ACIS Administration (Modulation) Guidelines 2000

as amended

made under section 55 of the

ACIS Administration Act 1999

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taking into account amendments up to ACIS Administration (Modulation) Amendment Guidelines 2003 (No. 1)

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## Contents

<table>
<thead>
<tr>
<th>Part 1</th>
<th>Preliminary</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Name of Guidelines [see Note 1]</td>
<td>4</td>
</tr>
<tr>
<td>2</td>
<td>Commencement</td>
<td>4</td>
</tr>
<tr>
<td>3</td>
<td>Objects</td>
<td>4</td>
</tr>
<tr>
<td>4</td>
<td>Definitions</td>
<td>4</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Part 2</th>
<th>Modulation of credit</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>Modulation of production credit</td>
<td>6</td>
</tr>
<tr>
<td>6</td>
<td>Modulation of investment credit</td>
<td>7</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Part 3</th>
<th>Determination of modulation rates</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Division 1</td>
<td>Modulation rates for a quarter other than the final quarter</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Definitions</td>
<td>8</td>
</tr>
<tr>
<td>8</td>
<td>Process for determining modulation rates for a quarter (other than the final quarter)</td>
<td>9</td>
</tr>
<tr>
<td>9</td>
<td>Steps involved in determining modulation rates for a quarter (other than the final quarter)</td>
<td>9</td>
</tr>
<tr>
<td>10</td>
<td>Determination of expected unmodulated uncapped production credit, etc</td>
<td>11</td>
</tr>
<tr>
<td>11</td>
<td>Determination of total available capped credit</td>
<td>12</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Division 2</th>
<th>Modulation rates for the final quarter</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>13</td>
<td>Definitions</td>
<td>12</td>
</tr>
<tr>
<td>14</td>
<td>Process for determining modulation rates for the final quarter</td>
<td>13</td>
</tr>
<tr>
<td>15</td>
<td>Steps involved in determining modulation rates for the final quarter</td>
<td>13</td>
</tr>
<tr>
<td>16</td>
<td>Determination of available capped credit</td>
<td>15</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Division 3</th>
<th>Modulation rates for any additional amount of unmodulated credit</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>18</td>
<td>Definitions</td>
<td>16</td>
</tr>
<tr>
<td>19</td>
<td>Process for determining modulation rates for any additional amount of unmodulated credit</td>
<td>16</td>
</tr>
<tr>
<td>20</td>
<td>How to determine modulation rates for a particular day</td>
<td>17</td>
</tr>
<tr>
<td>21</td>
<td>Steps involved in determining modulation rates for a particular day</td>
<td>17</td>
</tr>
<tr>
<td>22</td>
<td>Determination of available capped credit</td>
<td>19</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Part 4</th>
<th>Determination of 5% cap rate</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>24</td>
<td>Determination of 5% cap rate for a participant for a quarter</td>
<td>20</td>
</tr>
<tr>
<td>25</td>
<td>Determination of 5% cap rate for a participant for any additional amount of unmodulated credit</td>
<td>22</td>
</tr>
<tr>
<td>26</td>
<td>Determination of 5% cap rate for a participant for a particular day</td>
<td>22</td>
</tr>
</tbody>
</table>
Part 1 Preliminary

Section 1

Part 1 Preliminary

1 Name of Guidelines [see Note 1]

These Guidelines are the ACIS Administration (Modulation) Guidelines 2000.

2 Commencement

These Guidelines commence on 1 September 2000.

3 Objects

(1) These Guidelines set out how the following kinds of credit are to be modulated:
(a) unmodulated uncapped production credit;
(b) unmodulated capped production credit;
(c) unmodulated investment credit.

(2) The purpose of modulating the credit is to ensure that:
(a) the $2 000 000 000 cap on ACIS mentioned in section 53 of the Act is not exceeded; and
(b) for each participant and in respect of each ACIS year, the 5% of sales cap mentioned in section 54 of the Act is not exceeded.

4 Definitions

In these Guidelines:

Act means the ACIS Administration Act 1999.

additional amount:

(a) in relation to unmodulated uncapped production credit or unmodulated capped production credit for an MVP — has the meaning given by subsection 5 (5); and
(b) in relation to unmodulated investment credit for a participant — has the meaning given by subsection 6 (4).

