DRAFT DECISION
APA VTS Australia
Gas access arrangement
2018 to 2022

Attachment 8 – Corporate income tax

July 2017

AUSTRALIAN ENERGY REGULATOR

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Note

This attachment forms part of the AER's draft decision on the access arrangement for APA VTS Australia for 2018-22. It should be read with all other parts of the draft decision.

The draft decision includes the following documents:

Overview

Attachment 1 - Services covered by the access arrangement

Attachment 2 - Capital base

Attachment 3 - Rate of return

Attachment 4 - Value of imputation credits

Attachment 5 - Regulatory depreciation

Attachment 6 - Capital expenditure

Attachment 7 - Operating expenditure

Attachment 8 - Corporate income tax

Attachment 9 - Efficiency carryover mechanism

Attachment 10 - Reference tariff setting

Attachment 11 - Reference tariff variation mechanism

Attachment 12 - Non-tariff components

Attachment 13 - Demand

Contents

Shortened forms

Shortened form	Extended form
AER	Australian Energy Regulator
ATO	Australian Tax Office
capex	capital expenditure
CAPM	capital asset pricing model
CPI	consumer price index
DRP	debt risk premium
ECM	(Opex) Efficiency Carryover Mechanism
ERP	equity risk premium
Expenditure Guideline	Expenditure Forecast Assessment Guideline
gamma	Value of Imputation Credits
MRP	market risk premium
NGL	National Gas Law
NGO	national gas objective
NGR	National Gas Rules
NPV	net present value
opex	operating expenditure
PTRM	post-tax revenue model
RBA	Reserve Bank of Australia
RFM	roll forward model
RIN	regulatory information notice
RPP	revenue and pricing principles
SLCAPM	Sharpe-Lintner capital asset pricing model
STTM	Short Term Trading Market
TAB	Tax asset base
UAFG	Unaccounted for gas
WACC	weighted average cost of capital
WPI	Wage Price Index

8 Corporate income tax

When determining the total revenue for APA VTS (APA), we include an estimate of APA's cost of corporate income tax.[1] APA has adopted the post-tax framework to derive its revenue requirement for the 2018–22 access arrangement period.[2] Under the post-tax framework, a separate corporate income tax allowance is calculated as part of the building blocks assessment.

8.1 Draft decision

We accept APA's proposed approach to calculate its forecast corporate income tax allowance. APA's proposed approach is consistent with the AER's post-tax revenue model (PTRM) for electricity service providers and the approach previously approved in gas access arrangement decisions. However, we do not approve APA's proposed corporate income tax allowance of $22.9 million ($ nominal) for the 2018–22 access arrangement period. Our draft decision on APA's corporate income tax allowance over the 2018–22 access arrangement period is $6.5 million ($ nominal). This represents a reduction of $16.3 million ($ nominal) or 71.4 per cent of APA's proposed forecast corporate income tax allowance.

The reduction reflects our amendments to APA's proposed inputs for forecasting the cost of corporate income tax, including:

- the opening tax asset base (TAB) (section 8.4.1)
- remaining tax asset lives (section 8.4.3)
- the value of imputation credits (gamma) (attachment 4).

Our adjustments to the return on capital (attachments 2 and 3), regulatory depreciation (attachment 5) and forecast capex (attachment 6) and forecast opex (attachment 7) building block costs affect revenues, which in turn impacts the tax calculation.[3]

We do not approve the proposed opening TAB of $543.2 million ($ nominal) as at 1 January 2018.[4] We instead determined an opening TAB of $512.7 million ($ nominal). This is because we do not approve APA's proposal to use 'as-incurred' actual capex and forecast tax depreciation to roll forward the TAB for the 2013–17 access arrangement period.[5] Our draft decision is to use 'as-commissioned' actual

1 NGR, r. 76(c).

2 APA, *APA VTS access arrangement revision submission 2018–22,* January 2017, p. 213.

3 The changes affecting revenues are discussed in the overview.

4 APA VTS - *B4 - APA Post Tax Revenue Model revised with WORM (includes 3 March 2017 updates for inflation in response to AER information request IR003),* 16 May 2017.

