and mining project splits**

A \*mining project transfer or a \*mining project split relating to a mining project interest does not cause the \*termination day for the mining project interest to happen.

Note 1: Under subsection 120-10(2), the mining project interest after a mining project transfer is a continuation of the mining

project interest before the transfer.

Note 2: Under subsection 125-10(2), the mining project interests after a mining project split are a continuation of the mining project interest before the split.

## **135-25 Continuation of obligations etc. after the termination day**

- (1) After the \*termination day for a mining project interest, the last \*entity to have had the mining project interest is taken, for the purposes of the \*MRRT law, to continue to have the mining project interest:
  - (a) for the whole of the remainder of the \*MRRT year in which the termination day happens; and
  - (b) for the whole of any later MRRT year.
- (2) If the \*entity is not a miner during a period in which this section applies to the entity after the \*termination day, this section applies as if the entity continues to be a miner during that period.

## **Part 4-2—Pre-mining project interests**

### **Division 140—Pre-mining profits and royalty credits**

#### **Table of Subdivisions**

Guide to Division 140

140-A Pre-mining profits

140-B Pre-mining royalty credits

#### **Guide to Division 140**

##### **140-1 What this Division is about**

If an entity's pre-mining revenue for a pre-mining project interest exceeds its pre-mining expenditure, the excess is usually treated as a mining profit for a mining project interest.

Mining royalties can give rise to royalty credits for a pre-mining project interest.

## Subdivision 140-A—Pre-mining profits

### Table of sections

|        |                                                                                                          |
|--------|----------------------------------------------------------------------------------------------------------|
| 140-5  | Pre-mining profits                                                                                       |
| 140-10 | Treatment of pre-mining profits—general rule                                                             |
| 140-15 | Effect on allowance components for other mining project interests                                        |
| 140-20 | Treatment of pre-mining profits—mining project interest originating from the pre-mining project interest |

### 140-5 Pre-mining profits

- (1) A *pre-mining profit* arises for an \*MRRT year if:
  - (a) during the year, an \*entity \*holds a \*pre-mining project interest; and
  - (b) the entity's \*pre-mining revenue for the interest for the year exceeds the entity's \*pre-mining expenditure for the interest for the year.
- (2) In that year, the amount of the \*pre-mining profit is the amount of the excess.

### 140-10 Treatment of pre-mining profits—general rule

- (1) The \*entity may be liable, under this section, to pay MRRT, for the \*MRRT year, in relation to the \*pre-mining profit.
- (2) For the purpose only of working out the amount (if any) of that MRRT, the \*MRRT law has effect as if:
  - (a) the \*pre-mining project interest were, in the \*MRRT year and any earlier MRRT years, a mining project interest that the \*entity has; and
  - (b) the \*pre-mining profit were a \*mining profit for that mining project interest for the MRRT year; and
  - (c) subsection 70-20(1) does not apply for the purpose of determining whether a \*pre-mining loss can

\*

be applied in working out a pre-mining loss allowance for that mining project interest for the MRRT year or any earlier MRRT year; and

- (d) no mining loss or starting base loss arises, or has arisen for that mining project interest for the MRRT year or any earlier MRRT year; and
- (e) that mining project interest were not integrated with any other mining project interest; and
- (f) the exploration right to which the pre-mining project interest relates were a production right; and
- (g) in a case where the entity is not a miner—the entity were, in the MRRT year and any earlier MRRT years, a miner.

Note 1: The following MRRT allowances could be available for the pre-mining project interest:

- (a) royalty allowances;
- (b) pre-mining loss allowances (but not for the current year, because the pre-mining profit precludes a pre-mining loss for the current MRRT year);
- (c) transferred pre-mining loss allowances;
- (d) transferred mining loss allowances.

Note 2: Paragraph (2)(e) precludes the entity from having any transferred royalty allowances, and also precludes the pre-mining project interest from being treated as combined with any mining project interest.

Example: An entity holds a pre-mining project interest that, in the 2015-16 MRRT year has a pre-mining profit of \$50 million. It also has a royalty credit for the MRRT year of \$5 million, based on royalties paid for resources the entity sold. The entity also holds another pre-mining project interest that, in the MRRT year has a pre-mining loss of \$20 million.

The pre-mining profit is taken to be a mining profit of \$50 million, but the entity has a royalty allowance of \$5 million and a transferred pre-mining loss allowance of \$20 million. Under section 10-5, the entity's MRRT liability is:

$$22.5\% \times (\$50 \text{ million} - \$25 \text{ million}) = \$5.625 \text{ million}$$

However, the amount the entity must pay is reduced to zero by the low profit offset under section 45-5.

## 140-15 Effect on allowance components for other mining project interests

If:

- (a) an entity's liability to pay MRRT in relation to a pre-mining project interest is worked out under section 140-10; and
- (b) in working out the liability under that section, an allowance component is wholly or partly applied in relation to the pre-mining project interest as if it were a mining project interest;

the allowance component is taken, for the purposes of this Act, to be applied to the same extent in

relation to a mining project interest

relation to a mining project interest.

## 140-20 Treatment of pre-mining profits—mining project interest originating from the pre-mining project interest

If the \*entity has a mining project interest that \*originates, during an \*MRRT year, from a \*pre-mining project interest for which the entity has a \*pre-mining profit for the MRRT year:

- (a) the pre-mining profit is included in the entity's \*mining revenue of the mining project interest for the MRRT year; and
- (b) section 140-10 does not apply.

Example: A miner holds a pre-mining project interest that, in the 2015-16 MRRT year has a pre-mining profit of \$10 million. During the MRRT year, a mining project interest originates from the pre-mining project interest. The mining revenue and mining expenditure for the mining project interest are \$60 million and \$100 million respectively.

Under section 75-20, the miner's mining loss for the mining project interest for the MRRT year is:

$$\$100\text{ million} - (\$60\text{ million} + \$10\text{ million}) = \$30\text{ million}$$

## Subdivision 140-B—Pre-mining royalty credits

### Table of sections

140-25 Pre-mining royalty credits

## 140-25 Pre-mining royalty credits

- (1) If an \*entity that \*held the \*pre-mining project interest at any time incurred a liability that would, to any extent, have given rise, under section 60-20, to a \*royalty credit if:
  - (a) the pre-mining project interest were a mining project interest that the entity had; and
  - (b) the \*exploration right to which the pre-mining project interest relates were a \*production right to which the mining project interest relates; and
  - (c) in a case where the entity is not a miner—the entity were a miner;
 treat the liability, to that extent, as giving rise to a royalty credit for the pre-mining project interest.

- (2) Work out the amount of the \*royalty credit under Division 60 as if:
- (a) the \*pre-mining project interest were a mining project interest that the \*entity had; and
  - (b) in a case where the entity is not a miner—the entity were a miner.
- Note: Recoupment of amounts of pre-mining royalty credits may give rise to an excess royalty recoupment mentioned in subsection 60-30(2) that would be included in the entity's pre-mining revenue because of subsection 70-40(2).
- (3) The \*royalty credit arises at the time the \*entity incurs the liability, and relates to the \*MRRT year in which it arises.
- (4) To avoid doubt, a \*royalty credit that arises for the \*pre-mining project interest for the \*MRRT year cannot be applied in working out a \*transferred royalty allowance for a mining project interest for any MRRT year.

## Division 145—Transferring pre-mining project interests

### Guide to Division 145

#### 145-1 What this Division is about

If a pre-mining project interest is transferred, in most respects the new explorer takes over from the original explorer in relation to MRRT matters.

#### Table of sections

##### Operative provisions

- 145-5 Object of this Division
- 145-10 Continuation of pre-mining project interest
- 145-15 Effects of pre-mining project transfer
- 145-20 Effect of transferred property



- 145-25 Events happening after pre-mining project transfer
- 145-30 Pre-mining project transfer when mining project interest originates

## Operative provisions

### 145-5 Object of this Division

The object of this Division is to ensure that, if a \*pre-mining project interest is transferred:

- (a) consistent with the MRRT being a project-based tax, matters relevant to the MRRT that are connected with the interest before the transfer remain connected with the interest after the transfer; and
- (b) the \*MRRT liability for the interest for the part of the \*MRRT year before the transfer attaches to the explorer who has the interest after the transfer, and not to the explorer who had the interest before the transfer.

### 145-10 Continuation of pre-mining project interest

- (1) The \*pre-mining project interest (the *new interest*) that an \*entity (the *new explorer*) \*holds just after a \*pre-mining project transfer is taken to be a continuation of the pre-mining project interest (the *original interest*) an entity (the *original explorer*) held just before the transfer.

Note: This means, for example, that:

- (a) the pre-mining project interest retains the history of when it started, and of the entities who have held the interest at various times; and
- (b) a choice made, under Division 85, of the valuation approach for the pre-mining project interest continues to have effect.

#### *Meaning of pre-mining project transfer*

- (2) A *pre-mining project transfer* happens if:
  - (a) an \*arrangement that has the effect of transferring the whole of the interest comprising a \*pre-mining project interest from one \*entity to a single other entity comes into force; and
  - (b) the pre-mining project interest the other entity starts to \*hold covers the same \*project area.

## 145-15 Effects of pre-mining project transfer

### *Liability for MRRT moves with interest*

- (1) Any MRRT that would otherwise be payable by the original explorer in relation to a \*pre-mining project interest, in relation to the part of the \*MRRT year before a \*pre-mining project transfer happens (the ***pre-transfer part year***), is payable instead, in accordance with this Division:
- (a) by the new explorer; and
  - (b) in the MRRT year for the new explorer in which the transfer happens.

Note 1: The MRRT liability for the new explorer for the pre-mining project interest is worked out in accordance with this Division. It may be more, or less, than the liability the original explorer would have had, depending on circumstances such as choices, offsets and available allowances.

Note 2: For any period after the transfer that the new explorer has the interest, its liability for MRRT (if any) is worked out under the ordinary rules.

### *MRRT amounts move with interest*

- (2) For the purposes of the application of the \*MRRT law in the \*MRRT year in which the transfer happens or a later MRRT year, each of the following amounts that, apart from this Division, would be an amount for the original explorer and the original interest is instead an amount for the new explorer and the new interest:
- (a) an amount included in \*pre-mining revenue for the pre-transfer part year or an earlier MRRT year;
  - (b) an amount included in \*pre-mining expenditure for the pre-transfer part year or an earlier MRRT year;
  - (c) an amount of a \*royalty credit arising for the original interest in the pre-transfer part year;
  - (d) an amount of an \*allowance component arising in an earlier MRRT year.

Note: If the original explorer's MRRT year starts before the new explorer's MRRT year, the effect of this provision is that amounts from before the start of the new explorer's MRRT year are taken into account for the new explorer in the new explorer's MRRT year.

Example: The original explorer has a substituted accounting period of 12 months from 1 April to 31 March. The new explorer has an MRRT year of 1 July to 30 June. The transfer happens on 1 July. The amounts covered by subsection (2) are all amounts that would be amounts for the original explorer for the period from 1 April to 30 June, so these will be

amounts for the new explorer for its MRRT year 1 July to 30 June.

*Choices to use the simplified MRRT method*

- (3) Despite subsection (2), in working out under that subsection an amount for the \*MRRT year in which the transfer happens or a later MRRT year:

- (a) a choice under Division 200 to use the simplified MRRT method for that year made by the new explorer is taken into account; but
- (b) a choice of that kind made by the original explorer is disregarded.

Note: The effect of a simplified MRRT method choice made for a year before the transfer year is not affected: all allowance components are extinguished (see Division 200).

Example: An original explorer had made no choices in the MRRT year in which a pre-mining project transfer happens. The new explorer chooses to use the simplified MRRT method.

The new explorer's MRRT liability for the pre-mining project interest (and all other interests it has) is zero.

## 145-20 Effect of transferred property

- (1) This section applies if:

- (a) any property, or any legal or equitable right that is not property, (the *transferred property*) is transferred to the new explorer under the \*pre-mining project transfer; and
- (b) the original explorer used the transferred property in \*pre-mining project operations for the \*pre-mining project interest; and
- (c) the transferred property:
  - (i) gave rise to an amount of \*pre-mining expenditure for the original explorer, or another explorer who preceded the original explorer, in relation to the pre-mining project interest; or
  - (ii) is, or may become, a \*starting base asset, in relation to a mining project interest that \*originates from the pre-mining project interest.

- (2) Despite section 30-40, no amount is included in the original explorer's \*pre-mining revenue for the \*pre-mining project interest in relation to any part of the consideration for the transfer that relates to the transferred property.

- (3) For the new explorer, any part of the consideration for the transfer that relates to the transferred property is taken, for the purposes of section 35-35, to be expenditure relating to the acquisition of the pre-mining project interest.
- (4) To avoid doubt, the \*pre-mining project transfer, and the transfer of the transferred property, is not an event or circumstance giving rise to an adjustment under Division 160.

Note: Events or circumstances happening after the transfer may give rise to adjustment under Division 160, for instance if the new explorer uses the transferred property in relation to the pre-mining project interest to a greater or lesser extent than the original explorer.

### **145-25 Events happening after pre-mining project transfer**

- (1) A thing that happens at a particular time in relation to an \*entity (the *first entity*) is taken instead to happen in relation to another entity, and to have the effect mentioned in paragraph (c) in relation to a \*pre-mining project interest the other entity \*holds, if:
  - (a) the other entity holds the interest at the time as a result of one or more \*pre-mining project transfers; and
  - (b) the first entity held the interest at an earlier time; and
  - (c) if the first entity still held the interest, the thing would affect any of the following amounts (*pre-mining amounts*) for the first entity:
    - (i) \*pre-mining revenue;
    - (ii) \*pre-mining expenditure;
    - (iii) an \*allowance component;
    - (iv) a \*rehabilitation tax offset.
- (2) However, if one or more \*pre-mining project splits has happened in relation to the \*pre-mining project interest in the period from when the first \*entity last \*held the interest until the time the thing happens:
  - (a) the thing is taken to happen in relation to the other entity in relation to the interest; but
  - (b) the extent to which the thing affects the other entity's pre-mining amounts is reduced to reflect:

- (i) if only one pre-mining project split happened in the period—the \*split percentage relating to that split; or
- (ii) if 2 or more pre-mining project splits happened in the period—a percentage worked out by multiplying the split percentages for each of those splits.

Note: The first entity is required to advise the other entity about the thing that happens: see Division 121 in Schedule 1 to the *Taxation Administration Act 1953*.

Example: After a pre-mining project transfer happens, the original explorer makes an initial supply of taxable resources that would have given rise to an amount of pre-mining revenue for the explorer if it still held the interest. Instead, the new explorer is taken to have made the initial supply, and includes the amount in pre-mining revenue for the interest.

### **145-30 Pre-mining project transfer when mining project interest originates**

- (1) If a single mining project interest \*originates from a \*pre-mining project interest and relates to the whole of the \*project area for the pre-mining project interest:
  - (a) the origination is taken to be a \*pre-mining project transfer; and
  - (b) for the purposes of paragraph (a), the \*MRRT law applies:
    - (i) in the same way in relation to the mining project interest as it applies in relation to a pre-mining project interest that exists after a pre-mining project transfer; and
    - (ii) in the same way in relation to the miner that has the mining project interest just after it so originates as it applies in relation to an \*entity that \*holds a pre-mining project interest after a pre-mining project transfer.
- (2) In applying this Division for the purposes of subsection (1), disregard subsection 145-15(3).
- (3) If, because of the application of this Division, a mining project interest has, for the part of the \*MRRT year before it \*originates from a \*pre-mining project interest:
  - (a) \*pre-mining revenue that exceeds \*pre-mining expenditure—the excess is treated as \*pre-mining profit of the pre-mining project interest for the MRRT year; or
  - (b) pre-mining expenditure that exceeds pre-mining revenue—the excess is treated as a \*pre-mining loss of the pre-mining project interest for the MRRT year.

Note: For the treatment of pre-mining profits, see section 140-20. For the treatment of pre-mining losses, see Divisions 70

and 95.

## Division 150—Splitting pre-mining project interests

### 150-1 Guide to Division 150

If a pre-mining project interest is split, in most respects the new explorers take over from the original explorer in relation to MRRT matters, each to an extent appropriate to their share in the split.

#### Table of sections

##### Operative provisions

|        |                                                                                  |
|--------|----------------------------------------------------------------------------------|
| 150-5  | Object of this Division                                                          |
| 150-10 | Continuation of pre-mining project interest                                      |
| 150-15 | Effects of pre-mining project split                                              |
| 150-20 | Effect of transferred property                                                   |
| 150-25 | Effect of MRRT liability from earlier years on rehabilitation tax offset amounts |
| 150-30 | Events happening after pre-mining project split                                  |
| 150-35 | Pre-mining project split when mining project interest originates                 |

#### Operative provisions

##### 150-5 Object of this Division

The object of this Division is to ensure that, if a \*pre-mining project interest is split:

- (a) consistent with the MRRT being a project-based tax, matters relevant to the MRRT that are connected with the interest before the split remain connected (to the appropriate extents) with the split interests after the split; and

- (b) the \*MRRT liability for the interest for the part of the \*MRRT year before the split attaches (to the appropriate extents) to the explorers who have the split interests after the split.

## 150-10 Continuation of pre-mining project interest

- (1) Each \*pre-mining project interest (a *new interest*) that an \*entity (a *new explorer*) \*holds just after a \*pre-mining project split is taken to be a continuation of the pre-mining project interest (the *original interest*) an entity (the *original explorer*) held just before the split.

Note: This means, for example, that:

- (a) each split interest retains the history of when the pre-mining project interest started, and of the entities who have held the interest at various times; and
- (b) a choice made, under Division 85, of the valuation approach for the pre-mining project interest continues to have effect.

### *Meaning of pre-mining project split*

- (2) A *pre-mining project split* happens if:
- (a) an \*arrangement comes into force that has the effect of transferring, from one \*entity to 2 or more other entities, the whole of a \*pre-mining project interest; or
  - (b) an arrangement comes into force that has the effect of transferring, from one entity to one or more other entities, a part of a pre-mining project interest; or
  - (c) under an \*Australian law, the \*exploration right to which a pre-mining project interest relates is split into 2 or more exploration rights.

Note: A new explorer may be the same entity as the original explorer, in the situations described in paragraphs (b) and (c).

## 150-15 Effects of pre-mining project split

### *Liability for MRRT moves with interest*

- (1) Any MRRT that would otherwise be payable by the original explorer in relation to a \*pre-mining project interest in relation to the part of the \*MRRT year before a \*pre-mining project split happens (the *pre-split part year*) is payable instead, in accordance with this Division:

- (a) by each new explorer; and
- (b) in the MRRT year for a new explorer in which the split happens.

Note 1: The MRRT liability for each split interest is worked out in accordance with this Division. The sum total of those liabilities may be more, or less, than the liability the original explorer would have had, depending on circumstances such as choices, offsets and available allowances.

Note 2: For any period after the split that a new explorer has the interest, its liability for MRRT (if any) is worked out under the ordinary rules.

*MRRT amounts move with interest*

- (2) For the purposes of the application of the \*MRRT law in the \*MRRT year in which the split happens or a later MRRT year, each of the following amounts that, apart from this Division, would be an amount for the original explorer and the original interest is instead, to the extent of a new interest's \*split percentage, an amount for the new explorer and the new interest:
  - (a) an amount included in \*pre-mining revenue for the pre-split part year or an earlier MRRT year;
  - (b) an amount included in \*pre-mining expenditure for the pre-split part year or an earlier MRRT year;
  - (c) an amount of a \*royalty credit arising for the original interest in the pre-split part year;
  - (d) an amount of an \*allowance component for an earlier MRRT year.

*Choices to use the simplified MRRT method*

- (3) Despite subsection (2), in working out under that subsection an amount for the \*MRRT year in which the split happens or a later MRRT year:
  - (a) a choice under Division 200 to use the simplified MRRT method for that year made by the new explorer is taken into account; but
  - (b) a choice of that kind made by the original explorer is disregarded.