5% cap rate means the rate for modulating an amount of credit to ensure that the 5% of sales cap mentioned in section 54 of the Act is not exceeded for a participant.

final year, means the ACIS year commencing 1 January 2005.

Note A number of terms used in these Guidelines are defined in section 6 of the Act, including final quarter, unmodulated capped production credit, unmodulated investment credit and unmodulated uncapped production credit.
**investment modulation rate** means the rate worked out under section 9, 15 or 19.

*Note* The investment modulation rate is used to modulate an amount of credit, in relation to an ACP, ASP, AMTP or MVP, to ensure that the $2 000 000 000 cap on ACIS mentioned in section 53 of the Act is not exceeded.

**modulation rate** means the investment modulation rate and the production modulation rate.

**production modulation rate** means the rate worked out under section 9, 15 or 19.

*Note* The production modulation rate is used to modulate an amount of credit, in relation to an MVP, to ensure that the $2 000 000 000 cap on ACIS mentioned in section 53 of the Act is not exceeded.
Part 2 Modulation of credit

Section 5

5 Modulation of production credit

(1) For section 56 of the Act:

(a) the unmodulated uncapped production credit worked out by the Secretary for an MVP for a particular quarter is to be modulated by multiplying the amount of that credit by the 5% cap rate for the MVP for that quarter, determined under Part 4; and

(b) the unmodulated capped production credit worked out by the Secretary for an MVP for a particular quarter is to be modulated:

(i) by multiplying the amount of that credit by the production modulation rate for that quarter, determined under Part 3; and

(ii) by multiplying the amount obtained under subparagraph (i) by the 5% cap rate for the MVP for that quarter, determined under Part 4.

(2) However, subsections (3) and (4) apply if, after the modulated credit for an MVP for a particular quarter has been worked out under subsection (1) and issued to the MVP:

(a) the Secretary is required to amend the ACIS ledger, under section 66 of the Act, to give effect to a decision of the Administrative Appeals Tribunal or of a court, or to correct an error in the ledger; and

(b) in giving effect to the decision or in correcting the error, the unmodulated uncapped production credit, or the unmodulated capped production credit, worked out for the MVP for that particular quarter (the revised amount) exceeds the amount of that credit (the original amount) used to work out the modulated credit.

(3) The additional amount of unmodulated uncapped production credit worked out for the MVP for that particular quarter is to be modulated by multiplying that amount by the 5% cap rate for the MVP for the additional amount, determined under Part 4.

(4) The additional amount of unmodulated capped production credit worked out for the MVP for that particular quarter is to be modulated:

(a) by multiplying that amount by the production modulation rate for the additional amount, determined under Part 3; and

(b) by multiplying the amount obtained under paragraph (a) by the 5% cap rate for the MVP for the additional amount, determined under Part 4.

(5) In this section:

additional amount means the amount by which the revised amount exceeds the original amount.
6 Modulation of investment credit

(1) For sections 57 and 59 of the Act, the unmodulated investment credit worked out by the Secretary for an MVP, ACP, AMTP and ASP for a particular quarter is to be modulated:

(a) by multiplying the amount of that credit by the investment modulation rate for that quarter, determined under Part 3; and

(b) by multiplying the amount obtained under paragraph (a) by the 5% cap rate for the participant for that quarter, determined under Part 4.

(2) However, subsection (3) applies if, after the modulated credit for a participant for a particular quarter has been worked out under subsection (1) and issued to the participant:

(a) the Secretary is required to amend the ACIS ledger, under section 66 of the Act, to give effect to a decision of the Administrative Appeals Tribunal or of a court, or to correct an error in the ledger; and

(b) in giving effect to the decision or in correcting the error, the unmodulated investment credit worked out for the participant for that particular quarter (the revised amount) exceeds the amount of that credit (the original amount) used to work out the modulated credit.

(3) The additional amount of the unmodulated investment credit worked out for the participant for that particular quarter is to be modulated:

(a) by multiplying that amount by the investment modulation rate for the additional amount, determined under Part 3; and

(b) by multiplying the amount obtained under paragraph (a) by the 5% cap rate for the participant for the additional amount, determined under Part 4.

