DRAFT DECISION
ActewAGL Distribution Access Arrangement 2016 to 2021

Attachment 8 – Corporate income tax

November 2015

AUSTRALIAN ENERGY REGULATOR

Inquiries about this publication should be addressed to:

Australian Energy Regulator
GPO Box 520
Melbourne Vic 3001

Tel: (03) 9290 1444
Fax: (03) 9290 1457

Email: AERInquiry@aer.gov.au

Note

This attachment forms part of the AER's draft decision on ActewAGL Distribution's access arrangement for 2016–21. 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
AA	Access Arrangement
AAI	Access Arrangement Information
AER	Australian Energy Regulator
ASA	Asset Services Agreement
ATO	Australian Tax Office
capex	capital expenditure
CAPM	capital asset pricing model
CCP	Consumer Challenge Panel
CESS	Capital Expenditure Sharing Scheme
CMF	construction management fee
CPI	consumer price index
DAMS	Distribution Asset Management Services
DRP	debt risk premium
EBSS	Efficiency Benefit Sharing Scheme
EIL	Energy Industry Levy
ERP	equity risk premium
Expenditure Guideline	Expenditure Forecast Assessment Guideline
gamma	Value of Imputation Credits
GSL	Guaranteed Service Level
GTA	gas transport services agreement
ICRC	Independent Competition and Regulatory Commission
MRP	market risk premium
NECF	National Energy Customer Framework
NERL	National Energy Retail Law
NERR	National Energy Retail Rules
NGL	national gas law
NGO	national gas objective
NGR	national gas rules
NPV	net present value
opex	operating expenditure

Shortened form	Extended form
PFP	partial factor productivity
PPI	partial performance indicators
PTRM	post-tax revenue model
RBA	Reserve Bank of Australia
RFM	roll forward model
RIN	regulatory information notice
RoLR	retailer of last resort
RSA	Reference Service Agreement
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
UNFT	Utilities Network Facilities Tax
WACC	weighted average cost of capital
WPI	Wage Price Index

8 Corporate income tax

When determining the total revenue for ActewAGL, we must estimate ActewAGL's cost of corporate income tax.[1] ActewAGL has adopted the post–tax framework to derive its revenue requirement for the 2016–21 access arrangement period.[2] Under the post–tax framework, a separate corporate income tax allowance is calculated as part of the building blocks assessment. As discussed in the overview, we decided to apply a reconciliation (or 'true–up') of ActewAGL's revenue for the 2015–16 interval of delay. Consequently, we must also estimate a corporate income tax allowance for 2015–16.

8.1 Draft decision

We approve ActewAGL's proposed approach to calculate its forecast corporate income tax allowance. ActewAGL'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 ActewAGL's proposed corporate income tax allowance of $17.1 million ($nominal) for 2015–16 and the 2016–21 access arrangement period. This is mainly a consequence of our adjustments to ActewAGL's value of imputation credits—gamma—(attachment 4) and other building block costs that affect revenues, such as the rate of return on capital (attachment 3), forecast capex (attachment 6) and forecast opex (attachment 7).[3]

We approve ActewAGL's proposed method to roll forward the tax asset base (TAB) because it is consistent with the AER's roll forward model (RFM) for electricity service providers and the approach previously approved in gas access arrangement decisions. We also approve the proposed opening TAB of $231.9 million ($nominal) as at 1 July 2015 because the inputs for calculating the opening TAB are correct.

We approve ActewAGL's proposed standard tax asset lives for 2015–16 and the 2016–21 access arrangement period. This is because 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 2015/2. Also, these proposed standard tax asset lives are consistent with the approved standard tax asset lives in the 2010–15 access arrangement period. As discussed in attachment 5, we created a 'Land and easement' asset class for ActewAGL's forecast land capex in 2015–16 and the 2016–21 access arrangement period. Consistent with tax law requirements, we have not applied a standard tax asset life to this new asset class. This is because land and easement are non–depreciating assets.

---

1 NGR, r. 76(c).

2 ActewAGL, *Access arrangement information for the 2016–21 ACT, Queenbeyan and Palerang access arrangement: Attachment 9 Corporate income tax*, June 2015, p. 1.

3 Changes to other building block costs affect revenues, which also impact the tax calculation.

We accept ActewAGL's proposed weighted average method to calculate the remaining tax asset lives as at 1 July 2015. However, we do not accept ActewAGL's proposed remaining tax asset lives as at 1 July 2015. This is because we updated some formulae in the tax asset lives roll forward calculation in ActewAGL's proposed RFM to incorporate 2009–10 actual capex.

In assessing ActewAGL's proposal, we have had regard to the requirement of the NGO and the revenue and pricing principles.[4] Our draft decision on ActewAGL's corporate income tax allowance over 2015–16 and the 2016–21 access arrangement period is $8.3 million ($nominal), as set out in Table 8.1. This represents a reduction of $8.8 million ($nominal) or 51.5 per cent of ActewAGL's proposed forecast corporate income tax allowance.