5 The TAB is roll forward by adding capex and subtracting tax depreciation over the 2013–17 access arrangement period. There are two ways to recognise capex. The as-incurred capex approach recognises capex in any one year based on expenditure incurred in that year regardless of whether the asset related to that expenditure has

capex and actual tax depreciation to roll forward the TAB for the 2013–17 access arrangement period.

We approve APA's proposed standard tax asset lives for the 2018–22 access arrangement period. They are consistent with the provisions of the *Income Tax Assessment Act (ITAA) 1997* and the standard tax asset lives prescribed in the *Tax Ruling 2016/1*.[6] They are also consistent with the approved standard tax asset lives in the 2013–17 access arrangement.

We accept APA's proposed weighted average method to calculate the remaining tax asset lives as at 1 January 2018. In accepting the weighted average method, we have updated APA's proposed remaining tax asset lives as at 1 January 2018. This is due to changes we have made to the roll forward of the opening TAB for the 2013–17 access arrangement period and other inputs that effect the calculation of the remaining tax asset lives in APA's proposed RFM (section 8.4.1).

In assessing APA's proposal, we have had regard to the requirements of the NGO and the revenue and pricing principles.[7] Table 8.1 sets out our draft decision on the estimated cost of corporate income tax allowance for APA over the 2018–22 access arrangement period.

Table 8.1 AER's draft decision on corporate income tax allowance for APA over the 2018–22 access arrangement period ($million, nominal)

	2018	2019	2020	2021	2022	Total
Tax payable	2.2	2.5	3.1	2.3	0.8	10.9
Less: value of imputation credits	0.9	1.0	1.2	0.9	0.3	4.4
Net corporate income tax allowance	**1.3**	**1.5**	**1.9**	**1.4**	**0.5**	**6.5**

Source: AER analysis.

8.2 APA's proposal

APA proposed a corporate income tax allowance of $22.9 million ($ nominal) for the 2018–22 access arrangement period as set out in table 8.2. It used the PTRM to calculate the corporate income tax allowance for each year of the 2018–22 access arrangement period. In estimating its corporate income tax allowance, APA used:

been commissioned or not, while the as-commissioned capex approach recognises expenditure at the time when the asset related to that expenditure has been commissioned.

6 *ITAA 1997*, s. 40.102(5); Australian Taxation Office, *Taxation Ruling (TR 2016/1) Income Tax: effective life of depreciating assets (applicable from 1 July 2016)*.

7 NGL, s. 28; NGR r. 100(1). The NGO is set out in NGL, s. 23. The revenue and pricing principles are set out in NGL, s. 24.

- an opening TAB of $543.2 million ($ nominal) as at 1 January 2018 (as shown in Table 8.3)
- an expected statutory income tax rate of 30 per cent per year
- a value for the assumed utilisation of imputation credits (gamma) of 0.25
- the standard tax asset lives as approved for the 2013–17 access arrangement
- the remaining tax asset lives which were calculated using a weighted average remaining life approach as contained in its proposed RFM.

APA used the AER's RFM for rolling forward the TAB over the 2013–17 access arrangement period. However, it amended the RFM to use as-incurred actual capex and forecast tax depreciation to roll forward the TAB.[8]

Table 8.2 APA proposed corporate income tax allowance for the 2018–22 access arrangement period ($million, nominal)

	2018	2019	2020	2021	2022	Total
Tax payable	6.0	6.5	7.0	6.2	4.8	30.5
Less: Value of imputation credits	1.5	1.6	1.8	1.6	1.2	7.6
Net corporate income tax allowance	**4.5**	**4.9**	**5.3**	**4.7**	**3.6**	**22.9**

Source: APA VTS, *B4 - APA Post Tax Revenue Model revised with WORM (includes 3 March 2017 updates for inflation in response to AER information request IR003)*, 16 May 2017.

Note: Numbers may not add due to rounding.