(4) In this section:

additional amount means the amount by which the revised amount exceeds the original amount.
Part 3 Determination of modulation rates

Division 1 Modulation rates for a quarter other than the final quarter

Section 7 Definitions

In this Division:

remaining ACIS year, means an ACIS year in which at least 1 remaining quarter lies.

remaining quarter, in relation to the determination of an investment modulation rate or a production modulation rate, means a quarter in an ACIS year for which modulated credit has not been issued to participants as duty credit at the time of determining the investment modulation rate or production modulation rate.

total expected capped credit, for a participant for an ACIS year, means the sum of:

(a) the total amount of any additional amount of unmodulated capped production credit and unmodulated investment credit for the participant worked out to date during a remaining quarter in that year; and

(b) the total amount of expected unmodulated capped production credit, determined under section 10, for the participant for all remaining quarters in that year; and

(c) the total amount of expected unmodulated investment credit, determined under section 10, for the participant for all remaining quarters in that year.

total expected credit, for a participant for an ACIS year, means the sum of:

(a) the total amount of modulated credit issued to date to the participant as duty credit during that year; and

(b) the total expected uncapped credit for the participant for that year; and

(c) the total expected capped credit for the participant for that year.

total expected uncapped credit, for a participant for an ACIS year, means the sum of:

(a) any additional amount of unmodulated uncapped production credit for the participant worked out to date during a remaining quarter in that year; and

(b) the total amount of expected unmodulated uncapped production credit, determined under section 10, for the participant for all remaining quarters in that year.
8  **Process for determining modulation rates for a quarter (other than the final quarter)**

(1) The investment modulation rate for a quarter in an ACIS year (other than the final quarter) is the rate for that year determined under subsection 9 (2) as soon as practicable after 31 October immediately preceding that year but before 1 April in that year.

(2) The production modulation rate for a quarter in an ACIS year (other than the final quarter) is the rate for that year determined under subsection 9 (4) as soon as practicable after 31 October immediately preceding that year but before 1 April in that year.

(3) However:
   (a) if the investment modulation rate or production modulation rate for a quarter in an ACIS year is no longer appropriate for achieving the purpose of modulating the credit mentioned in paragraph 3 (2) (a), a new modulation rate may be determined under section 9 before modulated credit for that quarter has been issued to participants as duty credit; and
   (b) if a new investment modulation rate or production modulation rate is determined, the rate for each remaining quarter in that year is the new rate.

*Example*

The modulation rate for a quarter may no longer be appropriate if new participants enter the scheme.

9  **Steps involved in determining modulation rates for a quarter (other than the final quarter)**

(1) The modulation rates for a quarter (other than the final quarter) are worked out as follows:

   (a) for each participant:
      (i) determine the expected unmodulated uncapped production credit, expected unmodulated capped production credit and expected unmodulated investment credit for the participant for each remaining quarter under section 10;
      (ii) determine the total expected credit for each remaining ACIS year;
      (iii) determine the 5% of sales cap for each remaining ACIS year under Part 5;
      (iv) determine the total available capped credit for each remaining ACIS year under section 11;

   (b) divide the total available capped credit determined under subparagraph (a) (iv) into:
      (i) the total available capped investment credit relating to all ACPs, ASPs and AMTPs; and
      (ii) the total available capped investment credit relating to all MVPs; and
      (iii) the total available capped production credit relating to all MVPs;
Part 3  Determination of modulation rates  
Division 1  Modulation rates for a quarter other than the final quarter  

Section 9

(c) use subsection (2) to work out the investment modulation rate for all ACPs, ASPs, AMTPs and MVPs;  
(d) use subsection (3) to work out the derived investment credit for all ACPs, ASPs, AMTPs and MVPs;  
(e) use subsection (4) to work out the production modulation rate for all MVPs.

**Investment modulation rate**

(2) The investment modulation rate is worked out as follows:

<table>
<thead>
<tr>
<th>Step 1</th>
<th>Work out the allocated investment credit of all ACPs, ASPs and AMTPs by:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>(a) using Part 9 of the Act to work out the total unearned credit liability imposed on ACPs, ASPs, AMTPs and MVPs in respect of unearned duty credit; and</td>
</tr>
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<td>2</td>
<td>(b) adding $2 000 000 000; and</td>
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<td>3</td>
<td>(c) subtracting from that total the total amount of modulated credit paid to ACPs, ASPs, AMTPs and MVPs; and</td>
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<tr>
<td>4</td>
<td>(d) multiplying the result by 0.45.</td>
</tr>
</tbody>
</table>

Step 2
Divide the allocated investment credit worked out under step 1 by the total available capped investment credit relating to ACPs, ASPs and AMTPs worked out under subparagraph (1) (b) (i).  
Round the result down to 2 decimal places.

