6 February 2015

The General Manager
Corporate and International Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

Resource Project Realignment and Farm-Out Legislation

The Australian Petroleum Production & Exploration Association (APPEA) is the national body that represents companies engaged in oil and gas exploration and production operations in Australia. APPEA is pleased to provide the comments below, together with the attached material, in relation to the exposure draft material circulated by Treasury for stakeholder comment.

Part 1: Alignments

APPEA considers that there are three areas that need to be addressed or clarified if the proposed legislation contained in the Exposure Draft (ED) is to work as intended from a policy and tax technical perspective for the rollover relief.

1. Project or proposed project – To make it clearer and appropriately address industry situations without being too prescriptive, a project should be defined to include “a single project or proposed project or two or more such projects jointly undertaken by the same entities.”

2. “Reserves” – This “category” or terminology used by the industry is further along the project timeline than as envisaged in the ED. Typically, it is a term that applies once there is a sanctioned project. Realignments should be expected to occur earlier (although not always). The use of a different term, whilst remaining true to the policy intent, is required (see below and attached mark-ups to the ED).

3. In order to achieve the intended policy outcome, the ED must have provisions which effectively turn-off CGT events for arrangements which are regarded as interest realignment arrangements. In the case of depreciating rights which qualify for the roll-over, and also for CGT assets, there should be no unintended consequences arising from the contractual rights created and satisfied as part of a re-alignment. This is because of the potential breadth of the CGT provisions. It seems to be an oversight that this wasn’t included in the ED for the basic depreciating asset realignment case, nor for the CGT asset realignment case. It was however identified and covered in the proposed “interest realignment adjustment” provision- see 40-364 (3), (4), (5), (6).

In addition to the issues outlined below, there are also a number of comments and proposed changes to the legislation that are contained in the attached document.
Specific Issues

- As indicated above, the term ‘reserves’ has a specific meaning within the petroleum industry that is potentially in conflict with the use of the same word in the draft legislation. Specifically, in many cases, ‘reserves’ cannot exist until either a final investment decision has been made with respect to a project or a contract for the supply of petroleum has been secured with a buyer. Please see a proposed change included in the marked up comments in the draft legislation.

- APPEA requests the inclusion of a number for examples in the Explanatory Memorandum to address scenarios that we consider should be covered by the provision. This is based on both our understanding of the policy intention of the provision and the need to meet commercial practicalities (particularly in the case of project realignments). We recommend examples to permit, support and highlight the following scenarios:
  - where there may be more than one existing joint venture intending to form ‘the project’ (including proposed projects)
  - where a party (or parties) to the project/proposed project is not part of a joint venture
  - where one party has CGT interests and the other party has UCA interests in the same permits.

- Division 40 roll-over relief is elective (ss40-363(1)(d)), whereas CGT relief is automatic. There may be circumstances were a party to an alignment with pre-CGT assets is disadvantaged by automatic rollover relief. For example, if you also paid cash, under s124-1230 the recipient would not get rollover relief for the cash component but under 124-1225 and ITTP s40-77(1C), the cash would be treated as part of cost base of the new permit asset of the payor and you would not get UCA relief (see example 1.5 in the EM). Parties should be able to elect CGT rollover relief. Both parties do not need to elect rollover relief under 40-463 – therefore there does not seem to be any need for consistency of treatment for CGT.

- The measures are intended to operate with retrospective effect from 14 May 2013. APPEA supports the Government legislating in order to give effect to the proposed measures. In some circumstances, care may be needed, for example where the measures retrospectively alter lodged positions based on existing law. Administrative measures may be needed to support the implementation of enacted legislation in such circumstances. It is also possible that transitional arrangements may be necessary to ensure the measures operate as intended, in particular, in relation to the interest alignment adjustment provisions. They should not apply to rights created before May 2013 that come to an end after this date. For example, a CGT C2 event on receipt of a payment in respect of a right created before the date could be assessable under ss40-364(1) because the application provision states that the amendments apply to CGT events that occur after 14 May 2013. The new provisions should not change the tax outcomes for any arrangement entered before the start date.