Table 8.1 AER's draft decision on corporate income tax allowance for ActewAGL for 2015–16 and the 2016–21 access arrangement period ($million, nominal)

	2015–16	2016–17	2017–18	2018–19	2019–20	2020–21	Total
Tax payable	1.9	2.0	2.2	2.4	2.6	2.7	13.8
Less: value of imputation credits	0.7	0.8	0.9	1.0	1.0	1.1	5.5
Net corporate income tax allowance	**1.1**	**1.2**	**1.3**	**1.4**	**1.5**	**1.6**	**8.3**

Source: AER analysis.

8.2 ActewAGL's proposal

ActewAGL proposed a corporate income tax allowance of $17.1 million ($nominal) for 2015–16 and the 2016–21 access arrangement period as set out in Table 8.2. It used the AER's PTRM to calculate the corporate income tax allowance for 2015–16 and each year of the 2016–21 access arrangement period. In estimating its corporate income tax allowance, ActewAGL used:

- an opening TAB of $231.9 million ($nominal) as at 1 July 2015 (as shown in Table 8.3)
- an expected statutory income 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 2010–15 access arrangement period

[4] 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.

- remaining tax asset lives as at 1 July 2015 which are calculated using a weighted average remaining life approach as contained in its proposed RFM.

Table 8.2 ActewAGL's proposed corporate income tax allowance for 2015–16 and the 2016–21 access arrangement period ($million, nominal)

	2015–16	2016–17	2017–18	2018–19	2019–20	2020–21	Total
Tax payable	3.1	3.4	3.7	3.9	4.2	4.4	22.8
Less: value of imputation credits	0.8	0.9	0.9	1.0	1.1	1.1	5.7
Net corporate income tax allowance	**2.3**	**2.6**	**2.7**	**3.0**	**3.2**	**3.3**	**17.1**

Source: ActewAGL, *Proposed PTRM (alternative approach)*, June 2015.

ActewAGL's proposed roll forward of its TAB over the 2010–15 access arrangement period is set out in Table 8.3.

Table 8.3 ActewAGL's proposed tax asset base roll forward over the 2010–15 access arrangement period ($million, nominal)

	2010–11	2011–12	2012–13	2013–14	2014–15
Opening tax asset base	191.6	195.8	201.0	210.9	218.7
Capex	12.8	14.3	19.4	17.8	23.7
Tax depreciation	–8.6	–9.1	–9.5	–10.0	–10.5
Closing tax asset base	195.8	201.0	210.9	218.7	231.9

Source: ActewAGL, *Proposed RFM (alternative approach)*, June 2015.

8.3 AER's assessment approach

Our approach to calculate ActewAGL's cost of corporate income tax begins with an estimate of taxable income that would be earned by a benchmark efficient company operating ActewAGL'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 ActewAGL'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 ActewAGL's total revenue.[5]

The corporate income tax allowance is an output of the AER's PTRM, which has been adopted by ActewAGL. We have therefore assessed ActewAGL'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 July 2015
- the standard tax asset life for each asset class
- the remaining tax asset life for each asset class as at 1 July 2015
- the income tax rate
- the value of imputation credits (gamma).

In assessing ActewAGL's proposal, we have had regard to the NGO and the revenue and pricing principles.[6]

We consider that the roll forward of the opening TAB to 1 July 2015 should be based on the approved opening TAB as at 1 July 2010 and ActewAGL's actual capex in the 2010–15 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 ActewAGL's proposed standard tax asset lives, where appropriate, by comparing them against the values approved in the 2010–15 access arrangement period as well as those prescribed by the Commissioner for taxation in tax ruling 2015/2.[7]

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 ActewAGL's case 2009–10) 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.

---

5 NGR, r. 76(c).

6 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.

7 Australian Taxation Office, *Taxation Ruling Income tax: effective life of depreciating assets (applicable from 1 July 2015)*: http://law.ato.gov.au/atolaw/view.htm?docid=%22TXR%2FTR20152%2FNAT%2FATO%2F00001%22.

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.

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.[8] Depending on the source of the revenue increase, the tax increase may be equal to or less than proportional to the company tax rate.[9]

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.

---

[8] 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.

[9] 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.

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 32 per cent and total revenues by about 1.0 per cent.

8.4 Reasons for draft decision

Our draft decision on ActewAGL's corporate income tax allowance is $8.3 million ($nominal), which is a reduction of $8.8 million ($nominal) or 51.5 per cent of ActewAGL's proposal.

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

- changes to the remaining tax asset lives as at 1 July 2015 and the addition of the new asset class for 'Land and easement' (section 8.4.2)
- changing the value of gamma to 0.4 from 0.25 (attachment 4)
- changes to other building block components including rate of return (attachment 3), forecast capex (attachment 6) and forecast opex (attachment 7).[10]

8.4.1 Opening tax asset base as at 1 July 2015

We accept ActewAGL's approach to determine the opening TAB. This is because ActewAGL's proposed approach is consistent with the AER's RFM for electricity service providers and the approach previously approved in gas access arrangement decisions. We also approve ActewAGL's proposed total opening TAB of $231.9 million ($nominal) as at 1 July 2015.