Step 3
The investment modulation rate is the lesser of:  
(a) the rate worked out under step 2; and  
(b) 1.

**Derived investment credit**

(3) The derived investment credit for each class of participant is worked out for each class of participant by multiplying the total available capped investment credit worked out under subparagraphs (1) (b) (i) and (ii) by the investment modulation rate.

**Production modulation rate**

(4) The production modulation rate is worked out as follows:

<table>
<thead>
<tr>
<th>Step 1</th>
<th>Work out the allocated MVP production and investment credit for all MVPs by:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>(a) working out the total unearned credit liability imposed on ACPs, ASPs, AMTPs and MVPs in respect of</td>
</tr>
</tbody>
</table>
Determination of modulation rates Part 3  
Modulation rates for a quarter other than the final quarter  
Division 1

Section 10

<table>
<thead>
<tr>
<th>Determination of modulation rates Part 3</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Modulation rates for a quarter other</td>
<td></td>
</tr>
<tr>
<td>than the final quarter</td>
<td>Division 1</td>
</tr>
<tr>
<td>Section 10</td>
<td></td>
</tr>
</tbody>
</table>

unearned duty credit; and
(b) adding $2,000,000,000; and
(c) subtracting from that total the amount of modulated credit paid to ACPs, ASPs, AMTPs and MVPs; and
(d) subtract from that total the total amount of derived investment credits for ACPs, ASPs and AMTPs.

Step 2
Work out the production modulation rate for all MVPs by:
(a) taking the allocated MVP production and investment credit worked out in step 1; and
(b) subtracting the derived investment credits for all MVPs; and
(c) dividing the result by the total available capped credit, relating to production, for all MVPs as worked out in subparagraph (1) (b) (iii).

Round the result down to 2 decimal places.

Step 3
The production modulation rate is the lesser of:
(a) the rate worked out under step 2; and
(b) 1.

10 Determination of expected unmodulated uncapped production credit, etc

(1) The expected unmodulated uncapped production credit, for a participant for a quarter, is the unmodulated uncapped production credit worked out for the participant for that quarter in accordance with the formula stated in subsection 42 (1) of the Act.

(2) The expected unmodulated capped production credit, for a participant for a quarter, is the unmodulated capped production credit worked out for the participant for that quarter in accordance with the formula stated in subsection 42 (2) of the Act.

(3) The expected unmodulated investment credit, for a participant for a quarter, is the total amount of unmodulated investment credit worked out for the participant for that quarter in accordance with the formulae stated in the following sections of the Act:
(a) for an MVP — sections 43, 44 and 45;
(b) for an ACP — sections 46 and 47;
(c) for an AMTP — sections 48 and 49;
(d) for an ASP — sections 50 and 51.

(4) For subsections (1), (2) and (3), in determining a value or amount for a quarter required by a formula stated in a section of the Act, the value or amount to be used is:
(a) if the actual value or amount is known — the actual value or amount; or
Part 3 Determination of modulation rates

Division 2 Modulation rates for the final quarter

Section 11

(b) in any other case — the value or amount worked out, based on estimates in the latest business plan provided by the participant that contains information about that value or amount.

(5) In determining the expected unmodulated investment credit for a participant for a particular quarter under subsection (3), the relevant quarter required by a formula has the meaning given by section 6 of the Act, as if the participant had provided a return for that particular quarter as such a participant under section 35 of the Act.

11 Determination of total available capped credit

The total available capped credit for a participant for an ACIS year is:

(a) if the total expected credit for the participant for that year is not more than the 5% of sales cap, determined under Part 5, for the participant for that year — the total expected capped credit for the participant for that year; or

(b) if the total expected credit for the participant for that year is more than the 5% of sales cap, determined under Part 5, for the participant for that year — the amount worked out in accordance with the formula:

\[ A \times \frac{B - C}{D} \]

where:

- \( A \) is the total expected capped credit for the participant for that year.
- \( B \) is the 5% of sales cap, determined under Part 5, for the participant for that year.
- \( C \) is the total amount of modulated credit issued to date to the participant as duty credit during that year.
- \( D \) is the sum of:
  (a) the total expected uncapped credit for the participant for that year; and
  (b) the total expected capped credit for the participant for that year.