- We recognise that the application and interaction of the income tax provisions for our Industry can be highly specialised and complex. The breadth of our capital gains tax provisions and their interaction with those concerning deprecating assets, for example, via the CGT anti-overlap rules, and the potential operation of residual CGT events
notwithstanding this, is a case in point. We would be pleased to provide further assistance in clarifying aspects of the interaction of the realignment rollover with existing tax provisions from a technical perspective.

More generally, and from an energy policy perspective, it is important that the taxation provisions do not operate in a manner that discourages petroleum exploration and development activities. The complex and changing nature of operations in the oil and gas industry necessitates ongoing engagement between industry and the Government to ensure distortions are not created through inefficient or inflexible taxation settings.

Part 2: Farm-Ins/Farm-Outs

- The definitions of “farm-in farm-out arrangement and “exploration benefit” in section 40-1135 require further consideration as marked on the attached Exposure Draft of the proposed Bill (see comments attached).

- The provision needs to be clear that farm-in/farm-out agreements are not constrained by the nature of the permit, lease or licence. For example, the provision should not be limited to an exploration permit – it should also apply to retention leases to the extent that the nature of the relevant activity relates to exploration activities.

- The draft legislation provides for a clawback of tax relief if there is a change in circumstances (for example, a free carry in a later period starts to cover development rather than exploration costs). The intent is clear in the Explanatory Memorandum (Paragraphs 1.73 through 1.75), but is less clear in the draft legislation.

- Clarification is sought on the status of the current taxation rulings. Specifically, does this mean that the rulings will be withdrawn? If so, as the rulings also cover GST implications (and the ED legislation does not), will guidance be provided on the GST implications on farm outs?

- The legislation is proposed to apply to farm outs entered into from 14 May 2013 (when the Federal Budget announcement was made regarding cessation of immediate deduction for acquired mining rights/information). It would therefore seem appropriate that the ATO allow taxpayers the opportunity to review and amend returns without penalty if they have not applied the legislation as drafted.

- Subsection 40-1135(2)(c) – no exploration benefit unless the spend would otherwise have been included in the cost of information, as another depreciating asset, or deductible under s40-730. For absolute clarity, this provision should also include that it could be deductible under s8-1.

- Subsection 40-1135(2)(a)(iii) finishes with “and” – should this be an “or”?

- The proposed changes appear based on the Commissioner’s position in the rulings that expenditure incurred by the farmee in meeting its commitments, including the funding of a
farmer’s obligations, is deductible to the farmee when in respect of exploration. The preferred position is that this outcome is provided for in the amendments rather than relying on the Commissioner’s current analysis and covered by an example in the EM that comprehensively dealt with the operation of the proposed provisions.

APPEA would be pleased to further expand on the issues contained in this letter. Contact is Noel Mullen (nmullen@appea.com.au).

Yours sincerely

[Signature]

David Byers  
Chief Executive

Enc. Marked up comments on the Exposure Draft Legislation
Inserts for
Tax and Superannuation Laws
Amendment (2015 Measures No. 1) Bill
2015: Interest realignments and farm-in farm-out arrangements

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Schedule #—Tax relief for certain mining arrangements

Part 1—Interest realignment arrangements

Income Tax Assessment Act 1997

# After section 40-362

Insert:

40-363 Roll-over relief for interest realignment arrangements

Circumstances giving rise to roll-over relief

(1) There is roll-over relief if:
   (a) there is a "balancing adjustment event under section 40-295 because, in an income year, you dispose of a "depreciating asset to another entity; and
   (b) the asset is a "mining, quarrying or prospecting right; and
   (c) the disposal occurs under an "interest realignment arrangement; and
   (d) you choose to apply roll-over relief in relation to the asset.

Choosing to apply roll-over relief

(2) The choice must:
   (a) be in writing; and
   (b) be made within 6 months after the end of the income year in which the "balancing adjustment event occurs, or within a longer period allowed by the Commissioner.