Note 1: The effect of a simplified MRRT method choice made for a year before the split year is not affected: all allowance components are extinguished (see Division 200).

Note 2: If the original explorer's MRRT year starts before the new explorer's MRRT year, the effect of this provision is that, in working out amounts under subsection (2), a choice made by the new explorer for the new explorer's MRRT year affects amounts from before the start of that MRRT year.

*Exception for new miner that is the same entity as original miner*



- (4) If a new explorer in relation to a \*pre-mining project split is the same entity as the original explorer, a choice that would otherwise be disregarded under subsection (3) in working out an amount for that new explorer is not disregarded.

Note: This subsection does not affect the operation of subsection (3) for a new explorer that is not the original explorer.

*Meaning of split percentage*

- (5) The *split percentage* for a new interest an \*entity \*holds just after a \*pre-mining project split is the percentage that best reflects a reasonable approximation of the \*market value of the new interest, expressed as a percentage of the sum of the market values of all the new interests arising from the split.
- (6) The \*market values mentioned in subsection (5) are those values just after the \*pre-mining project split to which the new interest relates.
- (7) To avoid doubt, the sum of the \*split percentages for the new interests must equal 100%.

## 150-20 Effect of transferred property

- (1) This section applies if:
- (a) any property, or any legal or equitable right that is not property, (the *transferred property*) is transferred to a new explorer under the \*pre-mining project split; and
  - (b) the original explorer used the transferred property in \*pre-mining project operations for the \*pre-mining project interest; and
  - (c) the transferred property:
    - (i) gave rise to an amount of \*pre-mining expenditure for the original explorer, or another explorer who preceded the original explorer, in relation to the pre-mining project interest; or
    - (ii) is, or may become, a \*starting base asset, in relation to a mining project interest that \*originates from the pre-mining project interest.

- (2) Despite section 30-40, no amount is included in the original explorer's \*pre-mining revenue for the

\*pre-mining project interest in relation to any part of the consideration for the transfer that relates to the transferred property.

- (3) For the new explorer, any part of the consideration for the transfer that relates to the transferred property is taken, for the purposes of section 35-35, to be expenditure relating to the acquisition of the \*pre-mining project interest.
- (4) To avoid doubt, the \*pre-mining project split, and the transfer of the transferred property, is not an event or circumstance giving rise to an adjustment under Division 160.

Note: Events or circumstances happening after the split may give rise to adjustment under Division 160, for instance if the new explorer uses the transferred property in relation to the pre-mining project interest to a greater or lesser extent than the original explorer.

### **150-25 Effect of MRRT liability from earlier years on rehabilitation tax offset amounts**

For the purposes of section 225-20, only a proportion, worked out on a reasonable basis, of an \*MRRT liability, of the original explorer or any other \*entity, for the \*pre-mining project interest for an \*MRRT year before the year in which a \*pre-mining project split happens, is taken to have been paid in relation to a new interest.

Note: The original explorer is required to give the new explorer the information it needs to work out the amount of a rehabilitation offset: see Division 121 in Schedule 1 to the *Taxation Administration Act 1953*.

### **150-30 Events happening after pre-mining project split**

- (1) A thing that happens at a time in relation to an \*entity (the *first entity*) is taken instead to happen in relation to another entity, and to have the effect mentioned in paragraph (c) in relation to a \*pre-mining project interest the other entity \*holds, if:
  - (a) the other entity holds the interest at the time as a result of one or more \*pre-mining project splits; and
  - (b) the first entity held the interest at an earlier time; and
  - (c) if the first entity still held the interest, the thing would affect any of the following amounts (*pre-mining amounts*) for the first entity:

- (i) \*pre-mining revenue;
  - (ii) \*pre-mining expenditure;
  - (iii) an \*allowance component;
  - (iv) a \*rehabilitation tax offset.
- (2) However, the extent to which the thing affects the other entity's pre-mining amounts is reduced to reflect:
  - (a) if only one \*pre-mining project split happened in the period from when the first entity last \*held the interest until the time the thing happens—the \*split percentage relating to that split; or
  - (b) if 2 or more pre-mining project splits happened in the period—a percentage worked out by multiplying the split percentages for each of those splits.

Note 1: The first entity is required to advise the other entity about the thing that happens: see Division 121 in Schedule 1 to the *Taxation Administration Act 1953*.

Note 2: A mining project transfer may also have happened in the period, but will not affect the extent worked out under subsection (2).

Example: After a pre-mining project split happens, the original explorer makes an initial supply of taxable resources that would have given rise to an amount of pre-mining revenue for the explorer if it still held the interest. Instead, each new explorer is taken to have made the initial supply, and includes its split percentage of the amount in pre-mining revenue for the interest.

### 150-35 Pre-mining project split when mining project interest originates

- (1) If, just after a mining project interest \*originates from a \*pre-mining project interest, there are 2 or more interests (whether mining project interests or pre-mining project interests) (the ***new interests***) relating to the \*project area for the pre-mining project interest:
  - (a) the origination is taken to be a \*pre-mining project split; and
  - (b) for the purposes of paragraph (a), the \*MRRT law applies:
    - (i) in the same way in relation to each new interest (whether it is a pre-mining project interest or a mining project interest) as it applies in relation to a pre-mining project interest that exists after a pre-mining project split; and
    - (ii) in the same way in relation to each \*entity that \*holds a new interest as it applies in relation

(1) in the same way in relation to each entity that holds a new interest as it applies in relation to an entity that holds a pre-mining project interest after a pre-mining project split.

- (2) If, because of the application of this Division, a mining project interest has, for the part of the \*MRRT year before it \*originates from a \*pre-mining project interest:
- (a) \*pre-mining revenue that exceeds \*pre-mining expenditure—the excess is treated as \*pre-mining profit of the pre-mining project interest for the MRRT year; or
  - (b) pre-mining expenditure that exceeds pre-mining revenue—the excess is treated as a \*pre-mining loss of the pre-mining project interest for the MRRT year.

Note: For the treatment of pre-mining profits, see section 140-20. For the treatment of pre-mining losses, see Divisions 70 and 95.

**Division 155—Ending pre-mining project interests**

**Guide to Division 155**

**155-1 What this Division is about**

The last entity to have a particular pre-mining project interest is treated, for the purpose of accounting for MRRT, as continuing to have the pre-mining project interest after the termination day.

**Table of sections**

**Operative provisions**

- 155-5 The termination day for a pre-mining project interest
- 155-10 The effect of renewing or changing exploration rights
- 155-15 The effect of pre-mining project transfers and pre-mining project splits
- 155-20 Continuation of obligations etc. after the termination day
- 155-25 Extinguishing allowance components

## Operative provisions

### 155-5 The termination day for a pre-mining project interest

The *termination day* for a \*pre-mining project interest is the day on which there is no longer any \*entity that \*holds the pre-mining project interest.

Note: For when an entity holds a pre-mining project interest, see Division 250.

### 155-10 The effect of renewing or changing exploration rights

- (1) A change in, or a renewal of, the \*exploration right to which a \*pre-mining project interest relates does not cause the \*termination day for the pre-mining project interest to happen.
- (2) However, if the change in, or the renewal of, the \*exploration right results in the exploration right covering an additional area:
  - (a) the \*project area for the \*pre-mining project interest does not include that additional area, unless the additional area is insignificant; and
  - (b) to avoid doubt, the additional area is the project area for another pre-mining project interest, unless the additional area is insignificant.
- (3) In determining, for the purposes of subsection (2), whether an additional area is insignificant, assume that the additional area includes any other such additional areas that:
  - (a) have been included in the \*project area for the \*pre-mining project interest because of a previous application of subsection (2); and
  - (b) have not, because of a previous application of this subsection, prevented another additional area being included in that project area.

### 155-15 The effect of pre-mining project transfers and pre-mining project splits

A \*pre-mining project transfer or a \*pre-mining project split relating to a \*pre-mining project interest

does not cause the \*termination day for the pre-mining project interest to happen.

Note 1: Under section 145-10, the pre-mining project interest after a pre-mining project transfer is a continuation of the pre-mining project interest before the transfer.

Note 2: Under section 150-10, the pre-mining project interests after a pre-mining project split are a continuation of the pre-mining project interest before the split.

## **155-20 Continuation of obligations etc. after the termination day**

- (1) After the \*termination day for a \*pre-mining project interest, the last \*entity to have \*held the pre-mining project interest is taken, for the purposes of the \*MRRT law, to continue to hold the pre-mining project interest:
  - (a) for the whole of the remainder of the \*MRRT year in which the termination day happens; and
  - (b) for the whole of any later MRRT year.
- (2) This section does not apply if the \*termination day happens because a mining project interest \*originates from the \*pre-mining project interest.

## **155-25 Extinguishing allowance components**

- (1) If the \*termination day for a \*pre-mining project interest happens in a particular \*MRRT year, an \*allowance component relating to the pre-mining project interest:
  - (a) is extinguished if it relates to that MRRT year or an earlier MRRT year, except to the extent that it is applied in working out, for that MRRT year:
    - (i) in relation to the pre-mining project interest, an amount, for the purposes of section 140-10, corresponding to an \*MRRT allowance; or
    - (ii) an MRRT allowance for any mining project interest; and
  - (b) is extinguished if it relates to a later MRRT year, except to the extent that it is applied in working out, for that later MRRT year:
    - (i) in relation to the pre-mining project interest, an amount, for the purposes of section 140-10, corresponding to an \*MRRT allowance; or
    - (ii) an MRRT allowance for any mining project interest

(11) an MRRT allowance for any mining project interest.

- (2) This section does not apply if the \*termination day happens because a mining project interest \*originates from the \*pre-mining project interest.

## Part 4-3—Adjusting MRRT liabilities

### Division 160—Adjustments to revenue and expenditure of project interests

#### Guide to Division 160

##### 160-1 What this Division is about

If there is a change in the circumstances affecting the amount of a previous item of mining revenue, mining expenditure, pre-mining revenue or pre-mining expenditure, an adjustment may be made so that, in net terms, the correct result is achieved.

#### Table of sections

##### Operative provisions

- |        |                                                                         |
|--------|-------------------------------------------------------------------------|
| 160-5  | Object of this Division                                                 |
| 160-10 | Mining adjustments                                                      |
| 160-15 | Effect of mining adjustments on mining revenue, mining expenditure etc. |

#### Operative provisions

##### 160-5 Object of this Division

The object of this Division is to ensure that an appropriate adjustment is made to:

- (a) \*mining revenue or \*mining expenditure if there is a change in the circumstances determining the

- (a) mining revenue or mining expenditure if there is a change in the circumstances determining the amount of a previous item of mining revenue or mining expenditure for a mining project interest; or
- (b) \*pre-mining revenue or \*pre-mining expenditure if there is a change in the circumstances determining the amount of a previous item of pre-mining revenue or pre-mining expenditure for a \*pre-mining project interest.

## 160-10 Mining adjustments

- (1) An event or circumstance gives rise to an adjustment under this Division (a *mining adjustment*) for the \*MRRT year in which the event or circumstance happens if:

- (a) due to assumptions or estimates that were made, the event or circumstance was not taken into account in relation to the inclusion (or non-inclusion) of an amount (the *original amount*) in:
  - (i) \*mining revenue or \*mining expenditure for a mining project interest; or
  - (ii) \*pre-mining revenue or \*pre-mining expenditure for a \*pre-mining project interest; and
- (b) it becomes more likely than not that those assumptions or estimates are incorrect; and
- (c) taking the event or circumstance into account, as if they formed part of the circumstances that gave rise to the original amount, would have led to a different result in relation to the original amount.

Note: Subsection 160-15(3) modifies the application of this section if a previous adjustment has been made under this Division in relation to the original amount.

- (2) The amount of the mining adjustment is the amount of that difference.
- (3) Without limiting subsection (1), the event or circumstance may be:
  - (a) a change in the extent to which an asset is used for a particular purpose; or
  - (b) the whole or part of a debt being written off as bad, or the whole or part of an amount written off as bad being recovered.
- (4) Without limiting subsection (1), the amount of the mining adjustment may be greater than the original amount.

Example: An original amount of \$48 million is included in a miner's mining expenditure for an MRRT year. If, taking into



account a circumstance or event that happens in a later MRRT year, the original amount would have instead been an amount of \$12 million included in the miner's mining revenue for the MRRT year, the difference is \$60 million.

## 160-15 Effect of mining adjustments on mining revenue, mining expenditure etc.

(1) The table has effect for the \*MRRT year in which the mining adjustment arises:

| <b>Effect of mining adjustments</b> |                                                                                         |                                                                                                                               |                                                           |
|-------------------------------------|-----------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|
| <b>Item</b>                         | <b>Column 1<br/>If the original amount was an amount included (or not included) in:</b> | <b>Column 2<br/>... and if the circumstance or event was taken into account in working out the original amount, it would:</b> | <b>Column 3<br/>The mining adjustment is included in:</b> |
| 1                                   | *mining revenue for a mining project interest                                           | increase                                                                                                                      | mining revenue for that interest                          |
| 2                                   | *mining revenue for a mining project interest                                           | decrease                                                                                                                      | *mining expenditure for that interest                     |
| 3                                   | *mining expenditure for a mining project interest                                       | increase                                                                                                                      | mining expenditure for that interest                      |
| 4                                   | *mining expenditure for a mining project interest                                       | decrease                                                                                                                      | *mining revenue for that interest                         |
| 5                                   | *pre-mining revenue for a *pre-mining project interest                                  | increase                                                                                                                      | pre-mining revenue for that interest                      |
| 6                                   | *pre-mining revenue for a *pre-mining project interest                                  | decrease                                                                                                                      | *pre-mining expenditure for that interest                 |
| 7                                   | *pre-mining expenditure for a *pre-mining project interest                              | increase                                                                                                                      | pre-mining expenditure for that interest                  |
| 8                                   | *pre-mining expenditure for a *pre-mining project                                       | decrease                                                                                                                      | *pre-mining revenue for that interest                     |

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interest

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Example 1: In MRRT year 1, a miner incurs expenditure of \$100 million on some machinery that the miner expects to use to the extent of 40% in the upstream mining operations of a mining project interest for each of 5 years, after which the machinery will be sold. On this basis, \$40 million is included in the miner's mining expenditure for the mining project interest for MRRT year 1.

In MRRT year 2, the miner's use of the machinery in those operations increases to 50%, and the miner expects that extent of use to continue for the rest of the 5 years. As a result, the extent to which the expenditure relates to the interest increases to 48%. Accordingly, a further \$8 million is included in the miner's mining expenditure for the interest for MRRT year 2.

Example 2: In MRRT year 1, the miner incurs expenditure of \$100 million on some machinery, which the miner expects to use for 4 years, but does not expect to use to any extent in the upstream mining operations of a mining project interest. Therefore, none of the expenditure is included in the miner's mining expenditure for the mining project interest for MRRT year 1.

In MRRT year 3, the miner starts to use the machinery to the extent of 10% in those operations, and expects that extent of use to continue until the end of 4 years. As a result, an amount of \$5 million is included in the miner's mining expenditure for the mining project interest for MRRT year 3:  $10\% \times 2/4 \times \$100 \text{ million}$ .

- (2) However, for the purposes of items 5, 6, 7 and 8 of the table, if a mining project interest that \*originates from the \*pre-mining project interest exists, the mining adjustment is instead included:
  - (a) in the circumstances specified in item 5 or 8 of the table—in the \*mining revenue of the mining project interest; or
  - (b) in the circumstances specified in item 6 or 7 of the table—in the \*mining expenditure of the mining project interest.
- (3) If this Division has given rise to a mining adjustment in relation to the original amount then, in working out whether a later event or circumstance gives rise to an adjustment under this Division in relation to the original amount, this Division has effect as if:
  - (a) the adjustment mentioned in column 3 of the table in subsection (1) had not been made; and
  - (b) the original amount had instead been increased or decreased (as the case requires) as mentioned in column 2 of that table by the amount of the adjustment.
- (4) If, apart from this subsection, the original amount:
  - (a) would be included in the \*mining revenue or \*mining expenditure for a mining project interest, or in the \*pre-mining revenue or \*pre-mining expenditure for a \*pre-mining project interest; and
  - (b) under paragraph (3)(b), would be a negative amount;

the original amount is instead taken to be a positive amount included in the mining expenditure or mining

the original amount is instead taken to be a positive amount included in the mining expenditure or mining revenue of the mining project interest, or in the pre-mining expenditure or pre-mining revenue of the pre-mining project interest, as the case requires.

## **Division 165—Starting base adjustments**

### **Table of Subdivisions**

#### Guide to Division 165

- 165-A Starting base adjustment events and starting base adjustment amounts
- 165-B General rules for starting base adjustments
- 165-C Partial disposal of starting base assets
- 165-D Miscellaneous

### **Guide to Division 165**

#### **165-1 What this Division is about**

If a starting base asset ceases to be part of a miner's starting base (for example, because the miner disposes of it), there may be a need to reconcile declines in value of the asset (reflected in starting base losses) with the actual change in value of the asset.

The appropriate starting base loss is adjusted to achieve this reconciliation. However, in some cases an additional amount will be included in a miner's mining revenue.

## **Subdivision 165-A—Starting base adjustment events and starting base adjustment amounts**

### **Table of sections**

- 165-5 Starting base adjustment events

165-10 Starting base adjustment amounts

165-15 Reductions in declines in value of starting base assets

## 165-5 Starting base adjustment events

- (1) A *starting base adjustment event* happens for a \*starting base asset relating to a mining project interest that a miner has if:
- (a) the miner ceases to \*hold the asset; or
  - (b) the miner:
    - (i) stops using it, having it \*installed ready for use or constructing it for use, in carrying on \*upstream mining operations relating to the mining project interest; and
    - (ii) expects never to use it, never to have it installed ready for use or never to restart constructing it for use, again in carrying on upstream mining operations relating to the mining project interest; or
  - (c) the miner:
    - (i) has not so used it; and
    - (ii) decides never so to use it; and
    - (iii) if it has been so installed—stops having it so installed; and
    - (iv) if it is being so constructed for use—stops so constructing it;in carrying on upstream mining operations relating to the mining project interest.
- (2) However, a starting base adjustment event does not happen for a \*starting base asset that:
- (a) is, or includes, the rights and interests constituting the mining project interest; or
  - (b) is an asset that the miner transfers to another entity together with such rights and interests.

## 165-10 Starting base adjustment amounts

*Termination value exceeding adjustable value*

- (1) If:

(a) during an \*MRRT year, a \*starting base adjustment event happens for a \*starting base asset relating to a mining project interest; and

(b) the \*termination value of the asset exceeds its \*adjustable value just before the event happened;

there is a ***starting base adjustment amount***, for the asset for the MRRT year, equal to the difference between the termination value and the adjustable value.

Note: A starting base adjustment amount under this subsection can be reduced under section 165-15.

*Termination value less than adjustable value*

(2) If:

(a) during an \*MRRT year, a \*starting base adjustment event happens for a \*starting base asset relating to a mining project interest; and

(b) the \*termination value of the asset is less than its \*adjustable value just before the event happened;

there is a ***starting base adjustment amount***, for the asset for the MRRT year, equal to the difference between the adjustable value and the termination value.

Note: A starting base adjustment amount under this subsection can be reduced under section 165-15.

*Termination value*

(3) The ***termination value*** of a \*starting base asset for which a \*starting base adjustment event has happened is:

(a) if the miner to whose mining project interest the asset relates has received, because of the event, an amount for the asset under a transaction entered into at \*arm's length—that amount; or

(b) otherwise—the \*market value of the asset at the time the starting base adjustment event happened.

(4) However, the ***termination value*** of the asset is the sum of the following, if that sum is greater than its termination value under subsection (3):

(a) any \*mining expenditure the miner incurs because of the \*starting base adjustment event;

(b) any amounts by which such expenditure would have been greater but for one or more amounts that

are received, or become receivable, by the miner.

