

EXPOSURE DRAFT

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Inserts for
**Treasury Laws Amendment (Measures
for Consultation) Bill 2023: PRRT
anti-avoidance rules**

Commencement information

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details

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

Schedule 1—Anti-avoidance rules

Petroleum Resource Rent Tax Assessment Act 1987

1 Section 52

Repeal the section, substitute:

51A The bases for identifying tax benefits

- (1) This section applies to deciding, under section 51, whether any of the following (*tax effects*) would have occurred, or might reasonably be expected to have occurred, if an arrangement had not been entered into or carried out:
 - (a) an amount of assessable receipts not being derived by the person in relation to a petroleum project;
 - (b) an amount of deductible expenditure being incurred by the person in relation to a petroleum project.
- (2) A decision that a tax effect would have occurred if the arrangement had not been entered into or carried out must be based on a postulate that comprises only the events or circumstances that actually happened or existed (other than those that form part of the arrangement).
- (3) A decision that a tax effect might reasonably be expected to have occurred if the arrangement had not been entered into or carried out must be based on a postulate that is a reasonable alternative to entering into or carrying out the arrangement.
- (4) In determining for the purposes of subsection (3) whether a postulate is such a reasonable alternative:
 - (a) have particular regard to:
 - (i) the substance of the arrangement; and
 - (ii) any result or consequence for the person that is or would be achieved by the arrangement (other than a result in relation to the operation of this Act); but
 - (b) disregard any result in relation to the operation of this Act that would be achieved by the postulate for any person (whether or not a party to the arrangement).

EXPOSURE DRAFT

52 Arrangements to which this Subdivision applies

Arrangement for purpose of obtaining a tax benefit

- (1) This Subdivision applies to an arrangement if it would be concluded (having regard to the matters in subsection (2)) that the person, or one of the persons, who entered into or carried out the arrangement or any part of the arrangement did so for the sole or dominant purpose of:
- (a) enabling a person (an *eligible person*) to obtain a tax benefit or tax benefits in connection with the arrangement; or
 - (b) enabling the eligible person and another person or other persons each to obtain a tax benefit or tax benefits in connection with the arrangement;
- whether or not that person who entered into or carried out the arrangement or any part of the arrangement is the eligible person or is the other person or one of the other persons.

Have regard to certain matters

- (2) For the purposes of subsection (1), have regard to the following matters:
- (a) the manner in which the arrangement was entered into or carried out;
 - (b) the form and substance of the arrangement;
 - (c) the time at which the arrangement was entered into and the length of the period during which the arrangement was carried out;
 - (d) the result in relation to the operation of this Act that, but for this Subdivision, would be achieved by the arrangement;
 - (e) any change in the financial position of the eligible person that has resulted, will result, or may reasonably be expected to result, from the arrangement;
 - (f) any change in the financial position of any person who has, or has had, any connection (whether of a business, family or other nature) with the eligible person, being a change that has resulted, will result or may reasonably be expected to result, from the arrangement;
 - (g) any other consequence for the eligible person, or for any person referred to in paragraph (f), of the arrangement having been entered into or carried out;

EXPOSURE DRAFT

1 (h) the nature of any connection (whether of a business, family,
2 or other nature) between the eligible person and any person
3 referred to in paragraph (f).

4 *Tax benefit*

5 (3) Despite subsection (1), this Subdivision applies to the arrangement
6 only if the eligible person has obtained, or would but for section 53
7 obtain, a tax benefit in connection with the arrangement.

8 **2 Subsection 53(1)**

9 Omit “a tax benefit has been obtained, or would but for this section be
10 obtained, by a person in connection with an arrangement to which this
11 Subdivision applies”, substitute “this Subdivision applies to an
12 arrangement in connection with which a tax benefit has been obtained,
13 or would but for this section be obtained”.

14 **3 Application of amendments**

15 The amendments made by this Schedule apply in relation to an
16 arrangement that:

- 17 (a) has been or is entered into on or after 1 July 2023; or
18 (b) has been or is carried out or commenced to be carried out on
19 or after that date (other than an arrangement that was entered
20 into before that date).

21