APA's proposed roll forward of its TAB over the 2013–17 access arrangement period is set out in table 8.3.

8 APA, *Proposed supplementary capital expenditure submission PTRM*, May 2017.

Table 8.3 APA's proposed tax asset base roll forward over the 2013–17 access arrangement period ($million, nominal)

	2013	2014	2015	2016	2017
Opening tax asset base	229.0	224.1	345.4	417.7	497.8
Capex	4.0	139.3	94.0	103.0	69.1
Less: Tax depreciation	8.8	18.1	21.6	23.0	23.7
Closing tax asset base	**224.1**	**345.4**	**417.7**	**497.8**	**543.2**

Source: APA VTS, *B4 - APA Post Tax Revenue Model revised with WORM (includes 3 March 2017 updates for inflation in response to AER information request IR003)*, 16 May 2017.

8.3 AER's assessment approach

Our approach to calculating APA's cost of corporate income tax begins with an estimate of taxable income that would be earned by a benchmark efficient company operating APA's pipeline. As part of this calculation, tax expenses such as interest and depreciation need to be estimated. Interest tax expense should be estimated using a benchmark 60 per cent gearing, rather than APA's actual gearing. Tax depreciation is calculated using a separate TAB. All tax expenses (including other expenses such as operating expenditure) are offset against the service provider’s forecast revenue to estimate the taxable income. The statutory income tax rate of 30 per cent is then applied to the estimated taxable income to arrive at a notional amount of tax payable. We then apply a discount to that notional amount of tax payable to account for the value of imputation credits (gamma). The value of imputation credits attachment (attachment 4) details our draft decision on gamma. The discounted nominal amount of tax payable is then included as a separate building block in determining APA's total revenue.[9]

The corporate income tax allowance is an output of the proposed PTRM. We have therefore assessed APA's proposed corporate income tax allowance by analysing its proposed inputs to the PTRM for calculating the tax allowance. These inputs include:

- the opening TAB as at 1 January 2018
- the standard tax asset life for each asset class
- the remaining tax asset life for each asset class as at 1 January 2018
- the income tax rate
- the value of imputation credits (gamma).

[9] NGR, r. 76(c).

In assessing APA's proposal we must take into account the revenue and pricing principles, and the requirement for consistency with the NGO.[10]

The rules also require that any forecast must be arrived at on a reasonable basis and must represent the best forecast or estimate possible in the circumstances.[11]

We consider that the roll forward of the opening TAB to 1 January 2018 should be based on the approved opening TAB as at 1 July 2013 and APA's actual 'as-commissioned' capex over the 2013–17 access arrangement period. We consider that the calculation of the tax depreciation should be based on the actual as-commissioned' capex over the 2013–17 access arrangement period. The value of the actual capex used for rolling forward the TAB is subject to our assessment of these values as discussed in attachment 6.

We assess APA's proposed standard tax asset lives, where appropriate, by comparing them against the values approved in the 2013–17 access arrangement and for similar asset classes for other service providers, as well as those prescribed by the Commissioner for taxation in tax ruling 2016/1.[12]

Our standard method for determining the remaining tax asset lives is the weighted average method. The weighted average method rolls forward the remaining tax asset life for a tax asset class from the last year of the earlier access arrangement period in order to take into account the actual capex for that year. This approach reflects the mix of assets within that tax asset class, when they were acquired over that period (or if they were existing assets at the beginning), and the remaining value of those assets (used as a weight) at the end of the period. We will assess the outcomes of other approaches against the outcomes of this standard approach.

8.3.1 Interrelationships

The corporate income tax building block feeds directly into the annual revenue requirement. This tax allowance is determined by four factors:

- pre-tax revenues
- tax expenses (including tax depreciation)
- the corporate tax rate
- the value of imputation credits (gamma)—the expected proportion of company tax that is returned to investors through the utilisation of imputation credits—which offsets against the corporate income tax allowance. This is discussed further at attachment 4.

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10 NGL, s. 28(2); NGR r. 100(a). The NGO is set out in NGL, s. 23. The revenue and pricing principles are set out in NGL, s. 24.