Division 2 Modulation rates for the final quarter

13 Definitions

In this Division:

- **total expected credit**, for a participant, means the sum of:
  (a) the total amount of the modulated credit issued to the participant since the beginning of the final year; and
  (b) the total amount of any additional amount of unmodulated uncapped production credit, unmodulated capped production credit and unmodulated investment credit for the participant worked out since the beginning of the final quarter; and
  (c) the unmodulated uncapped production credit for the participant for the final quarter; and
(d) the unmodulated capped credit for the participant for the final quarter.

unmodulated capped credit, for a participant, means the sum of:

(a) the unmodulated capped production credit for the participant for the final quarter; and

(b) the unmodulated investment credit for the participant for the final quarter.

14 Process for determining modulation rates for the final quarter

(1) The investment modulation rate for the final quarter is the rate determined under subsection 15 (2) as soon as practicable after the period referred to in section 35 of the Act within which participants are required to lodge quarterly returns for the final quarter.

(2) The production modulation rate for the final quarter is the rate determined under subsection 15 (4) as soon as practicable after the period referred to in section 35 of the Act within which participants are required to lodge quarterly returns for the final quarter.

15 Steps involved in determining modulation rates for the final quarter

(1) The modulation rates for the final quarter are worked out as follows:

(a) for each participant:

(i) determine the expected unmodulated uncapped production credit, expected unmodulated capped production credit and unmodulated investment credit for the participant for the final quarter under Part 4 of the Act; and

(ii) determine the total expected credit; and

(iii) determine the 5% of sales cap for the final year under Part 5; and

(iv) determine the available capped credit under section 16;

(b) divide the available capped credit determined under subparagraph (a) (iv) into:

(i) the total available capped investment credit relating to all ACPs, ASPs and AMTPs for the final quarter; and

(ii) the total available capped investment credit relating to all MVPs for the final quarter; and

(iii) the total available capped production credit relating to all MVPs for the final quarter;

(c) use subsection (2) to work out the investment modulation rate for all ACPs, ASPs, AMTPs and MVPs;

(d) use subsection (3) to work out the derived investment credit for all ACPs, ASPs, AMTPs and MVPs;

(e) use subsection (4) to work out the production modulation rate for all MVPs.
**Part 3 Determination of modulation rates**

**Division 2 Modulation rates for the final quarter**

**Section 15**

**Investment modulation rate**

(2) The investment modulation rate is worked out as follows:

| Step 1 | Work out the allocated investment credit of all ACPs, ASPs and AMTPs by:  
|        | (a) using Part 9 of the Act to work out the total unearned credit liability imposed on ACPs, ASPs and AMTPs in respect of unearned duty credit for the final quarter; and  
|        | (b) adding $2 000 000 000; and  
|        | (c) subtracting from that total the amount of modulated credit paid to ACPs, ASPs and AMTPs during the final quarter; and  
|        | (d) multiplying the result by 0.45. |

| Step 2 | Divide the allocated investment credit worked out under step 1 by the total available capped investment credit relating to ACPs, ASPs and AMTPs for the final quarter worked out under subparagraph (1) (b) (i).  
|        | Round the result down to 2 decimal places. |

| Step 3 | The investment modulation rate is the lesser of:  
|        | (a) the rate worked out under step 2; and  
|        | (b) 1. |

**Derived investment credit**

(3) The derived investment credit for each class of participant is worked out for each class of participant by multiplying the total available capped investment credit worked out under subparagraphs (1) (b) (i) and (ii) by the investment modulation rate.

**Production modulation rate**

(4) The production modulation rate is worked out as follows:

| Step 1 | Work out the allocated MVP production and investment credit for all MVPs by:  
|        | (a) using Part 9 of the Act to work out the total unearned credit liability imposed on ACPs, ASPs, AMTPs and MVPs in respect of unearned duty credit for the final quarter; and  
|        | (b) adding $2 000 000 000; and  
|        | (c) subtracting from that total the amount of modulated credit paid to ACPs, ASPs, AMTPs and MVPs for the final quarter; and  
|        | (d) subtract from that total the total amount of derived credit.
Step 2

Work out the production modulation rate for all MVPs by:
(a) taking the allocated MVP production and investment credit worked out in step 1; and
(b) subtracting the derived investment credits for all MVPs for the final quarter; and
(c) dividing the result by the total available capped credit, relating to production, for all MVPs for the final quarter as worked out in subparagraph (1) (b) (iii).