The effect of roll-over relief

(3) If there is roll-over relief under this section:
   (a) section 40-285 does not apply to the "balancing adjustment event in relation to the asset; and
   (b) an amount is included in your assessable income if such an amount (the non-realignment amount) would have been included under subsection (1) if:

Comment [A1]: In the case of depreciable assets which qualify for rollover relief, there should be no unintended capital gains tax consequences arising from the contractual rights created and satisfied as part of the interest realignment. The potential application of the capital gains tax provisions needs to be switched off in the base case, where there is no "interest realignment adjustment". This is because the capital gains tax provisions can potentially apply more broadly to any residual aspects in an interest realignment arrangement.
(i) paragraph (a) of this subsection did not apply; and
(ii) the "adjustable value of the "mining, quarrying or
prospecting rights that you disposed of under the
arrangement were taken to be the market value of the
mining, quarrying or prospecting rights that you
received under the arrangement; and
(c) in working out the "cost of a mining, quarrying or
prospecting right that you receive under the arrangement, if:
(i) some or all of the cost consists of a "non-cash benefit
that you provide; and
(ii) that benefit is a mining, quarrying or prospecting right
that you disposed of under the arrangement;
the market value of the benefit is taken to be the adjustable
value of the benefit.

(4) The amount included in your assessable income under
paragraph (3)(b) is the non-realignment amount, and it is included
for the income year in which the balancing adjustment event
occurred.

Meaning of interest realignment arrangement etc.

(5) An interest realignment arrangement is an "arrangement:
(a) that is entered into between entities:
(i) that are undertaking jointly, or propose to undertake
jointly, a project for carrying out "mining and/or
quarrying operations (the "project"); and
(ii) that each "holds" mining, quarrying or prospecting
rights relating to the project; and
(b) under which those entities exchange (or agree to exchange),
with the effect set out in subsection (6), parts of those rights; and
and
(c) that does not provide for any transfer of a mining, quarrying
or prospecting right for a purpose other than giving rise to the
effect referred to in subsection (6).

(6) The effect referred to in paragraphs (5)(b) and (c) must be that, for
each of those entities, the following are equal:
(a) the entity’s percentage interest in the project;
(b) the reserves represented by the "mining, quarrying or
prospecting rights that the entity "holds relating to the
project, expressed as a percentage of the reserves represented

Comment [A2]: Refer over page for a proposed definition of project, to ensure
that the concept is robust.

Comment [A3]: Grammatically it seems
"the project" referred to in s 40-363(5)(a)(ii) is the project considered in s 40-363(5)(a)(i). This would mean "the
project" in s 40-363(5)(a)(ii) can be either proposed or existing.

One possible way to make this clear would be to make "the project" a defined term and
use throughout, as suggested by the potential mark up in s 40-363(5)(a)(ii).

However it is possible that the current wording is still too simplistic, hence the
suggestion over the page.
by all mining, quarrying or prospecting rights that any of the entities hold relating to the project.

For the purposes of paragraph (b), the reserves represented by a "mining, quarrying or prospecting right are taken to be the reserves, contingent resources or "minerals", reasonably estimated using an appropriate accepted industry practice, that are expected to be extracted from the mine, "petroleum field or quarry to which the right relates.

For the purposes of section 40-363, project includes a single project or proposed project or two or more such projects jointly undertaken by the same entities.

40-364 Interest realignment adjustments

Effect of receiving interest realignment adjustment on assessable income

(1) If you receive an "interest realignment adjustment in an income year, include in your assessable income for the year an amount (the adjustment amount) equal to:

(a) the amount of the adjustment, or
(b) if the adjustment is not an amount—the "market value of the adjustment.

Effect of providing interest realignment adjustment on cost, or cost base and reduced cost base

(2) If an "interest realignment adjustment is provided by you or on your behalf:

(a) include the adjustment amount in the second element of the "cost of a "mining, quarrying or prospecting right that you acquired under the "interest realignment arrangement to which the adjustment amount relates; or
(b) if this Division does not apply to that right—including the adjustment amount in the "cost base and "reduced cost base of that right.