- (5) If all or part of a liability of the miner to pay an amount relating to the asset is terminated, the amount of the liability or part when it is terminated is taken, for the purposes of this section, to be received or to become receivable by the miner in relation to the asset.
- (6) If a miner receives an amount for 2 or more things that include a \*starting base adjustment event happening for a \*starting base asset, take into account as its \*termination value only that part of what the miner received that is reasonably attributable to the asset.

#### *Adjustable value*

- (7) The ***adjustable value*** of a \*starting base asset for which a \*starting base adjustment event has happened is the difference between:
  - (a) the \*base value of the asset for the \*MRRT year in which the event happened; and
  - (b) an amount equal to what would be the decline in value of the asset, worked out under section 90-5, during the period starting at the start of that year and ending on the day on which the event happened, if that period were an MRRT year.

### **165-15 Reductions in declines in value of starting base assets**

- (1) If:
  - (a) there is a \*starting base adjustment amount, for a \*starting base asset for an \*MRRT year; and
  - (b) an amount of a \*starting base loss for that MRRT year or any earlier MRRT year has been reduced because of a reduction under subsection 80-40(3) or (4) relating to the asset;
 reduce the starting base adjustment amount in accordance with subsection (2).

Note: Reductions happen under subsection 80-40(3) or (4) if the asset is used, installed for use, or constructed for use for a purpose other than carrying on upstream mining operations relating to the mining project interest, or in connection with excluded expenditure.

- (2) The reduction is:

**Sum of reductions**    --    -    -    -

$$\frac{\text{Total decline}}{\text{Total decline}} \times \text{*Starting base adjustment amount}$$

where:

*sum of reductions* is the sum of the reductions made relating to the asset under subsections 80-40(3) and (4) during that \*MRRT year or any earlier MRRT year.

*total decline* is the sum of the declines in value of the asset that have happened during that \*MRRT year or any earlier MRRT year.

## Subdivision 165-B—General rules for starting base adjustments

### Table of sections

|        |                                                                    |
|--------|--------------------------------------------------------------------|
| 165-20 | Starting base adjustments                                          |
| 165-25 | The effect of starting base adjustments on starting base losses    |
| 165-30 | The effect of negative starting base adjustments on mining revenue |

### 165-20 Starting base adjustments

- (1) If there is, for an \*MRRT year, at least one \*starting base adjustment amount for a \*starting base asset relating to a mining project interest, the *starting base adjustment* for the mining project interest for the MRRT year is the amount obtained by subtracting:
  - (a) all of those starting base adjustment amounts (if any) arising under subsection 165-10(1); from
  - (b) all of those starting base adjustment amounts (if any) arising under subsection 165-10(2).
- (2) The \*starting base adjustment may be a negative amount, but there is no starting base adjustment if the amount worked out under subsection (1) is zero.

### 165-25 The effect of starting base adjustments on starting base losses

#### *Positive starting base adjustments*

- (1) If:

(a) there is a \*starting base adjustment, for a mining project interest for an \*MRRT year, that is a positive amount; and

(b) there is a \*starting base loss for the mining project interest for the MRRT year;

the starting base loss is increased by the starting base adjustment.

(2) If:

(a) there is a \*starting base adjustment, for a mining project interest for an \*MRRT year, that is a positive amount; and

(b) there is (apart from this subsection) no \*starting base loss for the mining project interest for the MRRT year;

there is taken to be such a starting base loss equal to the starting base adjustment.

*Negative starting base adjustments*

(3) If:

(a) there is a \*starting base adjustment, for a mining project interest for an \*MRRT year, that is a negative amount; and

(b) there are one or more \*starting base losses for the mining project interest;

the starting base loss, or one or more of the starting base losses, are reduced by the starting base adjustment.

(4) If there is more than one \*starting base loss, the starting base adjustment is applied to reduce the starting base losses in the order in which they arose.

Note: The amount by which that starting base adjustment exceeds all the starting base losses is included in mining revenue under subsection 165-30(2).

## **165-30 The effect of negative starting base adjustments on mining revenue**

(1) If:

(a) there is a \*starting base adjustment, for a mining project interest for an \*MRRT year, that is a



negative amount; and

(b) there are no \*starting base losses for the mining project interest;

the starting base adjustment is included in the \*mining revenue, for the mining project interest for the MRRT year, of the miner that has the mining project interest.

(2) If:

(a) there is a \*starting base adjustment, for a mining project interest for an \*MRRT year, that is a negative amount; and

(b) there are one or more \*starting base losses for the mining project interest; and

(c) the starting base adjustment is greater than the sum of those starting base losses;

an amount equal to the difference between the starting base adjustment and the sum of those starting base losses is included in the \*mining revenue, for the mining project interest for the MRRT year, of the miner that has the mining project interest.

## Subdivision 165-C—Partial disposal of starting base assets

### Table of sections

|        |                                                                        |
|--------|------------------------------------------------------------------------|
| 165-35 | Starting base adjustments for partial disposal of starting base assets |
| 165-40 | Declines in value of retained parts of starting base assets            |
| 165-45 | Reductions in starting base losses                                     |
| 165-50 | Base value for the next MRRT year                                      |

## 165-35 Starting base adjustments for partial disposal of starting base assets

(1) If:

(a) during an \*MRRT year, a miner ceases to \*hold a part of a \*starting base asset relating to a mining project interest that a miner has; and

(b) the cessation would be a \*starting base adjustment event if the part were a starting base asset;

apply this Division as if that part were a starting base asset (the *disposed asset*) and as if the cessation

apply this Division as if that part were a starting base asset (the *disposed asset*) and as if the cessation were a starting base adjustment event for the disposed asset.

- (2) The *adjustable value* of the disposed asset is a reasonable proportion of what would be the adjustable value of the \*starting base asset of which it is a part, if a \*starting base adjustment event were to happen for that starting base asset at the time of the cessation.

Example: A miner holds a truck that, at the start of a particular MRRT year, has a base value of \$10 million and a remaining effective life of 10 years. Halfway through the MRRT year, the miner sells a 75% interest in the truck for \$6 million.

At the time of the sale, the adjustable value of the entire truck is \$9.5 million, so the adjustable value of the disposed asset is \$7.125 million (75% of \$9.5 million). The termination value of the disposed asset is \$6 million.

Under subsection 165-10(2), the miner has a starting base adjustment amount for the truck of \$1.125 million (\$7.125 million - \$6 million).

- (3) Despite subsection (1), this section does not apply to the disposed asset if at the same time as the miner ceases to \*hold the disposed asset, the miner also ceases to hold the remainder of the \*starting base asset.

## 165-40 Declines in value of retained parts of starting base assets

- (1) The decline in value of a \*starting base asset during an \*MRRT year (an *entire MRRT year*) in which section 165-35 applies in relation to a miner ceasing to \*hold a part of the starting base asset is worked out by:

- working out under section 90-5 the decline in value of the asset, as if the part of the MRRT year before the cessation were an MRRT year; and
- working out under section 90-5 the decline in value of the asset, as if the part of the MRRT year after the cessation were another MRRT year; and
- summing the result.

Example: Using the example in subsection 165-35(2), the decline in value of the truck during the MRRT year is \$625,000, being the sum of:

- for the half of the MRRT year that precedes the cessation, a decline in value of \$500,000 ( $\$10 \text{ million} \times \frac{1}{2} \times \frac{1}{10}$ ); and
- for the remainder of the MRRT year, a decline in value of \$125,000 ( $(\$9.5 \text{ million} - \$7.125 \text{ million}) \times \frac{1}{2} \times \frac{1}{9.5}$ ).

- (2) In working out, under paragraph (1)(b), the decline in value of a \*starting base asset after a cessation,

the \*base value of the starting base asset:

(a) is worked out:

- (i) as if the part of the \*MRRT year that is taken by paragraph (1)(a) to be an MRRT year were the preceding MRRT year; and
- (ii) if the base value is worked out under section 90-30—as if the uplift factor mentioned in that section were 1; and

(b) is reduced by the \*adjustable value of the disposed asset for that cessation.

(3) If:

- (a) section 165-35 applies in relation to a miner ceasing to \*hold a part of a \*starting base asset; and
- (b) that cessation happens during a part of an \*MRRT year that, because of a previous application of this section (including an application affected by this subsection) in relation to the same starting base asset, is taken by paragraph (1)(b) to be an MRRT year;

in working out, under paragraph (1)(b), the decline in value of the starting base asset during that part of an MRRT year, apply subsection (1) to that part of the MRRT year as if it were an entire MRRT year.

Example: Extending the example in subsection (1), the miner sells half of its remaining interest in the truck halfway through the second half of the MRRT year. At the time of this sale, the adjustable value of the miner's 25% interest in the truck is \$2,312,500, so the adjustable value of the disposed asset on this occasion is \$1,156,250 (50% of \$2,312,500).

The decline in value of the miner's interest in the truck during the second half of the MRRT year is \$93,750, being the sum of:

- (a) for the first 3 months of the second half of the MRRT year, a decline in value of \$62,500 ( $\$2.375 \text{ million} \times \frac{1}{4} \times \frac{1}{9.5}$ ); and
- (b) for the remainder of the second half of the MRRT year, a decline in value of \$31,250 ( $\$1,156,250 \times \frac{1}{4} \times \frac{1}{9.25}$ ).

(4) If:

- (a) under Division 85, the book value approach is the valuation approach for the mining project interest to which a \*starting base asset relates; and
- (b) the decline in value of the starting base asset during a part of an \*MRRT year is to be worked out under this section;

the write off rate of the starting base asset under section 90-10 for that part of the MRRT year is taken to be the write off rate of the starting base asset under that section for the entire MRRT year.

## 165-45 Reductions in starting base losses

- (1) This section applies if, on one or more occasions during an \*MRRT year, section 165-35 applies to a miner ceasing to \*hold a part of a \*starting base asset relating to a mining project interest that a miner has.
- (2) In working out under subsection 80-40(3) or (4) any reduction in an amount of a \*starting base loss for the mining project interest for the \*MRRT year or a later MRRT year, treat the starting base asset as not including, after the cessation, the disposed asset (within the meaning of section 165-35) relating to that cessation.

Note: Reductions happen under subsection 80-40(3) or (4) if the asset is used, installed for use, or constructed for use for a purpose other than carrying on upstream mining operations relating to the mining project interest, or in connection with excluded expenditure.

Example: Using the example in subsection 165-40(1), the miner's starting base loss would be unaffected if, after the sale of the 75% interest in the truck, the purchaser used the truck for 75% of the time for a purpose that is entirely unrelated to the upstream mining operations for the mining project interest.

## 165-50 Base value for the next MRRT year

Section 90-30 or 90-50 applies in working out the \*base value of the \*starting base asset for the next \*MRRT year as if the last part of the entire MRRT year for which a \*decline in value was worked out under section 165-40 were the preceding MRRT year.

Example: Using the example in subsection 165-40(1), the preceding base value of the starting base asset for the purposes of section 90-50 is \$2.375 million (\$9.5 million - \$7.125 million).

If the market value approach is the applicable valuation approach, the base value of the starting base asset for the next \*MRRT year would, under section 90-50, be \$1.75 million (\$2.375 million - \$625,000).

## Subdivision 165-D—Miscellaneous

### Table of sections

- |        |                                                                                                |
|--------|------------------------------------------------------------------------------------------------|
| 165-55 | Use etc. of starting base assets for other mining project interests etc.                       |
| 165-60 | Effect on base value of use etc. of starting base assets after starting base adjustment events |

**165-55 Use etc. of starting base assets for other mining project interests etc.**

*Mining expenditure for use etc. leading to a reduction under subsection 80-40(3)*

(1) If:

- (a) a \*starting base loss, for an \*MRRT year for a mining project interest that a miner has, is reduced under subsection 80-40(3) in relation to a \*starting base asset; and
- (b) the reason, or part of the reason, for the reduction is that the starting base asset was:
  - (i) used; or
  - (ii) \*installed ready for use; or
  - (iii) being constructed for use;in carrying on \*upstream mining operations relating to another mining project interest that the miner has, or in carrying on \*pre-mining project operations of a \*pre-mining project interest that the miner \*holds;

an amount is included in the miner's \*mining expenditure for the other mining project interest, or \*pre-mining expenditure for the pre-mining project interest, for the MRRT year.

(2) The amount is the amount of that reduction, to the extent that:

- (a) the reduction happens for that reason; and
- (b) the amount of the reduction would have been included:
  - (i) in the miner's \*mining expenditure for the other mining project interest, for the \*MRRT year, if it had been incurred by the miner to acquire the \*starting base asset in relation to the other mining project interest; or
  - (ii) in the miner's \*pre-mining expenditure for the \*pre-mining project interest, for the MRRT year, if it had been incurred by the miner to acquire the starting base asset in relation to the pre-mining project interest.

*Mining expenditure for use etc. after a starting base adjustment event*

## (3) If:

- (a) at a particular time (the *adjustment time*) during an \*MRRT year, a \*starting base adjustment event happened for a \*starting base asset relating to a mining project interest that a miner has; and
- (b) the starting base adjustment event happened other than because the miner ceased to \*hold the \*starting base asset; and
- (c) after the adjustment time (whether during that MRRT year or a later MRRT year) the starting base asset was:
  - (i) used; or
  - (ii) \*installed ready for use; or
  - (iii) being constructed for use;
 in carrying on \*upstream mining operations relating to another mining project interest that the miner has, or in carrying on \*pre-mining project operations of a \*pre-mining project interest that the miner holds;

an amount is included in the miner's \*mining expenditure for the other mining project interest, or \*pre-mining expenditure for the pre-mining project interest, for the first MRRT year to which paragraph (c) applies.

## (4) The amount is the \*termination value of the \*starting base asset, to the extent that:

- (a) the starting base asset was, during the first \*MRRT year to which paragraph (3)(c) applies:
  - (i) used; or
  - (ii) \*installed ready for use; or
  - (iii) being constructed for use;
 in carrying on \*upstream mining operations relating to the other mining project interest, or in carrying on \*pre-mining project operations of the \*pre-mining project interest; and
- (b) the amount of the termination value would have been included:
  - (i) in the miner's \*mining expenditure for the other mining project interest, for that MRRT year,

if it had been incurred by the miner to acquire the starting base asset in relation to the other

if it had been incurred by the miner to acquire the starting base asset in relation to the other mining project interest; or

- (ii) in the miner's \*pre-mining expenditure for the pre-mining project interest, for that MRRT year, if it had been incurred by the miner to acquire the starting base asset in relation to the pre-mining project interest.

### *Exceptions*

- (5) Despite subsections (1) and (3), this section does not apply:
  - (a) in relation to the other mining project interest if the \*starting base asset is also a starting base asset in relation to the other mining project interest; or
  - (b) in relation to the \*pre-mining project interest if the starting base asset would also be a starting base asset in relation to another mining project interest that could \*originate from the pre-mining project interest.

## **165-60 Effect on base value of use etc. of starting base assets after starting base adjustment events**

Despite sections 90-30 and 90-50, if:

- (a) during an \*MRRT year, a \*starting base adjustment event happened for a \*starting base asset relating to a mining project interest that a miner has; and
- (b) the starting base adjustment event happened other than because the miner ceased to \*hold the \*starting base asset; and
- (c) during a later MRRT year in which the miner holds the starting base asset, it starts to be:
  - (i) used; or
  - (ii) \*installed ready for use; or
  - (iii) being constructed for use;
 in carrying on \*upstream mining operations relating to the mining project interest;

the **base value** of the starting base asset, for the first MRRT year after the time at which the starting base adjustment event happened, is taken to be its \*termination value at that time.

Note: The base values of the starting base asset for later MRRT years will be worked out under section 90-30 (book value approach) or 90-50 (market value approach).

## Part 4-4—Valuation

### Division 170—Valuation principles

#### Guide to Division 170

##### 170-1 What this Division is about

This Division sets out valuation principles that are to be applied in working out the value of a thing for the purposes of the MRRT.

#### Table of sections

##### Operative provisions

170-5 Valuations to comply with valuation principles

170-10 The valuation principles

#### Operative provisions

##### 170-5 Valuations to comply with valuation principles

- (1) The value of a thing that is to be valued for the purposes of working out an amount under the \*MRRT law is to be worked out in accordance with the valuation principles set out in section 170-10.

Note: The following are some examples of things that may be valued:

- (a) a starting base asset (to work out a starting base loss);
- (b) a mining project interest or pre-mining project interest (to work out a split percentage).

- (2) Subsection (1) is a general rule that is subject to the specific rules in the \*MRRT law outside this



Division.

- (3) To avoid doubt, subsection (1) applies:
  - (a) whether or not a provision of the \*MRRT law requires a thing to be valued at its \*market value; and
  - (b) whether or not a provision of the MRRT law expressly requires an amount to be worked out by making a valuation.

## 170-10 The valuation principles

### *Basic principle*

- (1) A valuation relating to a mining project interest or \*pre-mining project interest is to be reasonable having regard to the objects of the \*MRRT law.

### *Sub-principles*

- (2) A valuation that is to be made as at a particular time may take into account:
  - (a) things that have actually happened before that time; and
  - (b) things that, as at that time, are reasonably expected to happen after that time.

Example: A valuation of the rights and interests that constitute a mining project interest as at a particular time may take account of a reasonable estimate, as at that time, of the coal price at a future time. The actual coal price at that future time is not taken into account.

- (3) The sum of the values of all things in a set must equal the value of the set.

Example: A mining operation is valued as at 1 May 2010 at \$6 billion. Downstream assets (such as crushers and transport infrastructure) are valued at \$2 billion. Upstream capital equipment is valued at \$1 billion. The value of all other assets in the operation, including mining rights, must be \$3 billion.

- (4) Identical things in identical circumstances have the same value.
- (5) An assumption or estimate relating to a mining project interest or \*pre-mining project interest:
  - (a) is to be reasonable when considered in isolation; and
  - (b) is to be reasonable when considered together with all other assumptions or estimates made in

(b) is to be reasonable when considered together with all other assumptions or estimates made in relation to the interest; and

(c) is to be made consistently for all things relating to the interest.

Example 1: An estimate of a commodity price at a future time must itself be reasonable, and must also be reasonable when considered together with all other assumptions or estimates about things that may affect the commodity price (such as a currency exchange rate).

Example 2: If the value of a mine is worked out on the assumption that mine production will rise to a particular extent over time, the valuation of each asset within the project must use a consistent assumption.

- (6) A valuation relating to a mining project interest or \*pre-mining project interest is to be reconcilable with each other valuation made relating to the interest (including, if relevant, a valuation relating to a pre-mining project interest from which a mining project interest \*originates), if that other valuation:
- (a) was made after 1 May 2010; and
  - (b) was made for the purposes of working out an amount under the \*MRRT law; and
  - (c) is, if it is a valuation of a thing of which there is more than one valuation meeting the requirements in paragraphs (a) and (b), the most recent such valuation.

*Priority of basic principle*

- (7) To the extent the application of a sub-principle in subsections (2) to (6) to a particular valuation would conflict with the basic principle in subsection (1), the basic principle is to be applied and the sub-principle disregarded.

## **Division 175—Alternative valuation method**

### **Table of Subdivisions**

Guide to Division 175

175-A Object of this Division

175-B Choosing to use the alternative valuation method

## 175-C Amounts included in mining revenue under the alternative valuation method

**Guide to Division 175****175-1 What this Division is about**

A miner that extracts only small amounts of taxable resources, or that has a pre-MRRT operation for transforming those taxable resources, can choose to use the alternative valuation method. This method is a version of the “retail price” or “netback” method.

Under this method, mining revenue for supply, exportation or use of taxable resources is worked out from the miner’s transactions relating to the taxable resources, with appropriate reductions for downstream operating costs, depreciation and returns on capital.

A mining project interest for which the alternative valuation method is used is treated separately from other mining project interests, and its royalty credits and mining losses are quarantined.

Note: Under sections 65-20 and 100-20, royalty credits are not available to be applied to transferred royalty allowances, and mining losses are not available to be applied to transferred mining loss allowances, if the alternative valuation method has been chosen.