Round the result down to 2 decimal places.

Step 3

The production modulation rate is the lesser of:
(a) the rate worked out under step 2; and
(b) 1.

16 Determination of available capped credit

The available capped credit for a participant is:
(a) if the total expected credit for the participant is not more than the 5% of sales cap, determined under Part 5, for the participant for the final year — the sum of:
(i) the unmodulated capped credit for the participant; and
(ii) the total amount of any additional amount of unmodulated capped production credit and unmodulated investment credit for the participant worked out since the beginning of the final quarter; or
(b) if the total expected credit for the participant is more than the 5% of sales cap, determined under Part 5, for the participant for the final year — the amount worked out in accordance with the formula:

\[ A \times \frac{B - C}{D} \]

where:

\( A \) is the sum of:
(a) the unmodulated capped credit for the participant; and
(b) the total amount of any additional amount of unmodulated capped production credit and unmodulated investment credit for the participant worked out since the beginning of the final quarter.

\( B \) is the 5% of sales cap, determined under Part 5, for the participant for the final year.

\( C \) is the total amount of modulated credit issued to the participant as duty credit since the beginning of the final year.

\( D \) is the difference between:
(a) the total expected credit for the participant; and
Part 3 Determination of modulation rates
Division 3 Modulation rates for any additional amount of unmodulated credit

Section 18

(b) the total amount of modulated credit issued to the participant as duty credit since the beginning of the final year.

Division 3 Modulation rates for any additional amount of unmodulated credit

18 Definitions
In this Division:

total expected credit, for a participant for a particular day, means the sum of:

(a) the total amount of the modulated credit issued to the participant since the beginning of the final year; and

(b) the total amount of any additional amount of unmodulated uncapped production credit, unmodulated capped production credit and unmodulated investment credit for the participant worked out on that day.

19 Process for determining modulation rates for any additional amount of unmodulated credit

(1) The investment modulation rate for an additional amount of unmodulated investment credit is:

(a) if the additional amount is worked out in a quarter that starts:

   (i) after the commencement of this section; and

   (ii) before 1 January 2006;

   the investment modulation rate for that quarter, determined under Division 1 or 2; or

(b) if the additional amount is worked out on or after 1 January 2006, but before any modulated credit for the final quarter has been issued to participants as duty credit — the investment modulation rate for the final quarter, determined under Division 2; or

(c) in any other case — the investment modulation rate for the day on which the additional amount is worked out.

(2) The production modulation rate for an additional amount of unmodulated capped production credit is:

(a) if the additional amount is worked out in a quarter that starts:

   (i) after the commencement of this section; and

   (ii) before 1 January 2006;

   the production modulation rate for that quarter, determined under Division 1 or 2; or

(b) if the additional amount is worked out on or after 1 January 2006, but before any modulated credit for the final quarter has been issued to participants as duty credit — the production modulation rate for the final quarter, determined under Division 2; or
(c) in any other case — the production modulation rate for the day on which the additional amount is worked out.

20 How to determine modulation rates for a particular day

The investment modulation rate or production modulation rate for a particular day is the rate determined under section 21 as soon as practicable after that day.

21 Steps involved in determining modulation rates for a particular day

(1) The modulation rates for a particular day are worked out as follows:

(a) for each participant for which an additional amount of unmodulated capped production credit or unmodulated investment credit has been worked out on that day:
   (i) determine the total expected credit; and
   (ii) determine the 5% of sales cap for the final year under Part 5; and
   (iii) determine the available capped credit under section 22;

(b) divide the available capped credit determined under subparagraph (a) (iv) into:
   (i) the total available capped investment credit relating to all ACPs, ASPs and AMTPs for that day; and
   (ii) the total available capped investment credit relating to all MVPs for that day; and
   (iii) the total available capped production credit relating to all MVPs for that day;

(c) use subsection (2) to work out the investment modulation rate for all ACPs, ASPs, AMTPs and MVPs;

(d) use subsection (3) to work out the derived investment credit for all ACPs, ASPs, AMTPs and MVPs;

(e) use subsection (4) to work out the production modulation rate for all MVPs.