However, if your acquired more than one such right under the arrangement, apportion the adjustment amount between the costs, or cost bases and reduced cost bases, of those rights on a reasonable basis.

Comment [A4]: Given "reserves" has a particular meaning within the oil and gas industry, we suggest it would be helpful to clarify as proposed if the intent is broadly that this text is applied by taking into account the expected resources in situ within the boundaries of the mining, quarrying or prospecting right.
Note: Subsections 40-47T(1D) and (1E) of the *Income Tax (Transitional Provisions) Act 1997* set out when this Division does not apply to the right.

**Tax effects of the right to an interest realignment adjustment**

(3) In calculating the "termination value of a "mining, quarrying or prospecting right that you provide under an "interest realignment arrangement, assume to be zero the "market value of any contractual right conferred by the arrangement to an "interest realignment adjustment to be received by you.

(4) In calculating the "cost of a "mining, quarrying or prospecting right that you receive under an "interest realignment arrangement, assume to be zero the "market value of any contractual right conferred by the arrangement to an "interest realignment adjustment to be provided by you.

(5) The creation of a right to an "interest realignment adjustment does not cause "CGT event D1 [or D3] to happen.

(6) Your receipt of an "interest realignment adjustment does not cause "CGT event C1 or C2 to happen in relation to the right to receive the adjustment.

**Meaning of interest realignment adjustment**

(7) An *interest realignment adjustment* is an amount, or an asset (other than a "mining, quarrying or prospecting right), that:

(a) is provided under an "interest realignment arrangement to a party to the arrangement by or on behalf of another party to the arrangement; and

(b) is provided as an adjustment, to the parties' contributions of value to the project to which the arrangement relates, that arises because information that has become available since the time the arrangement took effect indicates that the other party did not make an appropriate contribution at that time.

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**At the end of Division 124**

Add:
Subdivision 124-S—Interest realignment arrangements

Guide to Subdivision 124-S

124-1220 What this Subdivision is about

There is roll-over relief if an interest in a mining, quarrying or prospecting right is disposed of under an interest realignment arrangement.

Table of sections

124-1225 Disposals of interests under interest realignment arrangements
124-1230 Rollover consequences—partial roll-over
124-1235 Rollover consequences—all original interests were post-CGT
124-1240 Rollover consequences—all original interests were pre-CGT
124-1245 Rollover consequences—original interests were of mixed CGT status, all were pre-UCA
124-1250 Rollover consequences—some original interests were pre-UCA

Operative provisions

124-1225 Disposals of interests under interest realignment arrangements

(1) There is a roll-over if:

(a) CGT event A1 happens because you dispose of one or more assets each of which:

(i) is an interest (an original interest) in a “mining, quarrying or prospecting right; and

(ii) is an interest that you started to hold before 1 July 2001; and

(b) the disposal occurs under an “interest realignment arrangement.

(2) The first element of the “cost base and “reduced cost base of the new interest (a new interest) in a “mining, quarrying or prospecting right that you acquire under the “interest realignment arrangement includes any amount you paid to get it (which can include giving property: see section 103-5).

Note 1: The rest of the first element is worked out under Subdivision 124-A.
Under subsections 124-10(2) and 124-15(2), a capital gain or capital loss you make from an original interest is disregarded.

**124-1230 Rollover consequences—partial roll-over**

(1) You can obtain only a partial roll-over in relation to an original interest if the capital proceeds for that interest includes something other than a new interest or new interests. There is no roll-over for that part (the ineligible part) of the interest for which you received the ineligible proceeds.

Note: If there is more than one original interest, some or all of those original interests may each have an ineligible part.

(2) The cost base of the ineligible part is that part of the cost base of the original interest as is reasonably attributable to the ineligible part.

(3) The reduced cost base of the ineligible part is that part of the reduced cost base of the original interest as is reasonably attributable to the ineligible part.