**Subdivision 175-A—Object of this Division****Table of sections**

175-5 Object of this Division

**175-5 Object of this Division**

The object of this Division is to provide an alternative method to work out \*mining revenue under section 30-10, so as to reduce compliance costs and increase certainty for miners that may find it particularly difficult to work out that revenue using that section, because:

- (a) their mining operations are small; or
- (b) since before 2 May 2010, their mining operations have been vertically integrated with other operations.

## Subdivision 175-B—Choosing to use the alternative valuation method

### Table of sections

175-10 Choosing to use the alternative valuation method

175-15 Group production of taxable resources

### 175-10 Choosing to use the alternative valuation method

- (1) A miner may choose to use the alternative valuation method in relation to a mining project interest that the miner has, for an \*MRRT year, if either or both of the following apply:
- (a) group production of \*taxable resources for the miner for that year under section 175-15 is less than 10 million tonnes;
  - (b) taxable resources extracted during the year from the \*project area for the mining project interest are used as part of an operation that:
    - (i) is for \*supplying things (other than taxable resources) produced using a taxable resource extracted under the authority of a \*production right to which the project area relates; and
    - (ii) existed in \*Australia just before 2 May 2010; and
    - (iii) the miner carries on (whether alone or jointly with other \*entities).

Note: Division 119 in Schedule 1 to the *Taxation Administration Act 1953* is about choices under the MRRT law.

- (2) Each choice that the miner makes must relate to:
- (a) a single mining project interest that the miner has; and
  - (b) a single \*MRRT year.

### 175-15 Group production of taxable resources

- (1) The group production of \*taxable resources mentioned in paragraph 175-10(1)(a) for the miner, for an \*MRRT year, is the number of tonnes of taxable resources that:

(a) relate to mining project interests the following \*entities have, or \*pre-mining project interests that

- (a) relate to mining project interests the following entities have, or pre mining project interests that they \*hold:
- (i) the miner;
  - (ii) an entity \*connected with the miner;
  - (iii) an \*affiliate of the miner;
  - (iv) an entity of which the miner is an affiliate;
  - (v) an affiliate of an entity covered by subparagraph (ii);
  - (vi) an entity connected with an entity covered by subparagraph (ii), (iii) or (iv); and
- (b) have reached, during the MRRT year, the form in which the resources are intended to be supplied or exported as mentioned in paragraph 30-15(1)(a) or (b).

Note: If the MRRT year is not a 12-month period, the group production of taxable resources is affected by section 190-20 (substituted accounting periods).

- (2) For the purposes of subsection (1), the number of tonnes of a \*taxable resource is to be calculated when the resource is in the form mentioned in paragraph (1)(b).
- (3) If:
- (a) subsection (1) applies in relation to a \*taxable resource; and
  - (b) the taxable resource is a quantity of something produced from a process that results in iron ore or coal being consumed or destroyed without extraction;
- treat as the number of tonnes of that resource, for the purposes of this section, the number of tonnes of iron ore or coal that was so consumed or destroyed.

## **Subdivision 175-C—Amounts included in mining revenue under the alternative valuation method**

### **Table of sections**

|        |                                                                                    |
|--------|------------------------------------------------------------------------------------|
| 175-20 | When amounts are included in mining revenue under the alternative valuation method |
| 175-25 | How to work out the single amount                                                  |

|        |                            |
|--------|----------------------------|
| 175-30 | Unadjusted revenue amounts |
| 175-35 | Downstream operating costs |
| 175-40 | Depreciation of assets     |
| 175-45 | Return on capital costs    |

## 175-20 When amounts are included in mining revenue under the alternative valuation method

- (1) If a miner chooses, for an \*MRRT year, to use the alternative valuation method in relation to a mining project interest that the miner has, a single amount is included under section 30-10, in the miner's \*mining revenue for the interest for the year, relating to all amounts that:
- (a) are to be included in the miner's mining revenue for the mining project interest for the year under section 30-10; and
  - (b) relate to \*taxable resources that, under subsection (2) of this section, are covered by the alternative valuation method for the MRRT year.

The single amount is worked out under section 175-25, instead of section 30-25.

- (2) The alternative valuation method covers \*taxable resources for the mining project interest for the year if an amount is included in the miner's \*mining revenue for the mining project interest for the \*MRRT year under section 30-10 because a \*mining revenue event happens in relation to the resource.

## 175-25 How to work out the single amount

Work out the single amount to be included under section 30-10, in a miner's \*mining revenue for a mining project interest for an \*MRRT year, as follows:

### *Method statement*

Step 1. For each of the \*taxable resources covered by the alternative valuation method for the interest for the year, work out the unadjusted revenue amount under section 175-30.

Step 2. Add together all of the unadjusted revenue amounts for the \*taxable resources covered by the

alternative valuation method for the interest for the year.

Step 3. Add together all of the following amounts:

- (a) the miner's downstream operating costs, worked out under section 175-35, for the interest for the year;
- (b) the sum of the amounts, worked out under section 175-40, by which the assets of the miner relating to the interest, to which that section applies, have depreciated in value during the year;
- (c) a return on the miner's capital costs for the interest for the year, worked out under section 175-45.

Step 4. Reduce the amount under step 2 by the amount under step 3. The result is the single amount to be included in the miner's \*mining revenue for the mining project interest for the year.

### 175-30 Unadjusted revenue amounts

The unadjusted revenue amount for a \*taxable resource covered by the alternative valuation method for the \*MRRT year is:

- (a) if the amount relates to a \*supply—the consideration received or receivable for the supply; or
- (b) if the amount relates to an exportation from \*Australia of the taxable resource, or a thing produced using the taxable resource—an amount equal to what would be the \*arm's length consideration for a supply of the taxable resource or thing at the time and place the taxable resource or thing is loaded for export; or
- (c) if the amount relates to use of a thing produced from the taxable resource—an amount equal to what would be the \*arm's length consideration for a supply of the thing at the time and place of the use.

**175-35 Downstream operating costs**

- (1) The miner's downstream operating costs for the \*MRRT year are the sum of the miner's expenditure, to the extent (if any) that each amount of expenditure meets the following requirements:
  - (a) it is necessarily incurred during the year in carrying on activities that:
    - (i) relate to a \*taxable resource covered by the alternative valuation method for the year; and
    - (ii) happen between the \*valuation point for the taxable resource and the time of the \*mining revenue event mentioned in subsection 175-20(2);
  - (b) it is not a loss or outgoing of capital, or of a capital nature.
- (2) Disregard, for the purposes of subsection (1), expenditure to the extent that it is \*excluded expenditure.

**175-40 Depreciation of assets**

- (1) This section applies to an asset for an \*MRRT year if:
  - (a) the miner \*holds the asset; and
  - (b) the asset was used, \*installed ready for use or being constructed for use in carrying on:
    - (i) \*mining operations relating to the mining project interest; or
    - (ii) operations or activities that would be mining operations relating to the mining project interest but for paragraph 35-20(1)(b); or
    - (iii) operations of a kind referred to in paragraph 175-10(1)(b);relating to a \*taxable resource covered by the alternative valuation method for the year; and
  - (c) those operations were carried out between the \*valuation point for the resource and the time of the \*mining revenue event mentioned in subsection 175-20(2).
- (2) The amount by which such an asset has depreciated in value during the \*MRRT year is the amount that would be worked out under Division 40 of the *Income Tax Assessment Act 1997*, using one of the following methods, if the assumptions in subsection (3) were made:
  - (a) the \*diminishing value method;



- (b) the \*prime cost method;
  - (c) another method of depreciation in accordance with \*accounting principles.
- (3) The assumptions are:
- (a) the asset is a \*depreciating asset; and
  - (b) the \*MRRT year is an \*income year; and
  - (c) the method mentioned in paragraph (2)(c) is a method that could be chosen for the purposes of subsection 40-65(1) of the *Income Tax Assessment Act 1997*; and
  - (d) if the miner \*held the asset immediately before 1 July 2012 and chooses to use the alternative valuation method for the first MRRT year—the asset’s \*opening adjustable value on that day is its depreciated optimised replacement cost; and
  - (e) if the miner chooses the \*prime cost method for the purposes of subsection (2)—for the purposes of using the prime cost method, the first MRRT year is a change year within the meaning of subsection 40-75(2) of the *Income Tax Assessment Act 1997*.
- (4) A choice by a miner to use a particular method mentioned in subsection (2) applies to the \*MRRT year for which the miner first chooses to use the alternative valuation method and to all later MRRT years.
- (5) For the purpose of applying paragraph (2)(a) or (b):
- (a) the miner may make the choices for the purposes of this section; and
  - (b) the Commissioner may make the decisions for the purposes of this section;
- that the miner or Commissioner could have made under Division 40 of the *Income Tax Assessment Act 1997*, relating to working out an amount under that Division.
- Note: Division 119 in Schedule 1 to the *Taxation Administration Act 1953* is about choices under the MRRT law.
- (6) The amount under subsection (2) is reduced to the extent (if any) that, during the year, the asset is not used, \*installed ready for use or being constructed for use in operations that satisfy paragraphs (1)(b) and (c).

- (7) This section applies to any improvement to, or any fixture on, land as if it were an asset separate from

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

## 175-45 Return on capital costs

- (1) The return on the miner's capital costs for the <sup>\*</sup>MRRT year is as follows:

$$\text{Total adjustable values} \times \left( \frac{\text{Long term bond rate for the } ^*\text{MRRT year}}{100} + 0.07 \right) \times \frac{\text{Days in } ^*\text{MRRT year}}{365}$$

where:

*total adjustable values* is the sum of the amounts that would be, for that year, the <sup>\*</sup>opening adjustable values of the assets to which section 175-40 applies if the assumptions mentioned in subsection (3) of that section were made.

- (2) However, that amount is reduced to the extent (if any) that, during the year, those assets are not used, <sup>\*</sup>installed ready for use or being constructed for use in operations that satisfy paragraphs 175-40(1)(b) and (c).

## Division 180—Valuation of starting base assets using the look-back approach

### Guide to Division 180

#### 180-1 What this Division is about

For valuation purposes, an entity can choose to use a “look-back” approach that replaces the market value of starting base assets as at 2 May 2010 with the amount of pre-mining expenditure incurred in the 10 years preceding that day.

Note: This Division affects how declines in value are worked out under Division 90.

**Table of sections****Operative provisions**

180-5 Choosing to apply the look-back approach

180-10 The effect of the look-back approach on valuation of mining project interests

**Operative provisions****180-5 Choosing to apply the look-back approach**

- (1) An \*entity may choose to apply the look-back approach to all the \*starting base assets that the entity \*holds that relate to a particular mining project interest that the entity has, or a \*pre-mining project interest that the entity holds, if:
  - (a) either:
    - (i) in the case of a mining project interest—the mining project interest did not exist on 2 May 2010, but it \*originates from a pre-mining project interest that existed (or that is a part of a pre-mining project interest that existed) just before 2 May 2010; or
    - (ii) in the case of a pre-mining project interest—the pre-mining project interest existed (or is a part of a pre-mining project interest that existed) just before 2 May 2010; and
  - (b) under Division 85, the market value approach is the valuation approach for the mining project interest or pre-mining project interest.

Note: Division 119 in Schedule 1 to the *Taxation Administration Act 1953* is about choices under the MRRT law.

- (2) The choice may specify that it applies to every mining project interest that the \*entity has, and every \*pre-mining project interest that the entity \*holds, that relate to a specified area.
- (3) The choice applies, in relation to the mining project interest or \*pre-mining project interest, to the first \*MRRT year and all later MRRT years.

**180-10 The effect of the look-back approach on valuation of mining project interests**

- (1) If the \*entity has made a choice under section 180-5 relating to the mining project interest or \*pre-mining project interest, in working out the declines in value, for an \*MRRT year to which this section applies, of the \*starting base assets that relate to:
  - (a) the mining project interest to which the choice relates; or
  - (b) a mining project interest that \*originates from the pre-mining project interest to which the choice relates;use the assumptions set out in subsection (3) of this section.
- (2) This section applies to the \*MRRT year in which the \*start time for the \*starting base assets happens, and to any later MRRT years.
- (3) The assumptions are that:
  - (a) all of the \*starting base assets were a single starting base asset; and
  - (b) for the purposes of working out the \*base value of that single starting base asset under section 90-40, the \*market value of the asset on 1 May 2010 were the amount worked out under subsection (4); and
  - (c) for the purposes of working out the remaining effective life of that single starting base asset under section 90-15, subsection 90-15(3) applies as if the asset were treated as a single starting base asset because of section 80-30.

Note: Any amounts of interim expenditure relating to the asset would be included in the base value of the asset for the year: see subparagraph 90-40(1)(a)(ii).

- (4) For the purposes of paragraph (3)(b), the \*market value of the asset on 1 May 2010 is the sum of all the amounts that, if the \*MRRT law had been in force from 2 May 2000, would have been \*pre-mining expenditure, incurred between 2 May 2000 and 1 May 2010, that:
  - (a) if the choice under section 180-5 relates to a mining project interest:
    - (i) related to the \*pre-mining project interest from which the mining project interest \*originates; and
    - (ii) was incurred by the entity that \*held the pre-mining project interest at the time the

- expenditure was incurred; or
- (b) if the choice under section 180-5 relates to a pre-mining project interest—was incurred by the entity that held the pre-mining project interest at the time the expenditure was incurred.

**Part 4-5—Accounting for MRRT**

**Division 185—Currency translation**

**Guide to Division 185**

**185-1 What this Division is about**

The MRRT is accounted for in Australian currency.

Generally, all amounts are to be translated into Australian currency.

However, an entity that uses a functional currency for income tax purposes must use the same functional currency in accounting for MRRT.

If a functional currency is used, amounts are worked out on a net basis in the functional currency, with those amounts then being translated into Australian currency.

**Table of sections**

**Operative provisions**

- 185-5     Objects of this Division
- 185-10   Translation of amounts into Australian currency
- 185-15   Functional currency rules
- 185-20   Functional currency rules—Australian permanent establishments

## Operative provisions

### 185-5 Objects of this Division

The objects of this Division are:

- (a) to set out a basic rule requiring an amount in a \*foreign currency to be translated into Australian currency (subject to the functional currency rules and certain specific rules); and
- (b) in order to reduce compliance costs, to require an \*entity that uses a functional currency for income tax purposes to use the same functional currency for MRRT; and
- (c) to apply rules for identifying the exchange rate for the translation of amounts that are the same rules as apply for income tax purposes.

### 185-10 Translation of amounts into Australian currency

- (1) For the purposes of this Act, an amount in a \*foreign currency is to be translated into Australian currency.

#### *Examples of an amount*

- (2) The following are examples of an amount:
  - (a) an amount of an expense;
  - (b) an amount of an obligation;
  - (c) an amount of a liability;
  - (d) an amount of a receipt;
  - (e) an amount of a payment;
  - (f) an amount of consideration;
  - (g) a value.

*Translation rule*

- (3) The amount is to be translated into Australian currency at the exchange rate that would be applicable if the translation were being done for the purposes of Subdivision 960-C of the *Income Tax Assessment Act 1997*.

*Amounts that are elements in the calculation of other amounts*

- (4) In applying this section:
- (a) first, translate any amounts that are elements in the calculation of other amounts (except amounts covered by subsection (5)); and
  - (b) then, calculate the other amounts.

*Exception for simplified MRRT method*

- (5) However, in applying this section:
- (a) calculate an \*entity's profit worked out under section 200-15 without translation; and
  - (b) then, translate that profit.

**185-15 Functional currency rules**

- (1) If a choice under item 1 of the table in subsection 960-60(1) of the *Income Tax Assessment Act 1997* is in effect in relation to an \*entity for a period that includes an \*MRRT year, this section applies, despite section 185-10, to:
- (a) each mining project interest the entity has in the MRRT year; and
  - (b) each \*pre-mining project interest the entity \*holds in the MRRT year.

Note: An entity cannot choose to use a functional currency for MRRT only.

*First translation—into applicable functional currency*

- (2) First, for a purpose mentioned in subsection (3), an amount that is not in the currency that, under section 960-70 of the *Income Tax Assessment Act 1997*, is the \*entity's applicable functional currency

for the relevant period, is to be translated into that applicable functional currency.

(3) The purposes are as follows:

- (a) working out the \*entity's \*instalment income for an \*instalment quarter that is part of the \*MRRT year;
- (b) working out the \*mining profit for each mining project interest the entity has in the \*MRRT year;
- (c) working out the \*pre-mining profit for each \*pre-mining project interest the entity \*holds in the MRRT year;
- (d) working out the amount of an \*allowance component relating to each mining project interest the entity has, and each pre-mining project interest the entity holds, in the MRRT year;
- (e) working out whether the entity may choose under Division 200 to use the simplified MRRT method for the MRRT year;
- (f) working out a \*rehabilitation tax offset amount for the entity for the MRRT year.

*Examples of an amount*

(4) The following are examples of an amount:

- (a) an amount of an expense;
- (b) an amount of an obligation;
- (c) an amount of a liability;
- (d) an amount of a receipt;
- (e) an amount of a payment;
- (f) an amount of consideration;
- (g) a value;
- (h) a monetary limit or other amount set out in this Act or any other law of the Commonwealth.

*Translation rule for first translation*

(5) An amount is to be translated into that applicable functional currency at the exchange rate that would be



applicable if the translation were being done for the purposes of Subdivision 960-D of the *Income Tax Assessment Act 1997*.

- (6) Subsections 185-10(4) and (5) apply in relation to a translation done under subsection (2) of this section in the same way those subsections apply in relation to a translation under section 185-10.

Note: Those subsections are about amounts that are elements in the calculation of other amounts.

*Second translation—into Australian currency*

- (7) Second:

- (a) the \*instalment income for an \*instalment quarter that is part of the \*MRRT year is to be translated into Australian currency; and
- (b) the \*mining profit for each mining project interest the \*entity has, and the \*pre-mining profit for each \*pre-mining project interest the entity \*holds in the MRRT year is to be translated into Australian currency; and
- (c) to the extent that an \*allowance component is applied in working out an \*MRRT allowance for a mining project interest or pre-mining project interest for an MRRT year, the allowance component is to be translated into Australian currency; and
- (d) each \*rehabilitation tax offset amount the entity has for the MRRT year is to be translated into Australian currency.

Note 1: There is no second translation for the simplified MRRT method because, if the miner chooses to use that method, it has no MRRT liability and all allowance components are extinguished: see section 200-5.

Note 2: Not all MRRT allowances apply to pre-mining project interests: see Division 140.

*Translation rule for second translation*

- (8) The \*instalment income, \*mining profit, \*pre-mining profit, applied \*allowance component or \*rehabilitation tax offset amount (as the case may be) is to be translated into Australian currency at the exchange rate that would be applicable if the translation were being done for the purposes of Subdivision 960-D of the *Income Tax Assessment Act 1997*.

## 185-20 Functional currency rules—Australian permanent establishments

(1) Despite section 185-10, if:

- (a) a choice under item 2 of the table in subsection 960-60(1) of the *Income Tax Assessment Act 1997* is in effect in relation to the \*entity in relation to an \*Australian permanent establishment for a period that includes an \*MRRT year; and
- (b) a mining project interest the entity has, or a \*pre-mining project interest the entity \*holds, predominantly relates to the activity or business carried on at or through the Australian permanent establishment;

section 185-15 applies, subject to this section, to the mining project interest or pre-mining project interest.

(2) For the purposes of applying section 185-15 to the mining project interest or \*pre-mining project interest, sections 185-15 and 185-25 apply as if:

- (a) the reference in subsection 185-15(2) to the \*entity's applicable functional currency (and any later references to that currency), were instead references to the applicable functional currency of the \*Australian permanent establishment; and
- (b) the purpose mentioned in paragraph 185-15(3)(a) were instead the purpose of working out so much of the \*instalment income mentioned in that paragraph as arises from the mining project interest or pre-mining project interest; and
- (c) the references in subsection 185-15(8) and item 1 of the table in subsection 185-25(1) to the \*instalment income were instead references to the amount worked out having regard to paragraph (b).