11 NGR, r. 74(2).

12 Australian Taxation Office, *Taxation Ruling (TR 2016/1) Income Tax: effective life of depreciating assets (applicable from 1 July 2016)*.

Of these four factors, the corporate tax rate is set externally by the Government. The higher the tax rate the higher the required tax allowance.

The pre-tax revenues depend on all the building block components. Any factor that affects revenue will therefore affect pre-tax revenues. Higher pre-tax revenues can increase the corporate income tax allowance.[13] Depending on the source of the revenue increase, the tax increase may be equal to or less than proportional to the company tax rate.[14]

The tax expenses depend on various building block components and their size. Some components give rise to tax expenses, such as opex, interest payments and tax depreciation of assets. However, others do not, such as increases in return on equity. Higher tax expenses offset revenues as deductions in the tax calculation and therefore reduce the tax allowance (all else being equal). Tax expenses include:

- Interest on debt – Interest is a tax offset. The size of which depends on the ratio of debt to equity and therefore the proportion of the capital base funded through debt. It also depends on the allowed return on debt and the size of the capital base.
- General expenses – In the main these expenses will match the opex allowance.
- Tax depreciation – A separate TAB is maintained for the service provider reflecting tax rules. This TAB is affected by many of the same factors as the capital base, such as capex, although unlike the capital base value it is maintained at its historical cost with no indexation. The TAB is also affected by the depreciation rate and/or asset lives assigned for tax depreciation purposes.

A ten per cent increase in the corporate income tax allowance would cause revenues to increase by about 0.4 per cent. The proposed gamma of 0.25 compared to the AER's decision of 0.4, would increase the corporate income tax allowance by 17 per cent and total revenues by about 0.9 per cent.

8.4 Reasons for draft decision

Our draft decision on APA's corporate income tax allowance is $6.5 million ($ nominal), which is a reduction of $16.3 million ($ nominal) or 71.4 per cent from APA's proposal.

We accept APA's proposed approach for calculating the corporate income tax allowance. However, we adjusted several inputs in APA's proposed PTRM for calculating the corporate income tax allowance. These relate to:

- changes to the opening TAB as at 1 January 2018 (section 8.4.1)

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[13] In fact, there is an iterative relationship between tax and revenues. That is, revenues lead to tax, being applied, which increases revenues and leads to slightly more tax and so on. The revenue model should therefore be set up to run an iterative process until the revenue and tax allowances become stable.

[14] For example, although increased opex adds to revenue requirement, these expenses are also offset against the revenues as deductions in determining tax, so there is no net impact in this case. A higher return on equity, in contrast, gives rise to no offsetting tax expenses and therefore increases the tax allowance in proportion to the company tax rate.

- updates to the remaining tax asset lives as at 1 January 2018 (section 8.4.3)
- changing the value of gamma from 0.25 to 0.4 (attachment 4)
- changes to other building block components including the rate of return (attachment 3), forecast capex (attachment 6) and forecast opex (attachment 7 and 9).[15]

8.4.1 Opening tax asset base as at 1 January 2018

Approach to roll forward the opening TAB

We do not accept APA's proposal to apply the forecast tax depreciation amounts approved in the review of the 2013–17 access arrangement when rolling forward the TAB for the 2013–17 access arrangement period. We also do not accept APA's proposal to use actual as-incurred capex for the TAB roll forward. Our draft decision is to use actual tax depreciation and actual as-commissioned capex to roll forward the TAB.

The forecast tax depreciation amounts in APA's proposed TAB roll forward reflect the forecast capex approved for the 2013–17 access arrangement period. We do not accept APA's proposed approach because we consider it is inconsistent with:

- the ATO's guide on depreciating assets. The ATO defines the cost of a depreciating asset for the purposes of calculating the tax depreciation as the cost paid to hold and improve the asset.[16] However, the tax depreciation amounts that APA applied in rolling forward the TAB reflects the forecast capex for the 2013–17 access arrangement period. Therefore, we consider that the proposed approach is not consistent with the ATO's requirement to use actual costs for calculating the tax depreciation.
- the approach we have applied for other the gas and electricity businesses. We note that the AER's RFM for electricity, consistent with the requirements of the ATO, requires the calculation of the tax depreciation for rolling forward the TAB to be based on the nominal actual net capex for the relevant period. APA also applied the actual tax depreciation in rolling forward the TAB in all its past access arrangements.