(4) For the purposes of sections 124-1235 and 124-1245, for each original interest that has an ineligible part:

(a) reduce the cost base of that interest (just before the CGT event that happened in relation to it) by so much of that cost base as is attributable to that ineligible part; and

(b) reduce the reduced cost base of that interest (just before the CGT event that happened in relation to it) by so much of that reduced cost base as is attributable to that ineligible part.

**Comment [A10]:** This section seems to be missing the asterisk (*) next to a number of defined terms.
(a) the total of the cost bases of all the original interests; and
(b) the number, *market value and character of the original interests; and
(c) the number, market value and character of the new interests.

The first element of the *reduced cost base of the new interest (or of each of the new interests) is such amount as is reasonable having regard to:
(a) the total of the reduced cost bases of all the original interests; and
(b) the number, *market value and character of the original interests; and
(c) the number, market value and character of the new interests.

124-1240 Roll-over consequences—all original interests were pre-CGT

If you *acquire the new interest in exchange for:
(a) one original interest that you acquired before 20 September 1985; or
(b) 2 or more original interests, each of which you acquired before 20 September 1985;
you are taken to have acquired the new interest (or all of the new interests) before that day.

124-1245 Roll-over consequences—original interests were of mixed CGT status, all were pre-UCA

(1) This section applies if:
(a) you *acquire the new interest in exchange for more than one original interest; and
(b) you acquired one or more of the original interests before 20 September 1985; and
(c) you acquired one or more of the original interests on or after that day; and
(d) you did not acquire any of the original interests on or after 1 July 2001.

(2) Each new interest is taken to be 2 separate *CGT assets that are both new interests:
(a) one (which you are taken to have *acquired on or after 20 September 1985) representing the extent to which you acquired the original interests on or after that day; and
(b) another (which you are taken to have acquired before that day) representing the extent to which you acquired the original interests before that day.

(3) The first element of the *cost base and *reduced cost base of the *CGT asset mentioned in paragraph (2)(a) in relation to a new interest is worked out under the formula:

\[
\text{Total post-CGT cost base} \times \frac{\text{Market value of new interest}}{\text{Market value of all new interests}}
\]

where:

*market value of all new interests* is the total of the *market values of all of the new interests.*

*market value of new interest* is the *market value of the new interest to which the *CGT asset mentioned in paragraph (2)(a) relates.*

*total post-CGT cost base* is the total of the *cost bases of all the original interests that you *acquired on or after 20 September 1985.*

124-1250 Roll-over consequences—some original interests were pre-UCA

(1) This section applies if:

(a) you *acquire the new interest in exchange for more than one original interest; and
(b) you acquired one or more of the original interests (pre-UCA interests) before 1 July 2001; and
(c) you acquired one or more of the original interests (post-UCA interests) on or after that day.

(2) If you *acquired all of the pre-UCA interests on or after 20 September 1985, each new interest is taken to be 2 separate assets that are both new interests:

(a) one (which you are taken to have acquired on or after that day and before 1 July 2001) representing the extent to which the original interests are pre-UCA interests; and
(b) another (which you are taken to have acquired on or after 1 July 2001) representing the extent to which the original interests are post-UCA interests.

Apply section 124-1235 to the interest referred to in paragraph (a) as if the pre-UCA interests were the only original interests. Apply Division 40 to the interests referred to in paragraph (b).

(3) If you *acquired all of the pre-UCA interests before 20 September 1985, each new interest is taken to be 2 separate assets that are both new interests:

(a) one (which you are taken to have acquired before that day) representing the extent to which the original interests are pre-UCA interests; and

(b) another (which you are taken to have acquired on or after 1 July 2001) representing the extent to which the original interests are post-UCA interests.

Apply section 124-1240 to the new interest referred to in paragraph (a) as if the pre-UCA interests were the only original interests. Apply Division 40 to the new interest referred to in paragraph (b).