## 185-25 Special translation rules

(1) If:

- (a) because of this Division, an amount is to be translated at the exchange rate that would be applicable if the translation were being done for the purposes of Subdivision 960-C or 960-D of the

*Income Tax Assessment Act 1997; and*

(b) an item in the table applies to the circumstances of the translation;

the amount is to be translated at the exchange rate so applicable on the day (the *exchange rate day*) mentioned in that item in the table.

| <b>Exchange rate days</b> |                                                                                                                                                                                                                                                                           |                                                                         |
|---------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------|
| <b>Item</b>               | <b>In these circumstances ...</b>                                                                                                                                                                                                                                         | <b>the <i>exchange rate day</i> is</b>                                  |
| 1                         | the amount is an amount of *instalment income for an *instalment quarter in an *MRRT year                                                                                                                                                                                 | the last day of the instalment quarter                                  |
| 2                         | the amount is an amount of:<br>(a) *mining profit for a mining project interest the *entity has in the *MRRT year; or<br>(b) *pre-mining profit for a *pre-mining project interest the entity *holds in the MRRT year                                                     | the last day of the MRRT year                                           |
| 3                         | the amount is an applied *allowance component that is to be translated because of paragraph 185-15(7)(c) (the second translation for functional currency)                                                                                                                 | the last day of the *MRRT year to which the allowance component relates |
| 4                         | an *entity is required to translate the amount in an *MRRT year (the <i>current year</i> ) because:<br>(a) in the preceding MRRT year, the amount was taken into account under the *MRRT law in a particular currency; and<br>(b) in the current year the amount is to be | the first day of the current year                                       |

|   |                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                             |
|---|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
|   | taken into account in a different<br>currency                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                             |
| 5 | <p>an *entity is required to translate the amount in an *MRRT year because:</p> <p>(a) the amount relates to a mining project interest the entity has after a * mining project transfer or * mining project split; and</p> <p>(b) the entity takes the amount into account in a different currency to the currency in which the entity that had the interest before the transfer or split took the amount into account</p>               | <p>the day on which the mining project transfer or mining project split happens</p>         |
| 6 | <p>an *entity is required to translate the amount in an *MRRT year because:</p> <p>(a) the amount relates to a * pre-mining project interest the entity has after a * pre-mining project transfer or * pre-mining project split; and</p> <p>(b) the entity takes the amount into account in a different currency to the currency in which the entity that had the interest before the transfer or split took the amount into account</p> | <p>the day on which the pre-mining project transfer or pre-mining project split happens</p> |
| 7 | <p>the amount is an amount of an *entity's profit for an *MRRT year that is to be translated because of subsection 185-10(5) (simplified MRRT method)</p>                                                                                                                                                                                                                                                                                | <p>the last day of the MRRT year.</p>                                                       |

*Examples of amounts covered by table item 4*

*Examples of amounts covered by table item 1*

- (2) The following are examples of amounts covered by table item 4:
- (a) an amount of \*mining expenditure for an earlier \*MRRT year;
  - (b) the \*base value of a \*starting base asset for the preceding MRRT year;
  - (c) the decline in value of a starting base asset, worked out under section 90-5, for the preceding MRRT year;
  - (d) the amount of an \*allowance component for the preceding MRRT year;
  - (e) the amount of an allowance component that has been applied in working out, for the preceding MRRT year, an \*MRRT allowance.

*Special rule about translation—events that happened before the current choice took effect*

- (3) The table has effect if an \*entity is required to translate an amount in an \*MRRT year (the **current year**) because:
- (a) the amount is attributable to an event that happened, or a state of affairs that came into existence at a time (the **event time**) before the start of the current year; and
  - (b) the amount has not, before the start of the current year, been taken into account under the \*MRRT law in relation to a mining project interest or \*pre-mining project interest.

| Events before current choice took effect |                                                                                                                                                        |                                                                                                                                                                                                                                                |
|------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Item                                     | In this case ...                                                                                                                                       | this is the result ...                                                                                                                                                                                                                         |
| 1                                        | at the event time, no previous choice under subsection 960-60(1) of the <i>Income Tax Assessment Act 1997</i> was in effect in relation to the *entity | <p>the amount is to be translated:</p> <p>(a) first, to Australian currency at the exchange rate applicable at the event time; and</p> <p>(b) then, if necessary, into the currency in which it is to be taken into account in the current</p> |

Minerals Resource Rent Tax Act 2012  
year at the exchange rate  
applicable at the start of the  
current year.

|   |                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|---|-------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2 | at the event time, a previous choice under subsection 960-60(1) of the <i>Income Tax Assessment Act 1997</i> was in effect in relation to the *entity | <p>the amount is to be translated:</p> <p>(a) first, into the currency that, under section 960-70 of the <i>Income Tax Assessment Act 1997</i>, is the entity’s previous applicable functional currency, at the exchange rate applicable at the event time; and</p> <p>(b) then, if necessary, into the currency in which it is to be taken into account in the current year at the exchange rate applicable at the start of the current year.</p> |
|---|-------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

*Examples of amounts covered by subsection (3)*

- (4) The following are examples of amounts covered by subsection (3):
- (a) the initial book value of a \*starting base asset under subsection 90-25(3);
  - (b) an amount of \*interim expenditure incurred in relation to a starting base asset.

**Division 190—Substituted accounting periods**

**Guide to Division 190**

## 190-1 What this Division is about

If a miner has, for income tax purposes, accounting periods that are not financial years, those periods are also MRRT years. However, this principle is modified to deal with overlaps and gaps caused by changes to a miner's accounting periods.

Note: This Division modifies the general rule under section 10-25 that the MRRT years are financial years.

### Table of sections

#### Operative provisions

- 190-5 Object of this Division
- 190-10 Accounting periods recognised for income tax purposes
- 190-15 Changes in accounting periods
- 190-20 The effect of transitional accounting periods on threshold amounts
- 190-25 The effect of transitional accounting periods on uplift factors

### Operative provisions

#### 190-5 Object of this Division

The object of this Division is to have miners account for MRRT over broadly the same periods as they account for income tax.

#### 190-10 Accounting periods recognised for income tax purposes

Despite section 10-25, if a miner has, under section 18 of the *Income Tax Assessment Act 1936*, accounting periods that are not \*financial years, any such accounting period starting after 1 July 2012 is an **MRRT year**.

#### 190-15 Changes in accounting periods

- (1) Despite sections 10-25 and 190-10, if a miner's accounting period changes for the purposes of the \*income tax law (including by adopting an accounting period in place of \*financial years or by ceasing to adopt such an accounting period), either or both of the following may be affected by this section:
- (a) the accounting period that would (apart from this section) be the \*MRRT year (the *old accounting period*) corresponding to the last \*income year in effect before the change;
  - (b) the accounting period that would (apart from this section) be the MRRT year (the *new accounting period*) corresponding to the first income year in effect after the change.

Note: For accounting periods for income tax purposes, see sections 18 of the *Income Tax Assessment Act 1936*.

*Old and new accounting periods ending in the same balancing period*

- (2) If the old accounting period and the new accounting period both end in the same 12 month period between 1 December in a year and 30 November in the next year (a *balancing period*), the period between the start of the old accounting period and the end of the new accounting period is a single *MRRT year*.

Example: A miner changes accounting periods from an accounting period ending on 31 March 2014 to an accounting period ending on 31 October 2014.

Because both periods end in the same balancing period, the 19 month period between 1 April 2013 and 31 October 2014 is a single MRRT year.

*Old and new accounting periods ending in different balancing periods*

- (3) If:
- (a) the old accounting period and the new accounting period do not end in the same balancing period; and
  - (b) the old accounting period ends after what would (apart from this section) be the start of the new accounting period;
- so much of the new accounting period as occurs after the end of the old accounting period constitutes a separate *MRRT year*.

Example: A miner changes accounting periods from an accounting period ending on 30 September 2016 to an accounting period ending on 31 March 2017.



Because the periods do not end in the same balancing period, and because the periods overlap, the 6 month period between 1 October 2016 and 31 March 2017 is a separate MRRT year. (The MRRT year corresponding to the old accounting period is unchanged.)

(4) If:

- (a) the old accounting period and the new accounting period do not end in the same balancing period; and
- (b) there is a gap between the end of the old accounting period and the start of the new accounting period;

the gap constitutes a separate *MRRT year*.

Example: A miner changes accounting periods from an accounting period ending on 30 November 2017 to an accounting period ending on 31 January 2019.

Because the periods do not end in the same balancing period, and because there is a gap between the periods, the 2 month period between 1 December 2017 and 31 January 2018 is a separate MRRT year. (The MRRT years corresponding to the old accounting period and the new accounting period are unchanged.)

## 190-20 The effect of transitional accounting periods on threshold amounts

- (1) For the purpose of working out, in relation to an \*MRRT year that is not a 12 month period (a *transitional accounting period*), a component used in working out an amount mentioned in the table, the component is adjusted by multiplying it by:

**365**

**Number of days in the transitional accounting period**

| Threshold amounts |                                                  |                        |
|-------------------|--------------------------------------------------|------------------------|
| Item              | Amount                                           | See:                   |
| 1                 | a miner's group mining profit                    | subsection 45-5(1)     |
| 2                 | a miner's group MRRT allowances                  | subsection 45-10(1)    |
| 3                 | a miner's share of group mining profit           | subsection 45-10(1)    |
| 4                 | a miner's group production of *taxable resources | paragraph 175-15(1)(a) |
| 5                 | an *entity's profit                              | section 200-15         |

Example: A miner with a mining profit of \$45 million for a transitional accounting period of 120 days will not have a low profit offset under section 45-5 or 45-10, because that profit is adjusted by multiplying it by 365/120, making the profit \$136.88 million.

- (2) In addition to subsection (1), the amount of a miner's offset under subsection 45-10(1) in relation to a transitional accounting period is:

$$\text{Unadjusted offset} \times \frac{\text{Number of days in the transitional accounting period}}{365}$$

where:

*unadjusted offset* is what would be the amount of the offset under subsection 45-10(1) if this subsection did not apply.

Example: A miner has a mining profit of \$30 million, and MRRT allowances of \$5 million, for a transitional accounting period of 120 days. The miner has no connected entities, or affiliates, that are miners.

Under subsection (1), the mining profit is adjusted to \$91.25 million, and the MRRT allowances are adjusted to \$15.2 million. Under subsection 45-10(1), the amount of the miner's offset would be \$6.26 million (which would exceed the miner's MRRT liability of \$5.63 million, so MRRT would not be payable).

However, under subsection (2) of this section, that amount is multiplied by 120/365, making the offset \$2.06 million (which would reduce the miner's MRRT liability to \$3.57 million).

- (3) For the purposes of working out whether a mining project interest is covered by subsection 200-10(3) in relation to a transitional accounting period, the sums of amounts referred to in paragraphs 200-10(3)(a) and (b) are adjusted by multiplying them by:

$$\frac{365}{\text{Number of days in the transitional accounting period}}$$

## 190-25 The effect of transitional accounting periods on uplift factors

For the purpose of working out an \*allowance component or a \*base value for an \*MRRT year immediately following a transitional accounting period, a component of a formula for working out the allowance component or base value that is an uplift factor is taken to be:

**Initial uplift factor**

where:

*initial uplift factor* is what the uplift factor would be apart from this section.

$n$  is the number of days in the transitional accounting period, divided by 365.

Note: There are uplift factors for the following:

- (a) royalty credits (section 60-25);
- (b) pre-mining losses (section 70-50);
- (c) mining losses (section 75-20);
- (d) starting base losses (section 80-45);
- (e) base values for starting base assets under the book value approach (section 90-30).

## Division 195—Non-cash benefits

### Guide to Division 195

#### 195-1 What this Division is about

If an entity gives and receives non-cash benefits under an arrangement (a barter transaction), the entity is taken to have:

- (a) received an amount for the non-cash benefits it gives; and
- (b) applied that amount to acquire the non-cash benefits it receives.

The amount is the market value of the benefits the entity receives.

If an entity receives or gives a non-cash benefit for nothing (a gift transaction), the entity is taken to have received or paid an amount equal to the market value of the benefit, and to have paid or received that amount for the benefit.

#### Table of sections

##### Operative provisions

195-5 Object of this Division

195-10 Barter transactions

195-15 Gift transactions

## Operative provisions

### 195-5 Object of this Division

The object of this Division is to ensure this Act treats transactions for consideration in kind in the same way as transactions for consideration in cash.

### 195-10 Barter transactions

- (1) This section applies, if:
  - (a) under an \*arrangement, an \*entity gives consideration of the following kind (*non-cash consideration*):
    - (i) a \*non-cash benefit;
    - (ii) a promise to pay money, other than a promise to pay money within 12 months; and
  - (b) under the same arrangement, the entity receives non-cash consideration.
- (2) For the purposes of this Act, when the \*entity gives the non-cash consideration, the entity is taken to receive an amount (the *received amount*), for that consideration and any amount the entity actually gives under the \*arrangement, equal to the sum of:
  - (a) the \*market value of the non-cash consideration the entity receives; and
  - (b) any amount the entity actually receives under the arrangement.
- (3) For the purposes of this Act, when the \*entity receives the non-cash consideration, the entity is taken to pay the received amount for that consideration and any amount the entity actually receives under the arrangement.
- (4) To avoid doubt, for the purposes of subsection (2) or (3), an amount the \*entity actually gives or receives

under the arrangement does not include an amount to which subparagraph (1)(a)(ii) applies.

## 195-15 Gift transactions

- (1) For the purposes of this Act, if:
  - (a) an \*entity receives a \*non-cash benefit from another entity; and
  - (b) the entity makes no payment, and gives no non-cash benefit, to any entity at any time for the non-cash benefit the entity receives;

the entity is taken, at the time the entity receives the benefit, to receive an amount equal to the \*market value of the benefit and to pay the same amount for the benefit.
- (2) For the purposes of this Act, if:
  - (a) an \*entity gives a \*non-cash benefit to another entity; and
  - (b) the entity receives no payment, and receives no non-cash benefit, from any entity at any time for the non-cash benefit the entity gives;

the entity is taken, at the time the entity gives the benefit, to pay an amount equal to the \*market value of the benefit and to receive the same amount for the benefit.

## Division 200—Simplified MRRT method

### Guide to Division 200

#### 200-1 What this Division is about

A miner can choose to use the simplified MRRT method for an MRRT year if the miner's group profit is below certain limits.

If the miner chooses to use the method, the miner has no MRRT liabilities for the year, and any allowance components for a mining project interest or a pre-mining project interest cease to exist

## Table of sections

### Operative provisions

- 200-5 Effect of the simplified MRRT method
- 200-10 Choosing to use the simplified MRRT method
- 200-15 Working out an entity's profit for simplified MRRT method purposes

## Operative provisions

### 200-5 Effect of the simplified MRRT method

If a miner chooses, for an \*MRRT year, to use the simplified MRRT method:

- (a) the miner's \*MRRT liability for each mining project interest the miner has for the year is zero; and
- (b) all \*allowance components that relate to a mining project interest the miner has, or a \*pre-mining project interest the miner \*holds, are extinguished; and
- (c) each mining project interest that:
  - (i) the miner has during the year; or
  - (ii) \*originates from a pre-mining project interest the miner held during the year;
 is taken, despite section 80-20, to have no \*starting base loss for any later MRRT year.

### 200-10 Choosing to use the simplified MRRT method

- (1) A miner may choose to use the simplified MRRT method for an \*MRRT year if the sum (the miner's ***group profit***) of each of the following \*entities' profit worked out under section 200-15 for that year is less than \$75 million:
  - (a) the miner;
  - (b) an entity \*connected with the miner;

- (c) an "affiliate of the miner;
- (d) an entity of which the miner is an affiliate;
- (e) an affiliate of an entity covered by paragraph (b);
- (f) an entity connected with an entity covered by paragraph (b), (c) or (d).

Note: Division 119 in Schedule 1 to the *Taxation Administration Act 1953* is about choices under the MRRT law.

- (2) A miner may also choose to use the simplified MRRT method for an \*MRRT year if:
  - (a) the miner's group profit for that year is less than \$250 million; and
  - (b) none of the \*entities mentioned in subsection (1) has a mining project interest covered by subsection (3) for the year.
- (3) A mining project interest is covered by this subsection for an \*MRRT year if the difference between:
  - (a) the sum of the amounts mentioned in paragraph 60-25(1)(a) for that interest for that year; and
  - (b) the sum of any amounts received or receivable in that year as mentioned in subsection 60-30(1) in relation to the amounts mentioned in that paragraph;
 is less than 25% of the amount of the \*entity's profit (worked out under section 200-15) for that year that relates to that interest.

Note: Paragraph 60-25(1)(a) is about liabilities that give rise to royalty credits. These amounts are not the same as the royalty credits, which are grossed up under paragraph 60-25(1)(b).

- (4) The choice must be given to the Commissioner.

Note: Division 119 in Schedule 1 to the *Taxation Administration Act 1953* requires the choice to be in the approved form.

## **200-15 Working out an entity's profit for simplified MRRT method purposes**

- (1) To work out an \*entity's profit under this section for an \*MRRT year, work out the entity's profit in accordance with \*accounting principles.
 

Note: If the MRRT year is not a 12-month period, the entity's profit is affected by section 190-20 (substituted accounting periods).
- (2) However, disregard an amount that would otherwise form part of the \*entity's profit under subsection (1) to the extent that it is one or more of the following:

- (a) any interest expenses;
- (b) any taxation expenses;
- (c) any earnings or expenses that do not relate, directly or indirectly, to a \*mining revenue event;
- (d) any expenses that give rise to a \*royalty credit the entity has for the year;
- (e) any expenses that give rise to a \*private mining royalty the entity has for the year;
- (f) any exceptional earnings or expenses.

Example: For the 2014-15 MRRT year, MinerCo has earnings of \$200 million and expenses of \$150 million, giving a profit of \$50 million. However, MinerCo has earnings of \$51 million that do not relate to a mining revenue event and the following expenses:

- (a) interest expenses of \$20 million;
- (b) taxation expenses of \$20 million;
- (c) expenses that do not relate to a mining revenue event of \$10 million;
- (d) mining royalties of \$20 million;
- (e) private mining royalties of \$10 million.

Disregarding these earnings and expenses for the purposes of subsection (2), MinerCo's adjusted earnings are \$149 million (\$200 million - \$51 million) and its adjusted expenses are \$70 million (\$150 million - sum of the expenses in paragraphs (a) to (e)). MinerCo's profit under this section for the year is \$79 million (\$149 million - \$70 million).

- (3) The amount of profit that relates to a mining project interest the \*entity has for the year is so much of the entity's profit for the year as is reasonably attributable to that interest.

## Part 4-6—Integrity measures

### Division 205—Anti-profit shifting

#### Guide to Division 205

##### 205-1 What this Division is about

A miner's liability to pay MRRT must not be smaller than what that liability would be if the conditions operating between the miner and other entities in their commercial or financial relations



were consistent with conditions that operate in comparable circumstances between parties dealing wholly independently with one another.

## Table of sections

### Operative provisions

|        |                                                                              |
|--------|------------------------------------------------------------------------------|
| 205-5  | Object of Division                                                           |
| 205-10 | Amounts to reflect independent dealings                                      |
| 205-15 | Method to be used when determining amounts for the purposes of this Division |
| 205-20 | Commissioner may compensate entity or another entity                         |
| 205-25 | Commissioner determinations                                                  |

## Operative provisions

### 205-5 Object of Division

The object of this Division is to ensure that dealings that do not fully reflect those that would be expected between independent parties do not inappropriately reduce MRRT an entity is liable to pay.

