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| **EXPOSURE DRAFT** |

Inserts for

Treasury Laws Amendment (Measures for Consultation) Bill 2023: Capital allowances for mining, quarrying or prospecting rights and clarifying the meaning of exploration for petroleum

| 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. |  |

Schedule 1—Capital allowances for mining, quarrying or prospecting rights and clarifying the meaning of exploration for petroleum

Part 1—Capital allowances for mining, quarrying or prospecting rights

Income Tax Assessment Act 1997

1 Paragraph 40‑30(6)(b)

Repeal the paragraph, substitute:

(b) any of the following conditions are satisfied:

(i) the new right and the other right relate to the same area, or any difference in area is not significant;

(ii) the new right relates to an area that is a part of the area that the other right relates to.

Note: If the other right does not end, it may be taken to be split into 2 assets: see section 40‑122.

2 After section 40‑40

Insert:

40‑42 When mining, quarrying or prospecting rights are used

(1) This Division applies to a \*depreciating asset you \*hold that is a \*mining, quarrying or prospecting right as if a reference to using the asset were a reference to engaging in activity that involves exercising rights conferred on you by the asset.

(2) If the asset is an interest covered by paragraph (c) of the definition of ***mining, quarrying or prospecting right*** in subsection 995‑1(1), the reference in subsection (1) of this section to rights conferred on you by the asset is taken to be a reference to rights conferred on you by the authority, licence, permit, right or lease referred to in paragraph (c) of that definition.

3 After section 40‑120

Insert:

40‑122 Partial conversions of mining, quarrying or prospecting rights

If:

(a) a \*depreciating asset you \*hold is a \*mining, quarrying or prospecting right (the ***old right***) that relates to an area; and

(b) you begin to hold another depreciating asset (the ***partial new right***) that:

(i) is a mining, quarrying or prospecting right; and

(ii) relates to an area that is a part of the area that the old right relates to; and

(c) the old right does not end when you begin to hold the partial new right;

this Division applies as if the old right (as it exists just before you begin to hold the partial new right) is split into an asset that is the partial new right and an asset that is the old right.

4 After section 40‑215

Insert:

40‑217 Cost of partial continuations of mining, quarrying or prospecting rights

If:

(a) because of subsection 40‑30(6), this Division applies to a \*mining, quarrying or prospecting right (the ***new right***) as if it were a continuation of another mining, quarrying or prospecting right you \*held; and

(b) the new right satisfies the condition in subparagraph (b)(ii) of that subsection because it relates to an area that is a part of the area that the other right relates to;

the first element of the ***cost*** of the new right is a reasonable proportion of the \*adjustable value of other right at the time just before the other right ends.

5 Subsection 995‑1(1) (at the end of the definition of *installed ready for use*)

Add “However, a \*mining, quarrying or prospecting right is not ***installed ready for use***.”.

6 Application of amendments

The amendments made by this Part apply to a mining, quarrying or prospecting right that you start to hold after 7:30 pm, by legal time in the Australian Capital Territory, on 9 May 2023.

Part 2—Clarifying the meaning of exploration for petroleum

Petroleum Resource Rent Tax Assessment Act 1987

7 At the end of section 37

Add:

(4) To avoid doubt, the reference to exploration for petroleum in paragraph (1)(a) of this section does not include a reference to activities engaged in for the purpose of determining:

(a) whether the recovery of petroleum is any of the following:

(i) commercially viable;

(ii) economically feasible;

(iii) technically feasible; or

(b) how to recover petroleum.

(5) Paragraphs (4)(a) and (b) do not limit each other.

8 Application of amendments

The amendment made by this Part applies to payments made on or after 21 August 2013.