(4) If you *acquired one or more of the pre-UCA interests before 20 September 1985 and one or more of the pre-UCA interests on or after that day, each new interest is taken to be 3 separate assets that are all new interests:

(a) one (which you are taken to have acquired on or after 20 September 1985 and before 1 July 2001) representing the extent to which the original interests that you acquired on or after 20 September 1985 are pre-UCA interests; and

(b) another (which you are taken to have acquired before 20 September 1985) representing the extent to which the original interests that you acquired before 20 September 1985 are pre-UCA interests; and

(c) another (which you are taken to have acquired on or after 1 July 2001) representing the extent to which the original interests are post-UCA interests.

Apply section 124-1245 to the new interests referred to in paragraphs (a) and (b) as if the pre-UCA interests were the only original interests. Apply Division 40 to the new interest referred to in paragraph (c).
# Subsection 995-1(1)

Insert:

*interest realignment adjustment* has the meaning given by subsection 40-364(7).

*interest realignment arrangement* has the meaning given by subsection 40-363(5).

**Income Tax (Transitional Provisions) Act 1997**

# After subsection 40-77(1C)

Insert:

(1D) Division 40 of the new Act does not apply to an interest in a mining, quarrying or prospecting right that you started to hold on or after 1 July 2001 if:

(a) you acquired the interest under an interest realignment arrangement; and

(b) the interest was acquired in exchange for one or more other interests in other mining, quarrying or prospecting rights all of which you had started to hold before 1 July 2001.

(1E) If:

(a) you acquired, under an interest realignment arrangement, an interest (*a new interest*) in a mining, quarrying or prospecting right; and

(b) the interest was acquired in exchange for one or more other interests (*old interests*) in other mining, quarrying or prospecting rights; and

(c) you started to hold some of the old interests before 1 July 2001;

Division 40 of the new Act applies to the new interest only to the extent that the new interest was acquired in exchange for the old interests that you started to hold on or after 1 July 2001.

# Application

The amendments made by this Part apply in relation to:

(a) mining, quarrying or prospecting rights that an entity starts to hold after 7.30 pm, by legal time in the Australian Capital Territory, on 14 May 2013; and
(b) balancing adjustment events that happen after that time; and

(c) CGT events that happen after that time.
Part 2—Farm-in farm-out arrangements

Income Tax Assessment Act 1997

# Section 11-55 (after table item headed “environment”)  
Insert:  
    farm-in farm-out arrangements  
    rewards for providing exploration benefits ......................... 40-1120

10 Section 40-175 (note)  
After:  
    • paragraph 40-365(5)(a);  
insert:  
    • section 40-1110;

# At the end of subsection 40-180(4)  
Add:  
    Note: The first element of cost may be reduced under section 40-1105 to  
    account for non-cash benefits received under farm-in farm-out  
    arrangements.

# Subsection 40-300(3) (note)  
Repeal the note, substitute:  
    Note 1: Termination value may be adjusted under Subdivision 27-B so that  
    any GST consequences are accounted for.  
    Note 2: Termination value may be reduced under section 40-1105 to account  
    for non-cash benefits received under farm-in farm-out arrangements.

# After Subdivision 40-J  
Insert:
Subdivision 40-K—Farm-in farm-out arrangements

Guide to Subdivision 40-K

40-1100 What this Subdivision is about

The costs and termination values of parts of interests in mining, quarrying or prospecting rights that are transferred under farm-in farm-out arrangements are reduced by the market value of the exploration benefits conferred under the arrangements.

Table of sections

40-1105 Treatment of certain non-cash benefits under farm-in farm-out arrangements
40-1110 Cost of split interests resulting from farm-in farm-out arrangements
40-1115 Deductions for certain expenditure covered by exploration benefits
40-1120 Rewards for providing exploration benefits
40-1125 Cost base and reduced cost base of exploration benefits etc.
40-1130 Effect of exploration benefits on the cost of mining, quarrying or prospecting information
40-1135 Meaning of farm-in farm-out arrangement etc.

Operative provisions

40-1105 Treatment of certain non-cash benefits under farm-in farm-out arrangements

(1) If, under a "farm-in farm-out arrangement, you receive an "exploration benefit in relation to the transfer of part of your interest in a "mining, quarrying or prospecting right, the "termination value of the part of the interest is reduced by the "market value of the exploration benefit.