### 205-10 Amounts to reflect independent dealings

- (1) This section applies in relation to a mining project interest a miner has, or a \*pre-mining project interest an \*entity \*holds, for an \*MRRT year if:
  - (a) conditions operate between the miner or entity and one or more other entities in their commercial or financial relations that relate to things done, or to be done, in relation to the mining project interest or pre-mining project interest; and
  - (b) those conditions are different from the conditions (the *independent conditions*) that operate in comparable circumstances between independent entities dealing wholly independently with one another; and
  - (c) if the independent conditions had instead operated, one or more of the following would, or could

reasonably be expected to, apply:

- (i) the \*mining profit (if any) for the mining project interest for the year or the \*pre-mining profit (if any) for the pre-mining project interest for the year would be larger, or could reasonably be expected to be, larger;
- (ii) the \*allowance components (if any) for the mining project interest or pre-mining project interest for the year would be smaller, or could reasonably be expected to be, smaller;
- (iii) an offset under Division 45 (low profit offsets) or Division 225 (rehabilitation tax offsets) the miner or entity has for the year would be smaller, or could reasonably be expected to be, smaller.

(2) For the purposes of paragraph (1)(b):

- (a) circumstances mentioned in that paragraph are comparable if, to the extent that they materially affect the independent conditions, they are the same as the circumstances of the miner or \*entity and one or more other entities mentioned in paragraph (1)(a); and
- (b) conditions mentioned in that paragraph are different from the independent conditions if a condition exists that is not one of the independent conditions or if a condition does not exist that is one of the independent conditions.

(3) The \*MRRT law has effect as if:

- (a) the amounts to which paragraph (1)(c) applies; and
- (b) any amounts that are elements in the calculation of those amounts;

were the amounts that would be, or could reasonably be expected to be, those amounts if the independent conditions had instead operated.

## **205-15 Method to be used when determining amounts for the purposes of this Division**

- (1) For the purposes of this Division, in working out what an amount would have been, or could reasonably be expected to have been, if the independent conditions had instead operated, use the method that, having regard to:

- (a) the circumstances of the miner or \*entity and one or more other entities mentioned in paragraph 205-10(1)(a), including the functions performed, assets used and risks borne by the miner or entity and each other entity in their commercial or financial relations; and
- (b) the extent to which the method can reliably adjust for any differences between those circumstances and the circumstances mentioned in paragraph 205-10(1)(b); and
- (c) the availability of reliable information required to apply a particular method; and
- (d) the \*transfer pricing guidelines;

produces the most appropriate and reliable measure of what the amount would have been.

(2) The following are the *transfer pricing guidelines*:

- (a) unless paragraph (b) applies—the document entitled “Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations” and published by the Organisation for Economic Cooperation and Development on 18 August 2010;
- (b) if the Commissioner determines, by legislative instrument, a later publication of that document to be a transfer pricing guideline for the purposes of this subsection—that later publication;
- (c) any other document, or part of any other document, published by that organisation that the Commissioner determines, by legislative instrument, to be a transfer pricing guideline for the purposes of this subsection.

(3) A determination under paragraph (2)(b) or (2)(c) may specify the time from which the document, or part of the document, is to be taken to be a \*transfer pricing guideline for the purposes of that paragraph.

## **205-20 Commissioner may compensate entity or another entity**

(1) The Commissioner may make a determination under section 205-25 if:

- (a) section 205-10 applies in relation to a mining project interest a miner has, or a \*pre-mining project interest an \*entity \*holds, for an \*MRRT year; and
- (b) the Commissioner considers that if the independent conditions mentioned in that section had instead operated, one or more of the following would, or could reasonably be expected to, apply:

- (1) the "mining profit (if any) for the mining project interest or the "pre-mining profit (if any) for the pre-mining project interest for another MRRT year would be smaller, or could reasonably be expected to be smaller;
  - (ii) an \*allowance component (if any) for the mining project interest or pre-mining project interest for another MRRT year would be larger, or could reasonably be expected to be larger;
  - (iii) an offset under Division 45 (low profit offsets) or Division 225 (rehabilitation tax offsets) the miner or entity has for another MRRT year would be larger, or could reasonably be expected to be larger; and
  - (c) the Commissioner considers that it is fair and reasonable that the amounts to which paragraph (b) applies be adjusted to be the amounts that would be, or could reasonably be expected to be, those amounts if the independent conditions had instead operated.
- (2) The Commissioner may also make a determination under section 205-25 if:
- (a) section 205-10 applies in relation to a mining project interest a miner has, or a \*pre-mining project interest an \*entity \*holds, for an \*MRRT year; and
  - (b) the Commissioner considers that if the independent conditions mentioned in that section had instead operated, one or more of the following would, or could reasonably be expected to, apply in relation to another entity mentioned in paragraph 205-10(1)(a):
    - (i) the \*mining profit (if any) for a mining project interest, or the \*pre-mining profit (if any) for a pre-mining project interest, the other entity has or holds, for an MRRT year, would be smaller, or could reasonably be expected to be smaller;
    - (ii) an \*allowance component (if any) for a mining project interest or pre-mining project interest the other entity has or holds for an MRRT year would be larger, or could reasonably be expected to be larger;
    - (iii) an offset under Division 45 (low profit offsets) or Division 225 (rehabilitation tax offsets) the other entity has for an MRRT year would be larger, or could reasonably be expected to be larger; and

- (c) the Commissioner considers that it is fair and reasonable that the amounts to which paragraph (b) applies be adjusted to be the amounts that would be, or could reasonably be expected to be, those amounts if the independent conditions had instead operated.

## **205-25 Commissioner determinations**

- (1) For the purposes of adjusting an amount mentioned in paragraph 205-20(1)(c) or (2)(c), the Commissioner may make a determination stating any of the following:
  - (a) the amount that, under the \*MRRT law, is (and has been at all times) an \*entity's \*mining profit for a mining project interest, or the entity's \*pre-mining profit for a \*pre-mining project interest for an \*MRRT year that has ended;
  - (b) the amount that, under the MRRT law, is (and has been at all times) an \*allowance component for a mining project interest or pre-mining project interest for an MRRT year that has ended;
  - (c) one or more of the following amounts that, under the MRRT law, is (and has been at all times) the amount an entity has for an MRRT year that has ended:
    - (i) an offset under Division 45 (low profit offsets);
    - (ii) an offset under Division 225 (rehabilitation tax offsets);
  - (d) in relation to an amount that is an element in the calculation of amounts to which paragraph (a), (b) or (c) apply—the amount that, under the MRRT law, is (and has been at all times) that amount for an MRRT year that has ended.
- (2) An \*entity may give the Commissioner a written request to make a determination under this section relating to the entity. The Commissioner must decide whether or not to grant the request, and give the entity notice of the Commissioner's decision.
- (3) The Commissioner may take such action as the Commissioner considers necessary to give effect to the determination.
- (4) The Commissioner must give a copy of a determination under this section to the \*entity whose \*mining profit, \*pre-mining profit, \*allowance components or offsets is stated in the determination.

- (5) A failure to comply with subsection (4) does not affect the validity of the determination.
- (6) To avoid doubt, statements relating to different \*MRRT years and different \*mining profits, \*pre-mining profits, \*allowance components and offsets may be included in a single determination under this section.
- (7) If an \*entity is dissatisfied with the Commissioner's decision not to grant a request by the entity under subsection (2), the entity may object, in the manner set out in Part IVC of the *Taxation Administration Act 1953*, against that decision.

## Division 210—Anti-avoidance

### Table of Subdivisions

Guide to Division 210

210-A Application of this Division

210-B Commissioner may negate effects of schemes for MRRT benefits

### Guide to Division 210

#### 210-1 What this Division is about

This Division applies to deter schemes that give entities MRRT benefits by reducing MRRT liabilities or increasing offsets the entity has under this Act.

The Division applies if an entity gets an MRRT benefit from a scheme, and the sole or dominant purpose of that entity or another entity entering into the scheme was to give that entity or another entity an MRRT benefit (or an MRRT benefit and one or more other taxation benefits).

The Commissioner may negate the MRRT benefit an entity gets from the scheme by making a

determination.

## Subdivision 210-A—Application of this Division

### Table of sections

|        |                                                        |
|--------|--------------------------------------------------------|
| 210-5  | Object of this Division                                |
| 210-10 | When does this Division apply?                         |
| 210-15 | When does an entity get an MRRT benefit from a scheme? |
| 210-20 | Matters to be considered in determining purpose        |

### 210-5 Object of this Division

The object of this Division is to deter \*schemes to give \*entities benefits that:

- (a) reduce \*MRRT liabilities; or
- (b) increase offsets under Division 45 (low profit offsets) or Division 225 (rehabilitation tax offsets).

### 210-10 When does this Division apply?

#### *General rule*

- (1) This Division applies if:
  - (a) an \*entity gets or got an \*MRRT benefit from a \*scheme; and
  - (b) the MRRT benefit is not attributable to the making, by any entity, of a choice (however described) expressly provided for by a \*taxation law (other than a choice under Subdivision 960-D of the *Income Tax Assessment Act 1997*); and
  - (c) taking account of the matters described in section 210-20, it is reasonable to conclude that an entity that (whether alone or with others) entered into or carried out the scheme, or part of the scheme, did so with the sole or dominant purpose of that entity or another entity:
    - (i) getting an MRRT benefit from the scheme; or
    - (ii) both getting an MRRT benefit from the scheme and reducing one or more of its liabilities to

which subsection (5) applies; and

(d) the scheme:

- (i) has been or is entered into on or after 2 May 2010; or
- (ii) has been or is carried out or commenced on or after that day (other than a scheme that was entered into before that day).

- (2) It does not matter whether the \*scheme, or any part of the scheme, was entered into or carried out inside or outside Australia.
- (3) An \*MRRT benefit that the \*entity gets or got from a \*scheme is not taken, for the purposes of paragraph (1)(b), to be attributable to a choice of a kind referred to in that paragraph if:
  - (a) the scheme, or part of the scheme, was entered into or carried out for the purpose of creating a circumstance or state of affairs; and
  - (b) the existence of the circumstance or state of affairs is necessary to enable the choice to be made.

*Operation of this Division not limited*

- (4) The operation of this Division is not limited by:
  - (a) the \*MRRT law (apart from this Division); or
  - (b) the *International Tax Agreements Act 1953*.

*Other liabilities*

- (5) This subsection applies to any of the following liabilities:
  - (a) tax under an \*Australian law (other than the \*MRRT law);
  - (b) tax under a \*foreign law;
  - (c) a \*mining royalty.

## **210-15 When does an entity get an MRRT benefit from a scheme?**



- (1) An \*entity gets an **MRRT benefit** from a \*scheme, if:
  - (a) an \*MRRT liability of the entity for a mining project interest for an \*MRRT year under the \*MRRT law apart from this Division is, or could reasonably be expected to be, smaller than it would be apart from the scheme; or
  - (b) the entity has an offset under Division 45 (low profit offsets) or Division 225 (rehabilitation tax offsets), and the entity would not have had, or could not reasonably be expected to have had, the whole or a part of that offset apart from the scheme.
- (2) To avoid doubt, a smaller \*MRRT liability mentioned in paragraph (1)(a) includes a case where the MRRT liability is zero, or there is no MRRT liability for the \*MRRT year.

## **210-20 Matters to be considered in determining purpose**

The following matters are to be taken into account under section 210-10 in considering an \*entity's purpose in entering into or carrying out the \*scheme, or part of the scheme:

- (a) the manner in which the scheme was entered into or carried out;
- (b) the form and substance of the scheme;
- (c) the time at which the scheme was entered into and the length of the period during which the scheme was carried out;
- (d) the effect that the \*MRRT law would have in relation to the scheme apart from this Division;
- (e) any change in the financial position of the entity that has resulted, or may reasonably be expected to result, from the scheme;
- (f) any change that has resulted, or may reasonably be expected to result, from the scheme in the financial position of an entity that has or had a connection or dealing with the entity, whether the connection or dealing is or was of a family, business or other nature;
- (g) any other consequence for the entity, or an entity of a kind mentioned in paragraph (f), of the scheme having been entered into or carried out;
- (h) the nature of the connection (whether of a business, family or other nature) between the entity and such an entity.

## **Subdivision 210-B—Commissioner may negate effects of schemes for MRRT benefits**

### **Table of sections**

|        |                                                                 |
|--------|-----------------------------------------------------------------|
| 210-25 | Commissioner may negate entity's MRRT benefits                  |
| 210-30 | Commissioner may compensate entity or another entity            |
| 210-35 | One determination may cover several MRRT years etc.             |
| 210-40 | Commissioner must give copy of determination to entity affected |

### **210-25 Commissioner may negate entity's MRRT benefits**

- (1) For the purpose of negating an \*MRRT benefit the \*entity gets or got from the \*scheme, the Commissioner may make a determination stating any of the following:
  - (a) the amount that, under the \*MRRT law, is (and has been at all times) the entity's \*MRRT liability for a mining project interest for an \*MRRT year that has ended;
  - (b) one or more of the following amounts that, under the MRRT law, is (and has been at all times) the amount the entity has for an MRRT year that has ended:
    - (i) an offset under Division 45 (low profit offsets);
    - (ii) an offset under Division 225 (rehabilitation tax offsets).
- (2) The Commissioner may take such action as the Commissioner considers necessary to give effect to the determination.

### **210-30 Commissioner may compensate entity or another entity**

- (1) This section applies if:
  - (a) the Commissioner has made a determination under section 210-25 to negate the \*MRRT benefit an \*entity gets or got from the \*scheme; and
  - (b) the Commissioner considers that the entity or another entity gets or got an \*MRRT disadvantage

from the scheme; and

- (c) the Commissioner considers that it is fair and reasonable that the entity or other entity's MRRT disadvantage be negated or reduced.

(2) An \*entity gets an **MRRT disadvantage** from a \*scheme if:

- (a) an \*MRRT liability of the entity for a mining project interest for an \*MRRT year under the \*MRRT law (apart from this Division) is, or could reasonably be expected to be, larger than it would be apart from the scheme; or
- (b) one or more of the following amounts the entity has for an MRRT year under the MRRT law (apart from this Division) is, or could reasonably be expected to be, smaller than it would be apart from the scheme:
  - (i) an offset under Division 45 (low profit offsets);
  - (ii) an offset under Division 225 (rehabilitation tax offsets).

(3) For the purposes of negating or reducing the \*entity's or other entity's \*MRRT disadvantage from the \*scheme, the Commissioner may make a determination stating any of the following:

- (a) the amount that, under the \*MRRT law, is (and has been at all times) the entity's or other entity's \*MRRT liability for a mining project interest for an \*MRRT year that has ended;
- (b) one or more of the following amounts that, under the MRRT law, is (and has been at all times) the amount the entity has for an MRRT year that has ended:
  - (i) an offset under Division 45 (low profit offsets);
  - (ii) an offset under Division 225 (rehabilitation tax offsets).

(4) An \*entity may give the Commissioner a written request to make a determination under this section relating to the entity. The Commissioner must decide whether or not to grant the request, and give the entity notice of the Commissioner's decision.

(5) If the \*entity is dissatisfied with the Commissioner's decision not to grant the request the entity may object, in the manner set out in Part IVC of the *Taxation Administration Act 1953*, against that decision.

- (6) The Commissioner may take such action as the Commissioner considers necessary to give effect to the determination.

### **210-35 One determination may cover several MRRT years etc.**

To avoid doubt, statements relating to different \*MRRT years and different \*MRRT benefits or \*MRRT disadvantages may be included in a single determination under this Subdivision.

### **210-40 Commissioner must give copy of determination to entity affected**

- (1) The Commissioner must give a copy of a determination under this Subdivision to the \*entity whose \*MRRT liability or offset amount is stated in the determination.
- (2) A failure to comply with subsection (1) does not affect the validity of the determination.

## **Part 4-7—Entities**

### **Division 215—Consolidated groups**

#### **Guide to Division 215**

#### **215-1 What this Division is about**

Consolidated groups and MEC groups (groups of entities that are treated as single entities for income tax purposes) can choose to consolidate for MRRT purposes.

Following a choice to consolidate, subsidiary members are treated as part of the head company of the group for certain purposes, such as calculating MRRT payable.

Mining project interests that a subsidiary member brings to the group on joining are treated as having

been transferred to the head company.

Mining project interests that a subsidiary member takes with it on leaving are treated as having been transferred from the head company to the member.

## Table of Sections

### Operative provisions

|        |                                                                                 |
|--------|---------------------------------------------------------------------------------|
| 215-5  | Objects of this Division                                                        |
| 215-10 | Choice to consolidate for MRRT purposes                                         |
| 215-15 | Single entity rule                                                              |
| 215-20 | Project interests transferred to head company etc. on joining                   |
| 215-25 | Project interests transferred to leaving entity on leaving                      |
| 215-30 | Mining project interests etc. split to leaving entity on leaving                |
| 215-35 | Acquisition of consolidated group by another consolidated group etc.            |
| 215-40 | Instalment rates for leaving entity or new head company                         |
| 215-45 | Effect of choice to continue group after shelf company becomes new head company |
| 215-50 | Effect of change of head company or provisional head company of a MEC group     |
| 215-55 | Effect of group conversions involving MEC groups                                |

## Operative provisions

### 215-5 Objects of this Division

The objects of this Division are:

- (a) to reduce the cost of complying with this Act; and
- (b) to improve business efficiency by removing complexities and promoting simplicity in the taxation of wholly-owned groups.

### 215-10 Choice to consolidate for MRRT purposes

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

Note: Division 119 in Schedule 1 to the *Taxation Administration Act 1953* is about choices under the MRRT law.

- (2) However, subsection (1) does not apply if a notice has not been given to the Commissioner under section 703-58 or 719-76 of the *Income Tax Assessment Act 1997* in relation to the group.
- (3) The \*head company or the \*provisional head company must give the Commissioner notice of the choice in the \*approved form:
  - (a) within 21 days after making the choice; or
  - (b) within such further period as the Commissioner allows.
- (4) The choice:
  - (a) has effect on and after the day the choice is made; and
  - (b) does not have effect after the \*consolidated group or \*MEC group ceases to exist.

Note: Mining project interests the head company has just before a consolidated group or MEC group ceases to exist would be transferred or split (as the case requires) to the relevant entity at the time the group ceases to exist: see section 215-25 and 215-30.

## 215-15 Single entity rule

- (1) If an \*entity is a \*subsidiary member of the \*consolidated group or \*MEC group for any period in which the choice is in effect, it and any other subsidiary member of the group are taken for the purposes covered by subsection (2) to be parts of the \*head company or \*provisional head company of the group, rather than separate entities, during that period.

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

- (2) The purposes covered by this subsection are:
  - (a) working out the mining project interests or \*pre-mining project interests the \*head company or \*provisional head company, or the \*entity, has for any \*MRRT year in which any of the period

occurs or any later MRRT year;

- (b) working out any MRRT that is payable in relation to such an interest for any such MRRT year;
- (c) working out any allowance components arising in relation to such an interest for any such MRRT year;
- (d) working out the company's or the entity's \*instalment income for an \*instalment quarter that is part of any such MRRT year.

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

- (a) mining project interests that the subsidiary member of a consolidated group would otherwise start to have at a time after becoming a member of the group are mining project interests the head company has;
- (b) a supply of a taxable resource by a subsidiary member to the head company of a consolidated group would be disregarded and no amount would be included in the member's mining revenue in relation to the supply;
- (c) an amount paid by the head company for such a supply would be disregarded and no amount would be included in its mining expenditure for the supply;
- (d) MRRT liabilities that a subsidiary member has before becoming a member of the group (and any interest charges associated with such a liability) remain liabilities of the subsidiary member and not the head company.

## **215-20 Project interests transferred to head company etc. on joining**

If, because of the application of section 215-15, an \*entity is taken at a particular time to start being part of the \*head company or \*provisional head company of a group:

- (a) Division 120 applies as if each mining project interest the entity had just before that time had been transferred to the company under a \*mining project transfer; and
- (b) Division 145 applies as if each \*pre-mining project interest the entity \*held just before that time had been transferred to the company under a \*pre-mining project transfer.

## **215-25 Project interests transferred to leaving entity on leaving**

(1) If:

- (a) because of the application of section 215-15, an \*entity is taken at a particular time to stop being part of the \*head company or \*provisional head company of a group; and
- (b) the entitlement comprising a mining project interest the entity has just after that time is all of the entitlement comprising the mining project interest the company had just before that time;

DIVISION 120 applies as if each such mining project interest the entity has just after that time had been transferred from the company under a \*mining project transfer.