As discussed in attachment 2, we note there are two ways to recognise the actual capex used in the TAB roll forward. The as-incurred capex approach recognises capex in any one year based on expenditure incurred in that year regardless of whether the asset related to that expenditure has been commissioned or not. The as-commissioned capex approach recognises expenditure at the time when the asset related to that

15 NGR, r. 87A. Our draft decision reduced the proposed opex benefit sharing allowance which forms parts of the building block component. Please refer to attachment 9 of this draft decision for details.

16 ATO, *Guide to depreciating assets 2016*, June 2016, pp. 14 and15.

expenditure has been commissioned, whereby the construction period of the capex may span more than one year.

We do not accept APA's proposed approach to roll forward the TAB using actual as-incurred capex because we consider it is inconsistent with the method applied in the 2013–17 access arrangement period. APA did not present any reason for adopting a different approach. In our PTRM for the 2013–17 access arrangement decision, the projected TAB is rolled forward on an as-commissioned capex basis. We consider the capex profile used to roll forward the TAB for this access arrangement review should be consistent with the 2013–17 access arrangement decision, which used as-commissioned capex.[17] This provides continuity that capex is recognised on an as-commissioned approach for the next access arrangement period. We note APA's projected roll forward of the TAB over the 2018–22 access arrangement period uses forecast as-commissioned capex. For these reasons, we are satisfied that the opening TAB value at 1 January 2018 has been arrived at on a reasonable basis when rolled forward using actual as-commissioned capex over the 2013–17 access arrangement period.[18]

For the reasons discussed above, we do not accept APA's proposed approach for the TAB roll forward. We consider APA's proposed approach would result in an estimate of the taxable income that is not consistent with the amount that would be earned by a benchmark efficient entity as a result of the provision of reference services.[19] We consider the tax depreciation amounts applied in rolling forward the TAB should be based on the actual as-commissioned capex consistent with the AER's RFM and the ATO's guide for depreciating assets. Therefore, we have amended the proposed RFM so that the tax depreciation is calculated using the nominal net actual as-commissioned capex for the 2013–17 access arrangement period. We consider this approach is consistent with the NGO and the revenue and pricing principles.

Other inputs

We also assessed other inputs APA used to roll forward the TAB over the 2013–17 access arrangement period. This includes the opening TAB and remaining tax asset life values as at 1 July 2013, and actual capex for the 2013–17 access arrangement period. We approve $402.3 million ($2017) of APA's proposed total net capex of $408.3 million ($2017) for the 2013–17 access arrangement period as conforming capex. Our draft decision on conforming capex is set out in attachment 6.[20]

We do not accept APA's proposed opening TAB inputs as at 1 July 2013 because they are not consistent with the approved values in the opening TAB in the 2013–17 access arrangement.[21] In its response to our information request, APA provided a revised

[17] AER, *Amended decision – APA GasNet 2013–17 access arrangement PTRM*, 21 November 2013.

[18] NGR, r. 74(2).

[19] NGR, cl. 87A(1).

[20] Please refer to section 6.4.1 of attachment 6 of this draft decision for details.

[21] AER*, Amended decision, APA GasNet 2013–17 Access arrangement,* November 2013, p. 11.

opening TAB as at 1 July 2013 of $543.2 million.[22] Our draft decision is to adjust this revised amount to correct for some minor calculation errors and to reflect our decision on the approved actual (conforming) as-commissioned capex.[23] We are satisfied that the approved actual (conforming) as-commissioned capex included in the TAB reflects the requirements of r. 79 of the NGR.