(2) If, under a "farm-in farm-out arrangement, you provide an "exploration benefit in relation to the transfer to you of part of another entity’s interest in a "mining, quarrying or prospecting right, the first element of the "cost of the part of the interest is reduced by the "market value of the exploration benefit.
40-1110 Cost of split interests resulting from farm-in farm-out arrangements

Despite section 40-205, if:

(a) under a "farm-in farm-out arrangement, you provide a part of
your interest in a "mining, quarrying or prospecting right; and

(b) because of subsection 40-115(2), this Division applies as if
you had split your interest into the part you stopped holding
and the rest of your interest;

then:

(c) the first element of the cost of the asset that consists of the
part you stopped holding is a reasonable proportion of the
amount you are taken to have paid under section 40-185 for
any economic benefit involved in splitting your interest; and

(d) the first element of the cost of the asset that consists of the
rest of your interest is the sum of:

(i) the "adjustable value of your interest just before it was
split; and

(ii) a reasonable proportion of the amount you are taken to
have paid under section 40-185 for any economic
benefit involved in splitting your interest.

40-1115 Deductions relating to receipt of exploration benefits

(1) If:

(a) under a "farm-in farm-out arrangement, you receive an
"exploration benefit in exchange for providing a part of your
interest in a "mining, quarrying or prospecting right; and

(b) because of subsection 40-1105(1), the "termination value of
the interest you provide is reduced;

your entitlement (if any) to a deduction under a provision of this
Act, in relation to your expenditure consisting of the provision of
that part, is reduced to the same extent as the reduction in the
termination value.

(2) If the termination value is reduced to nil under
subsection 40-1105(1), you are not entitled to a deduction under a
provision of this Act in relation to your expenditure consisting of
the provision of that part.

(3) If:
(a) under a "farm-in farm-out arrangement, you receive an exploration benefit in exchange for providing a part of your interest in a "mining, quarrying or prospecting right; and
(b) because of subsection 40-1105(1), the "termination value of the interest you provide is reduced; and
(c) the exploration benefit consists of another party to the arrangement funding on your behalf, or undertaking to fund on your behalf, expenditure that you incur in relation to exploration or prospecting by another entity;
your entitlement (if any) to a deduction under a provision of this Act in relation to that expenditure is reduced to the same extent as the reduction in the termination value.

(4) If the termination value is reduced to nil under subsection 40-1105(1), you are not entitled to a deduction under a provision of this Act in relation to that expenditure.

40-1120 Rewards for providing exploration benefits

(1) If:
(a) under a "farm-in farm-out arrangement, you provide an exploration benefit in exchange for you receiving under the arrangement an interest in a "mining, quarrying or prospecting right; and
(b) the interest that you receive is a part of another entity’s interest in a mining, quarrying or prospecting right; and
(c) because of subsection 40-1105(2), the first element of the "cost of the part of the interest you receive is reduced; and
(d) for providing the non-cash benefit, you receive a reward as a result of which an amount would, apart from this section, be included in your assessable income;
to the extent of the reduction in the first element of the cost, the amount is not assessable income and is not "exempt income.

(2) If the first element of the "cost is reduced to nil under subsection 40-1105(2), the entire amount is not assessable income and is not "exempt income.

40-1125 Cost base and reduced cost base of exploration benefits etc.

If:
(a) under a "farm-in farm-out arrangement, you receive an
"exploration benefit; and
(b) the benefit involves one or more undertakings of the kinds
referred to in subparagraphs 40-1135(2)(a)(ii) and (iv);
the first element of the "cost base and the "reduced cost base of the
benefit are reduced by the "market value of the undertakings.

40-1130 Effect of exploration benefits on the cost of mining,
quarrying or prospecting information

If:
(a) you "hold a "depreciating asset that is "mining, quarrying or
prospecting information; and
(b) under a "farm-in farm-out arrangement, you receive an
"exploration benefit; and
(c) an amount or expenditure would, apart from this section, be
included in the second element of the "cost of the asset;
do not include that amount or expenditure in the second element to
the extent (if any) that it is reasonably attributable to the
exploration benefit.