We accept the inputs that ActewAGL used to roll forward the TAB over the 2010–15 access arrangement. This includes the opening TAB as at 1 July 2010, the remaining tax asset life values as at 1 July 2010, and actual capex for 2009–10 and the 2010–15 access arrangement period. ActewAGL's proposed opening TAB and the remaining tax asset lives as at 1 July 2010 inputs are consistent with the approved values in the 2010–15 access arrangement. We are also satisfied the actual capex included in the TAB reflects the requirements of rule 79 of the NGR.[11] Our detailed assessment of this conforming capex is set out in the capex attachment 6. Table 8.4 sets out our draft decision on the roll forward of ActewAGL's TAB values.

[10] NGR, r. 87A.

[11] We note that the capex determined in this draft decision for 2014–15 is an estimate. As part of the final decision, we expect the estimate of capex for 2014–15 to be replaced by actuals.

Table 8.4 AER's draft decision on ActewAGL's tax asset base roll forward for the 2010–15 access arrangement period ($million, nominal)

	2010–11	2011–12	2012–13	2013–14	2014–15
Opening tax asset base	191.6[a]	195.8	201.0	210.9	218.7
Capex	12.8	14.3	19.4	17.8	23.7
Tax depreciation	–8.6	–9.1	–9.5	–10.0	–10.5
Closing tax asset base	195.8	201.0	210.9	218.7	231.9

Source: AER analysis.

(a) The approved opening TAB as at 1 July 2010 has been adjusted for the difference between the actual and forecast capex for 2009–10.

8.4.2 Tax asset lives

8.4.2.1 Standard tax asset lives

We approve ActewAGL's proposed standard tax asset lives assigned to each of its asset classes for 2015–16 and the 2016–21 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 2015/2.[12] The proposed standard tax asset lives are also consistent with the approved standard tax asset lives in the 2010–15 access arrangement.[13]

As discussed in attachment 5, we decided to create a 'Land and easement' asset class for ActewAGL's forecast land capex in 2015–16 and the 2016–21 access arrangement period. Consistent with our approach for regulatory depreciation, we have not applied a standard tax asset life to this new asset class for tax depreciation purposes ("n/a" is assigned for tax depreciation modelling purposes in the PTRM). This is because land and easement are non–depreciating assets, and therefore should not have a standard tax asset life for tax depreciation purposes. This approach is consistent with Australian accounting standards and ATO's treatment for such assets.[14] We have also consistently treated land and easement as non–depreciating assets for other regulated businesses.

---

12 *ITAA 1997*, s. 40.102(5); Australian Taxation Office, *Taxation Ruling Income tax: effective life of depreciating assets (applicable from 1 July 2015)*: http://law.ato.gov.au/atolaw/view.htm?docid=%22TXR%2FTR20152%2FNAT%2FATO%2F00001%22.

13 AER, *Final decision PTRM for ActewAGL (Tribunal varied)*, June 2010.

14 Australian accounting standard board, *Accounting standard AASB1021: Depreciation, August 1997*, pp. 10–11; ATO, *Guide to depreciating assets 2011*, 2011, p. 3.

8.4.2.2 Remaining tax asset lives as at 1 July 2015

We accept ActewAGL's proposed weighted average method to calculate the remaining tax asset lives as at 1 July 2015. In accepting the weighted average method, we have updated ActewAGL's remaining tax asset lives as at 1 July 2015.[15] This is because we changed some formulae in the tax asset lives roll forward calculation in the RFM to incorporate 2009–10 actual capex. These changes affected the remaining tax asset lives as at 1 July 2015.

Our draft decision on ActewAGL's standard tax asset lives and remaining tax asset lives for each of its asset classes for 2015–16 and the 2016–21 access arrangement period is set out in Table 8.5.

Table 8.5 AER's draft decision on ActewAGL's standard tax asset lives and remaining tax asset lives as at 1 July 2015 for 2015–16 and the 2016–21 access arrangement period (years)

Tax asset class	Standard tax asset life	Remaining tax asset life as at 1 July 2015
HP mains	50	42.5
HP services	50	29.4
MP mains	50	29.6
MP services	30	24.8
TRS and DRS—valves and regulators	40	38.3
Contract meters	15	7.5
Tariff meters	15	13.4
Regulatory costs	5	0.0
IT system[a]	5	1.0
Land and easement	n/a	n/a

Source: AER analysis.

(a) The remaining asset life as at 1 July 2015 for the 'IT system' asset class is set to 1 year in order to fully depreciate the small residual TAB value for this asset class within 2015–16 and the 2016–21 access arrangement period.

n/a Not applicable.

[15] We note that the capex determined in this draft decision for 2014–15 is an estimate. As part of the final decision, we expect the estimate of capex for 2014–15 to be replaced by actuals. This capex value is used to calculate the weighted average remaining tax asset lives of the assets. Therefore, we will recalculate ActewAGL's remaining tax asset lives using the method approved in this draft decision to reflect the actual 2014–15 capex value 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 2015–16 and the 2016–21 access arrangement period, as set out in Table 8.1.

Revision 8.2 Make all necessary amendments to reflect this draft decision on the standard and remaining tax asset lives for 2015–16 and the 2016–21 access arrangement period, as set out in Table 8.5.