Our draft decision is to determine an opening TAB of $512.7 million ($nominal) as at 1 January 2018 for APA. This represents a reduction of $30.5 million or 5.6 per cent to APA's proposal. Table 8.4 sets out our draft decision on the roll forward of APA's TAB values.

Table 8.4 AER's draft decision on APA's tax asset base roll forward for the 2013–17 access arrangement period ($million, nominal)

	2013	2014	2015	2016	2017
Opening tax asset base	228.9	221.3	242.5	403.2	389.4
Capex	1.3	39.2	180.9	15.9	154.1
Tax depreciation	8.9	18.0	20.2	29.8	30.8
Closing tax asset base	**221.3**	**242.5**	**403.2**	**389.4**	**512.7**

Source: AER analysis.

8.4.2 Standard tax asset lives

We approve APA's proposed standard tax asset lives assigned to each of its asset classes for the 2018–22 access arrangement period. This is because they are consistent with the statutory cap on the effective life of gas transmission assets under the *Income Tax Assessment Act (ITAA)* 1997, and with the standard tax asset lives prescribed in the *Tax Ruling 2016/1*.[24] The proposed standard tax asset lives are also consistent with the approved standard tax asset lives in the 2013–17 access arrangement.[25]

Our draft decision on APA's standard tax asset lives for each of its asset classes for the 2018–22 access arrangement period is set out in Table 8.5.

22 APA email response to AER information request IR005, *RE: [AER]–[APA VTS VTS]–[IR #5]–[Information request in relation to APA VTS proposed RFM and PTRM]*, 10 March 2017.

23 Please see section 6.1.2 of attachment 6 of this draft decision.

24 *ITAA 1997*, s. 40.102(5); Australian Taxation Office, *Taxation Ruling (TR 2016/1) Income Tax: effective life of depreciating assets (applicable from 1 July 2016)*.

25 AER, *APA GasNet Access Arrangement 2013–17 final decision PTRM*, March 2013.

8.4.3 Remaining tax asset lives as at 1 January 2018

We accept APA's proposed weighted average method to calculate the remaining tax asset lives as at 1 January 2018. In accepting the weighted average method, we have updated APA's remaining tax asset lives[26] as at 1 January 2018 to reflect our amendments to the proposed roll forward of the TAB as discussed in section 8.4.1.

Our draft decision on APA's remaining tax asset lives for each of its asset classes for the 2018–22 access arrangement period is set out in Table 8.5.

Table 8.5 AER's draft decision on APA's standard tax asset lives and remaining tax asset lives as at 1 January 2018 for the 2018–22 access arrangement period (year)

Tax asset class	Standard tax asset life	Remaining tax asset life as at 1 January 2018
Pipelines	20.0	17.1
Compressors	20.0	14.1
City gates and field regulators	20.0	13.7
Odorant plants	20.0	13.5
Gas quality	20.0	18.4
Other	7.5	5.9
General buildings	60.0	46.8
General land	n/a	n/a

Source: AER analysis.

n/a Not applicable.

26 We note that the capex determined in this draft decision for 2016 and 2017 are estimates. As part of the final decision, we expect the estimate of capex for 2016 to be replaced by actual values and the 2017 capex to be revised based on more up to date information, and that APA may provide this revision in its revised proposal. The capex figures are used to calculate the weighted average remaining tax asset lives. Therefore, we may recalculate APA's remaining tax asset lives using the method approved in this draft decision to reflect revisions to 2016 and 2017 capex values for the final decision.

8.5 Revisions

We require the following revisions to make the access arrangement proposal acceptable:

Revision 8.1	Make all necessary amendments to reflect this draft decision on the proposed corporate income tax allowance for the 2018–22 access arrangement period, as set out in table 8.1.
Revision 8.2	Make all necessary amendments to reflect this draft decision on the opening tax asset base as at 1 January 2018, as set out in Table 8.4.
Revision 8.3	Make all necessary amendments to reflect this draft decision on the remaining tax asset lives for the 2018–22 access arrangement period as set out in Table 8.5**.**