40-1135 Meaning of farm-in farm-out arrangement etc.

(1) A farm-in farm-out arrangement is an "arrangement under which:
(a) an entity (the transferor) transfers, or agrees to transfer, part
of the entity’s interest in a "mining, quarrying or prospecting
right to another entity (the transferee); and
(b) in exchange for the transfer, the transferee provides to the
transferor one or more "exploration benefits.

(2) The transferee provides an exploration benefit to the transferor if:
(a) the transferee:
(i) conducts "exploration or prospecting for "minerals, or
quarry materials, obtainable by "mining and quarrying
operations; or
(ii) undertakes to conduct exploration or prospecting for
"minerals, or quarry materials, obtainable by "mining
and quarrying operations; or
(iii) funds, on the transferor’s behalf, expenditure that the
transferor incurs in relation to exploration or
prospecting-by another entity; and
(iv) undertakes to fund, on the transferor’s behalf, expenditure that the transferor incurs in relation to exploration or prospecting by another entity and
(b) the exploration or prospecting relates to the part of the transferor’s interest in the mining, quarrying or prospecting right that the transferor does not transfer, or agree to transfer, under the arrangement; and
(c) were the transferor to conduct the exploration or prospecting, amounts paid by the transferor relating to the exploration or prospecting would:
   (i) be included in the "cost of "mining, quarrying or prospecting information "held by the transferor; or
   (ii) be included in any other "depreciating asset, held by the transferor, for which the decline in value is provided under section 40-80; or
   (ii) be deductible under section 40-730 or section 8-1.

# At the end of subsection 104-35(5)
Add:
; or (g) you created the right by creating in another entity a right to receive an "exploration benefit under a "farm-in farm-out arrangement.

# Section 112-97 (before table item 1)
Insert:

1A You receive, under a farm-in farm-out arrangement, an exploration benefit or an entitlement to an exploration benefit

# Section 116-25 (cell at table item A1, column headed “Special rules:”)
Repeal the cell, substitute:
If the "disposal is because another entity exercises an option: see section 116-65
If the disposal is of "shares or an interest in a trust: see section 116-80
If the disposal is a gift for which a section 30-212 valuation is obtained: see section 116-100
If a roll-over under Subdivision 310-D applies: see section 116-110
If the disposal is a disposal of part of an interest in a "mining, quarrying or prospecting right under a "farm-in farm-out arrangement: see section 116-115

# Section 116-25 (cell at table item C2, column headed "Special rules:"

Omit “and 116-10”, substitute “, 116-110 and 116-115”.

# At the end of Division 116

Add:

116-115 Farm-in farm-out arrangements

(1) If:

(a) CGT event A1 is the disposal of part of your interest in a "mining, quarrying or prospecting right; and
(b) the interest is disposed of under a "farm-in farm-out arrangement; and
(c) you have received an "exploration benefit in respect of the event happening;

in working out the "capital proceeds for the "CGT event, treat as zero the "market value of the exploration benefit.
(2) If:
   (a) CGT event C2 arises as a result of an *exploration benefit*
       being provided to you; and
   (b) the exploration benefit is provided under a *farm-in farm-out
       arrangement;

   in working out the *capital proceeds* for the *CGT event*, treat as
   zero the *market value* of the exploration benefit.

# After subsection 230-460(17)

   Insert:

   *Exploration benefits*

   (17A) A right or obligation that arises because of the provision of an
         *exploration benefit* under a *farm-in farm-out* arrangement is the
         subject of an exception.

# Subsection 995-1(1)

   Insert:

   *exploration benefit* has the meaning given by
   subsection 40-1135(2).

   *farm-in farm-out arrangement* has the meaning given by
   subsection 40-1135(1).

# Application

   The amendments made by this Part apply in relation to farm-in farm-out
   arrangements entered into after 7.30 pm, by legal time in the Australian
   Capital Territory, on 14 May 2013.