(2) If:

- (a) because of the application of section 215-15, an \*entity is taken at a particular time to stop being part of the \*head company or \*provisional head company of a group; and
- (b) a \*pre-mining project interest the entity \*holds just after that time is all of a pre-mining project interest the company held just before that time;

Division 145 applies as if each such pre-mining project interest the entity holds just after that time had been transferred from the company under a \*pre-mining project transfer.

### **215-30 Mining project interests etc. split to leaving entity on leaving**

(1) If:

- (a) because of the application of section 215-15, an \*entity is taken at a particular time to stop being part of the \*head company or \*provisional head company of a group; and
- (b) the entitlement comprising a mining project interest the entity has just after that time is part, but not all, of the entitlement comprising the mining project interest the company had just before that time;

Division 125 applies as if a \*mining project split had happened in relation to the interests.

(2) If:

- (a) because of the application of section 215-15, an \*entity is taken at a particular time to stop being part of the \*head company or \*provisional head company of a group; and
- (b) a \*pre-mining project interest the entity \*holds just after that time is part, but not all, of a pre-mining project interest the company held just before that time;

Division 150 applies as if a \*pre-mining project split had happened in relation to the interests.

### **215-35 Acquisition of consolidated group by another consolidated group etc.**



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

- (a) first apply section 215-25 or 215-30 (as the case requires) in relation to the member ceasing to be a member of the relinquishing group as if section 215-15 (the single entity rule) did not apply in relation to the member just after the acquisition time; and
- (b) then apply section 215-20 in relation to the member becoming a member of the acquiring group as if section 215-15 (the single entity rule) did not apply in relation to the member just before the acquisition time.

#### **215-40 Instalment rates for leaving entity or new head company**

If:

- (a) at a particular time an \*entity ceases to be a \*subsidiary member of the \*consolidated group or \*MEC group; and
- (b) the Commissioner has, before that time, given the \*head company or \*provisional head company of the group an instalment rate under section 115-75 in Schedule 1 to the *Taxation Administration Act 1953*;

for the purposes of applying Division 115 in that Schedule in relation to the entity at and after that time, the Commissioner is taken to have given the entity, under that section, the instalment rate that is the most recent instalment rate the Commissioner has given the head company or provisional head company of the group under that section before that time.

#### **215-45 Effect of choice to continue group after shelf company becomes new head company**

- (1) If a company (the *interposed company*) chooses under subsection 124-380(5) of the *Income Tax Assessment Act 1997* that a \*consolidated group is to continue in existence at and after the time referred to in that subsection as the completion time, for the purposes of the \*MRRT law:
  - (a) the group is taken not to have ceased to exist under subsection 703-5(2) of that Act because the

company referred to in subsection 124-380(5) of that Act as the original company ceases to be the \*head company of the group; and

- (b) the interposed company is taken to have become the head company of the consolidated group at the completion time; and
- (c) the original company is taken to have ceased to be the head company at that time.

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

- (2) For the purposes mentioned in subsection 215-15(2) in relation to an \*MRRT year ending after the completion time, everything that happened in relation to the original company before the completion time:
  - (a) is taken to have happened in relation to the interposed company instead of in relation to the original company; and
  - (b) is taken to have happened in relation to the interposed company instead of what would (apart from this section) be taken to have happened in relation to the interposed company before that time;
 just as if, at all times before the completion time, the interposed company had been the original company and the original company had been the interposed company.

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

## 215-50 Effect of change of head company or provisional head company of a MEC group

For the purposes mentioned in subsection 215-15(2) in relation to an \*MRRT year ending after the transition time:

- (a) if:
  - (i) a company (the *old head company*) is the \*head company of a \*MEC group at the end of an \*income year; and
  - (ii) a different company (the *new head company*) is the head company of the group at the start of the next income year (the *transition time*); or
- (b) if:

- (i) a company (also the *old head company*) is the \*provisional head company of a \*MEC group just before a \*cessation event happens to the company; and
- (ii) a different company (also the *new head company*) is the provisional head company of the group just after that cessation event (also the *transition time*);

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

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

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

## 215-55 Effect of group conversions involving MEC groups

- (1) This section applies if, at a particular time (the *conversion time*):
  - (a) a \*consolidated group (the *new group*) is \*created from a \*MEC group (the *old group*); or
  - (b) a MEC group (the *new group*) is created from a consolidated group (the *old group*).
- (2) For the purposes mentioned in subsection 215-15(2) in relation to an \*MRRT year ending after the conversion time:
  - (a) the new group is taken to be a continuation of the old group; and
  - (b) the old group is taken not to have ceased to exist for the purposes of subsection 215-10(4); and
  - (c) everything that happened in relation to the \*head company of the old group before the conversion time is taken instead to have happened in relation to:
    - (i) if the head company of the old group is the same entity as the head company of the new group—that entity in its role as head company of the new group; or
    - (ii) otherwise—the head company of the new group (just as if the head company of the new group had been the head company of the old group at all times before the conversion time).

## Division 220—Partnerships and unincorporated associations and bodies

### Guide to Division 220

#### 220-1 What this Division is about

This Division contains provisions about the application of the MRRT law to partnerships and unincorporated associations.

Note: Division 444 in Schedule 1 to the *Taxation Administration Act 1953* contains related provisions.

#### Table of sections

##### Operative provisions

220-5 Partnerships

220-10 Unincorporated associations and bodies

### Operative provisions

#### 220-5 Partnerships

For the avoidance of doubt, for the purposes of the \*MRRT law, any act, or any omission, of an \*entity (including any \*supply, exportation or use by the entity) in the capacity of a partner in a \*partnership is taken:

- (a) to be an act or omission of the partnership; and
- (b) not to be an act or omission of the partner or any other partner of the partnership.

Note: Section 444-30 in Schedule 1 to the *Taxation Administration Act 1953* deals with the liability of partners for the obligations imposed on a partnership under the MRRT law.

#### 220-10 Unincorporated associations and bodies

- (1) For the avoidance of doubt, for the purposes of the \*MRRT law, any act, or any omission, of an \*entity

(including any \*supply, exportation or use by the entity) in the capacity of a member of the committee of management of an unincorporated association or body of entities is taken:

- (a) to be an act or omission of the association or body; and
- (b) not to be an act or omission of any members of the association or body.

Note: Subdivision 444-A in Schedule 1 to the *Taxation Administration Act 1953* deals with the liability of members for the obligations imposed on an unincorporated association under the MRRT law.

(2) However, the \*MRRT law:

- (a) does not apply in relation to an unincorporated association, or body of entities, that is a joint venture; and
- (b) applies instead in relation to each \*entity that is a participant in that venture.

## Part 4-8—Miscellaneous

### Division 225—Rehabilitation tax offsets

#### Guide to Division 225

##### 225-1 What this Division is about

A rehabilitation tax offset can arise if upstream rehabilitation expenditure would not otherwise be taken into account in working out a liability for MRRT (because a mining project interest or pre-mining project interest is winding down or has ended).

#### Table of sections

##### Operative provisions

225-5 Object of this Division

225-10 Entitlement to rehabilitation tax offsets

225-15 Rehabilitation tax offset amounts relating to mining project interests

225-20 Rehabilitation tax offset amounts relating to pre-mining project interests

225-25 Application of rehabilitation tax offsets

## Operative provisions

### 225-5 Object of this Division

The object of this Division is to provide, in appropriate cases, for offsetting of upstream rehabilitation expenditure that cannot otherwise be applied against a \*mining profit or \*pre-mining profit.

### 225-10 Entitlement to rehabilitation tax offsets

- (1) An \*entity has a ***rehabilitation tax offset*** for an \*MRRT year if the entity has a \*rehabilitation tax offset amount, for the MRRT year, in relation to:
  - (a) any mining project interest that the entity has at the end of the MRRT year; or
  - (b) any \*pre-mining project interest that the entity \*holds at the end of the MRRT year.
- (2) However, subsection (1) does not apply if the \*entity is not, and has never been, liable to pay MRRT, for the \*MRRT year or any earlier MRRT year.
- (3) The amount of the ***rehabilitation tax offset*** for the \*MRRT year is the lesser of:
  - (a) the sum of all the rehabilitation tax offset amounts that the \*entity has for the year; and
  - (b) the sum of:
    - (i) all the amounts of MRRT that the entity is or has been liable to pay for all earlier MRRT years, less all the amounts that became payable to the miner under paragraph 225-25(2)(b) for all earlier MRRT years; and
    - (ii) all the entity's \*MRRT liabilities for the MRRT year, less any offset that the entity has under section 45-5 or 45-10 (low profit offsets) for the MRRT year.

- (4) For the purposes of subsection (2) or paragraph (3)(b), disregard an \*entity's liability to pay MRRT if one or more of the following applies:
- (a) the liability arose, under Division 721 of the *Income Tax Assessment Act 1997*, in the entity's capacity as a \*subsidiary member of a \*consolidated group or a \*MEC group;
  - (b) the liability arose, under section 444-5 in Schedule 1 to the *Taxation Administration Act 1953*, in the entity's capacity as a member of the committee of management of an unincorporated association or body;
  - (c) the liability arose, under section 444-30 in Schedule 1 to the *Taxation Administration Act 1953*, in the entity's capacity as a partner of a \*partnership;
  - (d) the liability arose, under section 444-120 in Schedule 1 to the *Taxation Administration Act 1953*, in the entity's capacity as a \*trustee of a trust.

## 225-15 Rehabilitation tax offset amounts relating to mining project interests

- (1) A miner has a ***rehabilitation tax offset amount***, for an \*MRRT year (the ***current year***), in relation to a mining project interest that the miner has, if:
- (a) the \*suspension day for the mining project interest happened in an earlier MRRT year or the current year; and
  - (b) in the current year, an amount of expenditure (***upstream rehabilitation expenditure***) was incurred that:
    - (i) is included in \*mining expenditure for the mining project interest for the current year; and
    - (ii) is necessarily incurred in carrying on \*mining operations of a kind mentioned in paragraph 35-20(2)(f), or in carrying on activities done in furtherance of mining operations of that kind; and
  - (c) a \*mining loss relating to the mining project interest for the current year is extinguished under section 130-15.
- (2) However, subsection (1) does not apply if neither the miner nor any other \*entity has, or has ever had,

an MRRT liability, for the MRRT year or any earlier MRRT year, in relation to the mining project interest.

- (3) The *rehabilitation tax offset amount* relating to the mining project interest is:

~~Allowable rehabilitation expenditure~~ × \*MRRT rate

where:

*allowable rehabilitation expenditure* is the lesser of:

- (a) the sum of all the amounts of upstream rehabilitation expenditure that were incurred in the current year in relation to the mining project interest; and
  - (b) the amount of the \*mining loss, mentioned in paragraph (1)(c), extinguished under section 130-15.
- (4) However, the \*rehabilitation tax offset amount cannot exceed the sum of all the \*MRRT liabilities, of the miner or any other miner, for the mining project interest for the \*MRRT year and all earlier MRRT years.

## 225-20 Rehabilitation tax offset amounts relating to pre-mining project interests

- (1) An \*entity has a *rehabilitation tax offset amount*, for an \*MRRT year (the *current year*), in relation to a \*pre-mining project interest that the entity \*holds if:
- (a) the \*termination day for the pre-mining project interest happened in an earlier MRRT year or the current year; and
  - (b) in the current year, an amount of expenditure (*upstream rehabilitation expenditure*) was incurred that:
    - (i) is included in \*pre-mining expenditure for the pre-mining project interest for the current year; and
    - (ii) is necessarily incurred in carrying on \*pre-mining project operations that would be of a kind mentioned in paragraph 35-20(2)(f) if they related to a mining project interest, or in carrying on activities done in furtherance of mining operations of that kind; and
  - (c) a \*pre-mining loss relating to the pre-mining project interest for the current year is extinguished



under section 155-25.

- (2) However, subsection (1) does not apply if neither the \*entity nor any other entity has, or has ever had, an \*MRRT liability, for the \*MRRT year or any earlier MRRT year, in relation to the \*pre-mining project interest.
- (3) The *rehabilitation tax offset amount* relating to the \*pre-mining project interest is:

~~Allowable rehabilitation expenditure~~ × \*MRRT rate  
where:

*allowable rehabilitation expenditure* is the lesser of:

- (a) the sum of all the amounts of upstream rehabilitation expenditure that were incurred in the current year in relation to the pre-mining project interest; and
  - (b) the amount of the \*pre-mining loss, mentioned in paragraph (1)(c), extinguished under section 155-25.
- (4) However, the \*rehabilitation tax offset amount cannot exceed the sum of all the \*MRRT liabilities, of the \*entity or any other entity, for the \*pre-mining project interest for the \*MRRT year and all earlier MRRT years.

## 225-25 Application of rehabilitation tax offsets

- (1) If an \*entity has a \*rehabilitation tax offset for an \*MRRT year, the amount of MRRT that (apart from this section) the entity must pay for the MRRT year is reduced by the amount of the offset.

Note: The amount to be reduced is the amount payable under section 10-1 (which relates to all of the entity's mining project interests and pre-mining project interests), as reduced by any low profit offset under section 10-15.

- (2) However, if the amount of the offset exceeds the amount of MRRT that (apart from this section) the \*entity must pay for the \*MRRT year:
  - (a) the entity is not required to pay MRRT for the MRRT year; and
  - (b) the Commissioner must, on behalf of the Commonwealth, pay to the entity the amount of the

excess.

Note 1: See Division 3A of Part IIB of the *Taxation Administration Act 1953* for the rules about how the Commissioner must pay the entity. Division 3 of Part IIB of that Act allows the Commissioner to apply the amount owing as a credit against tax debts that the entity owes to the Commonwealth.

Note 2: Interest is payable under the *Taxation (Interest on Overpayments and Early Payments) Act 1983* if the Commissioner is late in refunding the amount.

- (3) If the amount paid under paragraph (2)(b), or applied under the *Taxation Administration Act 1953*, exceeds the \*entity's proper entitlement under that paragraph, that excess is to be treated as if it were MRRT that became payable, and due for payment, by the entity at the time when the amount was so paid or applied.

Note: The main effect of treating the amount as if it were MRRT is to apply the collection and recovery rules in Part 3-10 in Schedule 1 to the *Taxation Administration Act 1953*, such as a liability to pay the general interest charge under section 105-80 in that Schedule.

## Chapter 5—Miscellaneous

### Division 235—Miscellaneous

#### 235-1 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

## Chapter 6—Interpreting this Act

### Part 6-1—Rules for interpreting this Act

#### Division 245—Rules for interpreting this Act

## 245-1 What forms part of this Act

- (1) The following all form part of this Act:
  - (a) the headings of the Chapters, Parts, Divisions and Subdivisions of this Act;
  - (b) a provision covered by section 245-10 (non-operative provisions);
  - (c) the headings of the sections and subsections of this Act;
  - (d) the headings for groups of sections of this Act (group headings);
  - (e) the notes and examples (however described) that follow provisions of this Act.
- (2) The asterisks used to identify defined terms form part of this Act. However, if a term is not identified by an asterisk, disregard that fact in deciding whether or not to apply to that term a definition or other interpretation provision.

## 245-5 What does not form part of this Act

The following do not form part of this Act:

- (a) footnotes and endnotes;
- (b) tables of Subdivisions;
- (c) tables of sections.

## 245-10 Guides and other non-operative provisions, and their role in interpreting this Act

- (1) The provisions covered by this section are:
  - (a) any section in Division 2, 3 or 4; or
  - (b) any section that has as its heading “What this Division is about”.
- (2) These provisions form part of this Act, but they are not operative provisions. In interpreting another provision in this Act (an ***operative provision***), non-operative provisions may only be considered:
  - (a) in determining the purpose or object underlying the operative provision; or
  - (b) to confirm that the operative provision’s meaning is the ordinary meaning conveyed by its text,

- taking into account its context in the Act and the purpose or object underlying the provision, or
- (c) in determining the operative provision’s meaning if the provision is ambiguous or obscure; or
  - (d) in determining the operative provision’s meaning if the ordinary meaning conveyed by its text, taking into account its context in the Act and the purpose or object underlying the provision, leads to a result that is manifestly absurd or is unreasonable.

Part 6-2—Meaning of some important concepts

Division 250—Meaning of hold

Guide to Division 250

250-1 What this Division is about

The concept of hold is relevant to:

- (a) determining who is entitled to a starting base loss for an asset; and
- (b) determining depreciation amounts relevant for the alternative valuation method; and
- (c) entitlement to pre-mining project interests.

Table of sections

Operative provisions

- 250-5 Meaning of *hold*
- 250-10 When certain starting base assets are held
- 250-15 Things that are jointly held

Operative provisions

## Operative provisions

### 250-5 Meaning of *hold*

- (1) An \*entity **holds** a thing referred to in subsection (2) if:
  - (a) the thing is a \*depreciating asset that the entity holds (within the meaning of section 40-40 of the *Income Tax Assessment Act 1997*); or
  - (b) the entity would hold the thing (within the meaning of that section) if it were a depreciating asset.
- (2) The things are as follows:
  - (a) a \*starting base asset relating to a mining project interest (or any property or right that is expected to be a starting base asset after the time mentioned in subsection 80-25(2));
  - (b) an asset to which section 175-40 applies;
  - (c) a \*pre-mining project interest.
- (3) However, the \*entity that has a mining project interest is taken to **hold** the \*starting base asset that is or includes the rights and interests constituting the mining project interest.

### 250-10 When certain starting base assets are held

#### *Assets treated as a single starting base asset*

- (1) Despite section 250-5, a miner **holds** a single \*starting base asset to which subsection 80-30(2) applies for the period during which the miner would be taken, under section 250-5, to hold the \*constituent assets of the single starting base asset.

#### *Mine development expenditure*

- (2) Despite section 250-5, a miner **holds** a \*starting base asset that is \*mine development expenditure relating to a mining project interest from the day the expenditure was incurred until the day on which the miner ceases to have the mining project interest.

## 250-15 Things that are jointly held

The \*MRRT law applies to a thing referred to in subsection 250-5(2) (the *underlying thing*) that an \*entity \*holds, and that is also held by one or more other entities, as if each entity's interest in the thing were itself the underlying thing.

Note: Partners do not hold partnership assets: see subsection 250-5(1) and table item 7 in section 40-40 of the *Income Tax Assessment Act 1997*.

## Division 255—Integrated mining project interests

### Guide to Division 255

#### 255-1 What this Division is about

The concept of integration of mining project interests is relevant to:

- (a) whether a royalty credit for a mining project interest can be applied in working out a transferred royalty allowance for another mining project interest; and
- (b) whether mining project interests are combined in a single mining project interest.

Note 1: For availability of royalty credits in working out transferred royalty allowances, see section 65-20.

Note 2: For when mining project interests are combined, see Subdivision 115-B.

### Table of sections

#### Operative provisions

- 255-5 Upstream integration of mining project interests
- 255-10 Downstream integration of mining project interests
- 255-15 Meaning of *downstream mining operations*

## Operative provisions

### 255-5 Upstream integration of mining project interests

A mining project interest is *integrated* with another mining project interest at a time if:

- (a) the same miner has both of the interests; and
- (b) either:
  - (i) both the interests relate to iron ore; or
  - (ii) both the interests do not relate to iron ore; and
- (c) each of those interests relate to the same mine or proposed mine.

Note: Multiple mining project interests that are managed as a single operation and covered by a single mine plan would usually relate to the same mine.

### 255-10 Downstream integration of mining project interests

A mining project interest is also *integrated* with another mining project interest at a time if:

- (a) the same miner has both of the interests; and
- (b) either:
  - (i) both the interests relate to iron ore; or
  - (ii) both the interests do not relate to iron ore; and
- (c) either the \*downstream mining operations for each of the interests, or the \*mining operations as a whole for each of the interests, are, taking account of the following matters, integrated:
  - (i) the manner in which those operations are carried on;
  - (ii) the extent of integration of the use or operation of infrastructure or equipment in carrying on those operations; and
- (d) the miner has made a valid choice under section 255-20.