Investment modulation rate

(2) The investment modulation rate is worked out as follows:

<table>
<thead>
<tr>
<th>Step 1</th>
<th>Work out the allocated investment credit of all ACPs, ASPs and AMTPs by:</th>
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<tbody>
<tr>
<td></td>
<td>(a) using Part 9 of the Act to work out the total unearned credit liability imposed on ACPs, ASPs and AMTPs in respect of unearned duty credit; and</td>
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<td>(b) adding $2 000 000 000; and</td>
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<td>(c) subtracting from that total the amount of modulated credit paid to ACPs, ASPs and AMTPs; and</td>
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<tr>
<td></td>
<td>(d) multiplying the result by 0.45.</td>
</tr>
</tbody>
</table>
Divide the allocated investment credit worked out under step 1 by the total available capped investment credit relating to ACPs, ASPs and AMTPs worked out under subparagraph (1) (b) (i).

Round the result down to 2 decimal places.

The investment modulation rate is the lesser of:
(a) the rate worked out under step 2; and
(b) 1.

(3) The derived investment credit for each class of participant is worked out for each class of participant by multiplying the total available capped investment credit worked out under subparagraphs (1) (b) (i) and (ii) by the investment modulation rate.

(4) The production modulation rate is worked out as follows:

Work out the allocated MVP production and investment credit for all MVPs by:
(a) using Part 9 of the Act to work out the total unearned credit liability imposed on ACPs, ASPs, AMTPs and MVPs in respect of unearned duty credit; and
(b) adding $2 000 000 000; and
(c) subtracting from that total the amount of modulated credit paid to ACPs, ASPs, AMTPs and MVPs; and
(d) subtract from that total the total amount of derived investment credits for ACPs, ASPs and AMTPs.

Work out the production modulation rate for all MVPs by:
(a) taking the allocated MVP production and investment credit worked out in step 1; and
(b) subtracting the derived investment credits for all MVPs; and
(c) dividing the result by the total available capped credit, relating to production, for all MVPs as worked out in subparagraph (1) (b) (iii).

Round the result down to 2 decimal places.

The production modulation rate is the lesser of:
(a) the rate worked out under step 2; and
(b) 1.
22 **Determination of available capped credit**

The available capped credit for a participant is:

(a) if the total expected credit for the participant is not more than the 5% of sales cap, determined under Part 5, for the participant for the final year — the total amount of any additional amount of unmodulated capped production credit and unmodulated investment credit for the participant worked out on that day; or

(b) if the total expected credit for the participant is more than the 5% of sales cap, determined under Part 5, for the participant for the final year — the amount worked out in accordance with the formula:

\[
A \times \frac{B - C}{D}
\]

where:

- \(A\) is the total amount of any additional amount of unmodulated capped production credit and unmodulated investment credit for the participant worked out on that day.
- \(B\) is the 5% of sales cap, determined under Part 5, for the participant for the final year.
- \(C\) is the total amount of modulated credit issued to the participant as duty credit since the beginning of the final year.
- \(D\) is the total amount of any additional amount of unmodulated uncapped production credit, unmodulated capped production credit and unmodulated investment credit for the participant worked out on that day.
Part 4  Determination of 5% cap rate

24  Determination of 5% cap rate for a participant for a quarter

(1) The 5% cap rate for a participant for a quarter in an ACIS year is the 5% cap rate determined under subsection (2) as soon as practicable after any unmodulated uncapped production credit, unmodulated capped production credit and unmodulated investment credit have been worked out for the participant for that quarter.

(2) The 5% cap rate for a participant for a quarter (other than the final quarter) is the lesser of:

(a) 1; or

(b) the rate (rounded down to 2 decimal places) worked out in accordance with the formula:

\[
\frac{A - B + C}{D}
\]

where:

A is the 5% of sales cap, determined under Part 5, for the participant for the ACIS year in which that quarter lies.

B is the total amount of modulated credit issued to date to the participant during the ACIS year in which that quarter lies.

C is the total amount of unearned credit liability that:

(a) is in respect of the modulated credit referred to in B; and

(b) has been received by the Commonwealth (whether as payments or as offsets of duty credit against the liability).