### 255-15 Meaning of *downstream mining operations*

- (1) \*Mining operations for a mining project interest are ***downstream mining operations*** for the mining project interest to the extent the operations are not \*upstream mining operations.

Note: For ***upstream mining operations***, see section 35-15.

Examples: The following are some examples of operations or activities that might be downstream mining operations:

- (a) treating taxable resources by crushing, weighing, sampling, assaying and refining them after extraction (if this is after the valuation point for the resources);
- (b) training, engaging, employing, paying, accommodating and ensuring the safety of personnel, and other supportive head office activities, to the extent they are involved in operations or activities relating to getting the taxable resources from the valuation point into the form they are in when the mining revenue event happens;
- (c) developing plans and engineering specifications for, and constructing, facilities (whether in the project area or not) to be used in recovering, transporting and storing taxable resources after they reach their valuation point but before they are in the form they are in when the mining revenue event happens;
- (d) acquiring and maintaining plant or equipment for use in recovering, transporting or storing taxable resources after they reach their valuation point but before they are in the form they are in when the mining revenue event happens;
- (e) upgrading computer software used to control inventory (like consumables and spare parts) used for recovering, transporting or storing taxable resources after they reach their valuation point but before they are in the form they are in when the mining revenue event happens.

- (2) It does not matter where, or when, the operations are carried out.

## 255-20 Choice to integrate

- (1) A choice under this section is to treat all mining project interests of the miner that satisfy paragraphs 255-10(1)(a) to (d) at any time as \*integrated, including interests the miner starts to have after making the choice.
- (2) The choice does not cease to have effect even if there are no mining project interests that satisfy paragraphs 255-10(1)(a) to (d) at a time.
- (3) However, the choice ceases to have effect in relation to a particular mining project interest after the miner that made the choice stops having the interest.

Note: Division 119 in Schedule 1 to the *Taxation Administration Act 1953* is about choices under the MRRT law.

## Part 6-3—Dictionary



## Division 300—Dictionary

### 300-1 Dictionary

In this Act:

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

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

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

**adjustable value:**

- (a) of a \*starting base asset, has the meaning given by subsection 165-10(7); and
- (b) of a disposed asset (within the meaning of section 165-35), has the meaning given by subsection 165-35(2).

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

**allowance component** means any of the following:

- (a) a \*royalty credit;
- (b) a \*pre-mining loss;
- (c) a \*mining loss;
- (d) a \*starting base loss.

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

**arm's length** has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

**arm's length consideration** has the meaning given by section 30-30.

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

**assessed MRRT** means MRRT, as assessed under Schedule 1 to the *Taxation Administration Act 1953*.

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

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

**Australia**, when used in a geographical sense, includes:

- (a) all the external Territories other than the Australian Antarctic Territory; and
- (b) an area that is an offshore area for the purposes of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

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

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

**base value** has the meaning given by subsection 90-5(1).

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

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

**closely associated** has the meaning given by subsection 95-20(5).

**Commissioner** means the Commissioner of Taxation.

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

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

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

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

1997.

***constituent asset:***

- (a) of a \*starting base asset that is treated as a single starting base asset because of section 80-30, means any of the things mentioned in paragraphs 80-30(1)(a) to (d) that are treated as the single starting base asset; or
- (b) of a starting base asset that is treated as a single starting base asset because of subsection 180-10(3), means any of the starting base assets that are, under that subsection, treated as the single starting base asset.

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

***created:*** in relation to a \*consolidated group or \*MEC group, has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

***decreasing adjustment*** has the meaning given by section 195-1 of the \*GST Act.

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

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

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

***downstream mining operations*** has the meaning given by section 255-15.

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

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

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

***excluded expenditure*** has the meaning given by Subdivision 35-B.

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

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

***exploration right*** has the meaning given by subsection 70-25(3).

***extract***, in relation to a \*taxable resource, means extract the taxable resource in any way, and includes recovering the taxable resource from the place where it occurs.

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

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

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

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

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

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

***GST*** has the meaning given by section 195-1 of the \*GST Act.

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

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

***higher ranking allowance***, in relation to an \*MRRT allowance, means any other MRRT allowance that, under section 10-10, is applied earlier than that allowance in working out a miner's \*MRRT liability.

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

***hold*** a thing mentioned in subsection 250-5(2) has the meaning given by Division 250.

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

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

***increasing adjustment*** has the meaning given by section 195-1 of the \*GST Act.

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

***initial supply*** has the meaning given by section 30-20.

***input tax credit*** has the meaning given by section 195-1 of the \*GST Act.

***installed ready for use*** has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

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

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

***integrated***, in relation to mining project interests, has the meaning given by Division 255.

***interim expenditure***, in relation to a \*starting base asset relating to a mining project interest, has the meaning given by section 90-55.

***long term bond rate***, for a period, has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

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

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

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

***mine development expenditure*** has the meaning given by subsection 80-35(3).

***miner*** means an \*entity that has a \*mining project interest.

***mining expenditure*** has the meaning given by Division 35.

***mining loss*** has the meaning given by section 75-20.

***mining loss allowance*** has the meaning given by section 75-10.

***mining operations*** has the meaning given by section 35-20.

***mining profit*** has the meaning given by Division 25.

***mining project interest*** has the meaning given by section 15-5.

***mining project split*** has the meaning given by subsection 125-10(3).

***mining project transfer*** has the meaning given by subsection 120-10(3).

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

***mining revenue*** has the meaning given by Division 30.

***mining revenue event*** has the meaning given by section 30-15.

***mining royalty*** has the meaning given by subsection 35-45(1).

***mining venture*** has the meaning given by subsection 15-5(3).

***MRRT*** means minerals resource rent tax imposed by any of the following:

- (a) the *Minerals Resource Rent Tax (Imposition—General) Act 2012*;

(b) the *Minerals Resource Rent Tax (Imposition—Customs) Act 2012*;

(c) the *Minerals Resource Rent Tax (Imposition—Excise) Act 2012*.

**MRRT allowance** has the meaning given by section 10-10.

**MRRT benefit** has the meaning given by section 210-15.

**MRRT disadvantage** has the meaning given by subsection 210-30(2).

**MRRT law** means:

- (a) this Act; and
- (b) any Act that imposes MRRT; and
- (c) the *Taxation Administration Act 1953*, so far as it relates to any Act covered by paragraphs (a) and (b); and
- (d) any other Act, so far as it relates to any Act covered by paragraphs (a) to (c) (or to so much of that Act as is covered); and
- (e) regulations under an Act, so far as they relate to any Act covered by paragraphs (a) to (d) (or to so much of that Act as is covered).

**MRRT liability** has the meaning given by section 10-5.

**MRRT rate** has the meaning given by the following:

- (a) section 4 of the *Minerals Resource Rent Tax (Imposition—General) Act 2012*;
- (b) section 4 of the *Minerals Resource Rent Tax (Imposition—Customs) Act 2012*;
- (c) section 4 of the *Minerals Resource Rent Tax (Imposition—Excise) Act 2012*.

**MRRT year** has the meaning given by section 10-25.

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

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

***originates***, in relation to a mining project interest and a \*pre-mining project interest, has the meaning given by subsection 70-20(2).

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

***pre-mining expenditure*** has the meaning given by section 70-35.

***pre-mining loss*** has the meaning given by section 70-30.

***pre-mining loss allowance*** has the meaning given by section 70-10.

***pre-mining loss cap*** has the meaning given by section 95-30.

***pre-mining profit*** has the meaning given by section 140-5.

***pre-mining project interest*** has the meaning given by section 70-25.

***pre-mining project operations*** has the meaning given by subsection 70-35(5).

***pre-mining project split*** has the meaning given by subsection 150-10(2).

***pre-mining project transfer*** has the meaning given by subsection 145-10(2).

***pre-mining revenue*** has the meaning given by section 70-40.

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

***private mining royalty*** has the meaning given by subsection 35-45(2).

***production right*** has the meaning given by section 15-15.

***project area*** has the meaning given by section 15-20 or subsection 70-25(4).

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



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

***rehabilitation tax offset*** has the meaning given by section 225-10.

***rehabilitation tax offset amount***:

- (a) in relation to a mining project interest—has the meaning given by section 225-15; and
- (b) in relation to a \*pre-mining project interest—has the meaning given by section 225-20.

***resource marketing operations*** has the meaning given by subsection 30-25(7).

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

***royalty allowance*** has the meaning given by section 60-10.

***royalty credit*** has the meaning given by section 60-20.

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

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

***split percentage***:

- (a) for a new interest a miner has just after a \*mining project split—has the meaning given by section 125-15; and
- (b) for a new interest an \*entity has just after a \*pre-mining project split—has the meaning given by subsections 150-15(5) and (6).

***starting base adjustment*** for a \*starting base asset, has the meaning given by section 165-20.

***starting base adjustment amount*** for a \*starting base asset, has the meaning given by section 165-10.

***starting base adjustment event***, for a \*starting base asset, has the meaning given by section 165-5.

***starting base allowance*** has the meaning given by section 80-10.

**starting base asset** relating to a mining project interest has the meaning given by section 80-25 and subsection 80-35(1).

**starting base days** has the meaning given by subsections 80-40(6) and (7).

**starting base loss**, for a mining project interest, has the meaning given by section 80-20.

**starting base return** means a return of the kind referred to in section 117-20 in Schedule 1 to the *Taxation Administration Act 1953*, that complies with all the requirements of that section and section 117-25 (if applicable) in that Schedule and section 388-75 in that Schedule.

**start time**, for a \*starting base asset relating to a mining project interest, has the meaning given by subsection 80-25(2).

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

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

**supply** has the meaning given by section 195-1 of the \*GST Act.

**suspension day** has the meaning given by section 130-10.

**taxable resource** has the meaning given by Division 20.

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

**termination day:**

- (a) for a mining project interest, has the meaning given by section 135-5; or
- (b) for a \*pre-mining project interest, has the meaning given by section 155-5.

**termination value**, of a \*starting base asset, has the meaning given by subsection 165-10(3) and (4).

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

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

*Islander Act 2005.*

***transfer pricing guidelines*** has the meaning given by subsection 205-15(2).

***transferred mining loss allowance*** has the meaning given by section 100-10.

***transferred pre-mining loss allowance*** has the meaning given by section 95-10.

***transferred royalty allowance*** has the meaning given by section 65-10.

***transformative operations*** has the meaning given by subsection 30-25(6).

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

***upstream mining operations*** has the meaning given by section 35-15.

***valuation point*** for a \*taxable resource has the meaning given by Division 40.

## Notes to the *Minerals Resource Rent Tax Act 2012*

### Note 1

The *Minerals Resource Rent Tax Act 2012* as shown in this compilation comprises Act No. 13, 2012 amended as indicated in the Tables below.

For all relevant information pertaining to application, saving or transitional provisions *see* Table A.

### Table of Acts

| Act                                                                                               | Number and year | Date of Assent | Date of commencement                                               | Application, saving or transitional provisions |
|---------------------------------------------------------------------------------------------------|-----------------|----------------|--------------------------------------------------------------------|------------------------------------------------|
| <i>Minerals Resource Rent Tax Act 2012</i>                                                        | 13, 2012        | 29 Mar 2012    | 1 July 2012                                                        |                                                |
| <i>Minerals Resource Rent Tax (Consequential Amendments and Transitional Provisions) Act 2012</i> | 14, 2012        | 29 Mar 2012    | Schedule 3 (item 92): (a)<br>Schedule 4: 1 July 2012 (see s. 2(1)) | Sch. 4 (items 1–13)                            |

*Tax Laws Amendment  
(2012 Measures No. 1)  
Act 2012*

11, 2012 27 June 2012 Schedule 3  
(items 4–16): (b)

- (a) Subsection 2(1) (items 2 and 8) of the *Minerals Resource Rent Tax (Consequential Amendments and Transitional Provisions) Act 2012* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information |                                                                                                                                                                                                                                                                                                                      |                                            |
|--------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|
| Column 1                 | Column 2                                                                                                                                                                                                                                                                                                             | Column 3                                   |
| Provision(s)             | Commencement                                                                                                                                                                                                                                                                                                         | Date/Details                               |
| 2. Schedule 1            | At the same time as the <i>Minerals Resource Rent Tax Act 2012</i> commences.                                                                                                                                                                                                                                        | 1 July 2012                                |
| 8. Schedule 3, item 92   | The later of:<br><br>(a) immediately after the commencement of the provision(s) covered by table item 2; and<br><br>(b) at the same time as section 3 of the <i>Clean Energy Act 2011</i> commences.<br><br>However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur. | 1 July 2012<br><br>(paragraph (a) applies) |

- (b) Subsection 2(1) (item 6) of the *Tax Laws Amendment (2012 Measures No. 1) Act 2012* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Provision(s)                 | Commencement                                                                           | Date/Details |
|------------------------------|----------------------------------------------------------------------------------------|--------------|
| 6. Schedule 5, items 1 to 16 | Immediately after the commencement of the <i>Minerals Resource Rent Tax Act 2012</i> . | 1 July 2012  |

## Table of Amendments

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

| Provision affected | How affected |
|--------------------|--------------|
|--------------------|--------------|

**Chapter 2****Part 2-2****Division 15**

Note 2 to s. 15-5(1)..... am. No. 71, 2012

Note 2 to s. 15-5(4)..... am. No. 71, 2012

**Part 2-3****Division 30****Subdivision 30-A**

Note to s. 30-5..... rs. No. 71, 2012

**Subdivision 30-B**

S. 30-15..... am. No. 71, 2012

Note to s. 30-15(1)..... rs. No. 71, 2012

S. 30-25..... am. No. 71, 2012

**Subdivision 30-C**

S. 30-55..... am. No. 71, 2012

**Division 35****Subdivision 35-B**

S. 35-40..... am. No. 71, 2012

S. 35-80..... ad. No. 14, 2012

**Chapter 4****Part 4-1****Division 115****Subdivision 115-B**

S. 115-10..... am. No. 71, 2012

**Division 135**

S. 135-15..... rs. No. 71, 2012

**Part 4-5****Division 200**

S. 200-10..... am. No. 71, 2012

**Table A****Application, saving or transitional provisions***Minerals Resource Rent Tax (Consequential Amendments and Transitional Provisions) Act 2012* (No. 14, 2012)**Schedule 4****1 Application of Act**

The MRRT law extends to matters and things whether occurring before or after 1 July 2012 (except where a contrary intention appears).

## 2 Modified time of supply for prepayments before 1 July 2012

Paragraph 30-35(a) of the *Minerals Resource Rent Tax Act 2012* is disregarded in working out the time a miner makes a supply of a taxable resource or thing produced using a taxable resource if consideration for the supply is received or becomes receivable at a time before 1 July 2012.

## 3 Recoupment or offsetting of mining expenditure

An amount is included under section 30-40 of the *Minerals Resource Rent Tax Act 2012* in a miner's mining revenue for a mining project interest for the MRRT year starting on 1 July 2012 to the extent that:

- (a) the amount is received, or becomes receivable, before the start of that MRRT year; and
- (b) had the amount been received, or become receivable, in that MRRT year, it would have given rise under that section to an amount of mining revenue for the mining project interest for the miner.

## 4 Compensation for loss of taxable resources

Section 30-50 of the *Minerals Resource Rent Tax Act 2012* does not apply in relation to amounts relating to loss of, destruction of or damage that happens to a taxable resource before 1 July 2012.

## 5 Hire purchase agreements entered into before 1 July 2012

Without limiting section 35-55 of the *Minerals Resource Rent Tax Act 2012*, that section also applies in relation to hire purchase agreements entered into before 1 July 2012.

Note: The property may be a starting base asset if the requirements in Subdivision 80-C of the *Minerals Resource Rent Tax Act 2012* are met.

## 6 Royalty amounts paid on taxable resources extracted before 1 July 2012

To avoid doubt, a liability a miner incurs on or after 1 July 2012 gives rise to a royalty credit under section 60-20 of the *Minerals Resource Rent Tax Act 2012* if the requirements in that section are met, whether the relevant taxable resource was extracted on, before, or after that day.

## 7 Combining mining project interests before commencement

*Combining mining project interests*

- (1) Two or more mining project interests are taken by Division 115 of the *Minerals Resource Rent Tax Act 2012* to be the same mining project interest from a particular time before 1 July 2012 if those interests would be taken to be the same mining project interest under that Division from that time if the time was after 1 July 2012.

*Downstream integration of mining project interests*

- (2) If:
- (a) disregarding paragraph 255-10(d) of the *Minerals Resource Rent Tax Act 2012* (choosing to treat mining project interests as integrated), a mining project interest would have been integrated with another mining project interest at a time during the period:
    - (i) starting on 2 May 2010; and
    - (ii) ending just before the start of 1 July 2012; and
  - (b) the miner makes a valid choice under section 255-20 of that Act on or before the day on which the obligation to give an MRRT return for the first MRRT year falls due;
- the requirement in paragraph 255-10(d) of that Act is taken to be satisfied at all times during the period starting at the time mentioned in paragraph (a) of this subitem and ending when the miner makes that choice.

## **8 Transferring and splitting mining project interests**

To avoid doubt, Divisions 120 and 125 of the *Minerals Resource Rent Tax Act 2012* apply in relation to mining project interests before 1 July 2012 in the same way as those Divisions apply in relation to mining project interests after that day.

## **9 Transferring and splitting pre-mining project interests**

To avoid doubt, Divisions 145 and 150 of the *Minerals Resource Rent Tax Act 2012* apply in relation to pre-mining project interests before 1 July 2012 in the same way as those Divisions apply in relation to pre-mining project interests after that day.

## 10 Substituted accounting periods

Despite section 10-25 of the *Minerals Resource Rent Tax Act 2012*, if:

- (a) a miner has, under section 18 of the *Income Tax Assessment Act 1936*, accounting periods that are not financial years; and
- (b) one of those accounting periods starts before 1 July 2012 and ends after that day;

the period starting on 1 July 2012 and ending at the end of that accounting period is an **MRRT year**.

## 11 Schemes entered into before 2 May 2010

Without limiting Division 210 of the *Minerals Resource Rent Tax Act 2012* (or that Division as it applies because of item 12 of this Schedule), that Division also applies in relation to a scheme if:

- (a) the scheme was entered into before 2 May 2010; and
- (b) it is reasonable to conclude that an entity (whether alone or with others) would have entered into or carried out the scheme, or part of the scheme, with the purpose mentioned in paragraph 210-10(1)
- (c) of that Act had the MRRT law been in force when the scheme was entered into.

## 12 Schemes to increase the base value of starting base assets

- (1) Without limiting Division 210 of the *Minerals Resource Rent Tax Act 2012*, that Division also applies as if an entity gets or got an MRRT benefit from a scheme if:
  - (a) the entity holds a starting base asset; and
  - (b) the base value of that asset for the first MRRT year is, or could reasonably be expected to be, larger than it would be apart from the scheme.
- (2) For the purposes of subitem (1), the Commissioner may make, under section 210-25 of the *Minerals Resource Rent Tax Act 2012*, a determination stating the base value of the starting base asset for the first MRRT year.
- (3) This item applies to property or rights that are expected to be starting base assets as mentioned in subsection 117-20(2) in Schedule 1 to the *Taxation Administration Act 1953* as if the property or rights were a starting base asset.



**13 Choice to consolidate for MKK I purposes before commencement**

Despite paragraph 215-10(4)(a) of the *Minerals Resource Rent Tax Act 2012*, a choice that the head company of a consolidated group or MEC group or the provisional head company of a MEC group makes under section 215-10 of that Act has effect on and after a day (the day of effect) if:

- (a) the choice is made on 1 July 2012 or within such further time as the Commissioner allows; and
- (b) the day of effect is between 2 May 2010 and the day the choice is made; and
- (c) the consolidated group or MEC group existed on the day of effect; and
- (d) the company notifies the Commissioner, under subsection 215-10(3) of that Act, that the choice is to apply from the day of effect.