D is the sum of:

(a) any unmodulated uncapped production credit for the participant for that quarter; and

(b) any additional amount of unmodulated uncapped production credit for the participant worked out during that quarter; and

(c) the product of:

(i) the unmodulated capped production credit for the participant for that quarter; and

(ii) the production modulation rate for that quarter, determined under Part 3; and

(d) the product of:

(i) any additional amount of unmodulated capped production credit for the participant worked out during that quarter; and

(ii) the production modulation rate for the additional amount, determined under Part 3; and
(e) the product of:
   (i) the unmodulated investment credit for the participant for that quarter; and
   (ii) the investment modulation rate for that quarter, determined under Part 3; and

(f) the product of:
   (i) any additional amount of unmodulated investment credit for the participant worked out during that quarter; and
   (ii) the investment modulation rate for the additional amount, determined under Part 3.

(3) The 5% cap rate for a participant for the final quarter is the lesser of:
   (a) 1; or
   (b) the rate (rounded down to 2 decimal places) worked out in accordance with the formula:

\[
\frac{E - F + G}{H}
\]

where:

- \( E \) is the 5% of sales cap, determined under Part 5, for the participant for the final year.
- \( F \) is the total amount of modulated credit issued to the participant since the beginning of the final year.
- \( G \) is the total amount of unearned credit liability that:
  (a) is in respect of the modulated credit referred to in \( F \); and
  (b) has been received by the Commonwealth (whether as payments or as offsets of duty credit against the liability).
- \( H \) is the sum of:
  (a) any unmodulated uncapped production credit for the participant for the final quarter; and
  (b) any additional amount of unmodulated uncapped production credit for the participant worked out since the beginning of the final quarter; and
  (c) the product of:
    (i) the unmodulated capped production credit for the participant for the final quarter; and
    (ii) the production modulation rate for the final quarter, determined under Part 3; and
  (d) the product of:
    (i) any additional amount of unmodulated capped production credit for the participant worked out since the beginning of the final quarter; and
    (ii) the production modulation rate for the additional amount, determined under Part 3; and
Section 25

(e) the product of:
   (i) the unmodulated investment credit for the participant for the final quarter; and
   (ii) the investment modulation rate for the final quarter, determined under Part 3; and

(f) the product of:
   (i) any additional amount of unmodulated investment credit for the participant worked out since the beginning of the final quarter; and
   (ii) the investment modulation rate for the additional amount, determined under Part 3.

25 Determination of 5% cap rate for a participant for any additional amount of unmodulated credit

The 5% cap rate for a participant for an additional amount of unmodulated uncapped production credit, unmodulated capped production credit or unmodulated investment credit is:

(a) if the additional amount is worked out in a quarter before 1 January 2006 — the 5% cap rate for the participant for that quarter, determined under section 24; or

(b) if the additional amount is worked out on or after 1 January 2006 but before any modulated credit for the final quarter has been issued to participants as duty credit — the 5% cap rate for the participant for the final quarter, determined under section 24; or

(c) in any other case — the 5% cap rate for the participant for the day on which the additional amount is worked out.

26 Determination of 5% cap rate for a participant for a particular day

The 5% cap rate for a participant for a particular day is the 5% cap rate determined under section 27 as soon as practicable after that day.

27 Determination of 5% cap rate for a participant for a particular day

The 5% cap rate for a participant for a particular day is the lesser of:

(a) 1; or

(b) the rate (rounded down to 2 decimal places) worked out in accordance with the formula:

\[
\frac{I - J + K}{L}
\]

where:

I is the 5% of sales cap, determined under Part 5, for the participant for the final year.
\( J \) is the total amount of modulated credit issued to the participant since the beginning of the final year.

\( K \) is the total amount of unearned credit liability that:
(a) is in respect of the modulated credit referred to in \( J \); and
(b) has been received by the Commonwealth (whether as payments or as offsets of duty credit against the liability).

\( L \) is the sum of:
(a) any additional amount of unmodulated uncapped production credit for the participant worked out on that day; and
(b) the product of:
   (i) any additional amount of unmodulated capped production credit for the participant worked out on that day; and
   (ii) the production modulation rate for the additional amount, determined under Part 3; and
(c) the product of:
   (i) any additional amount of unmodulated investment credit for the participant worked out on that day; and
   (ii) the investment modulation rate for the additional amount, determined under Part 3.
Part 5  Determination of 5% of sales cap

28  Determination of 5% of sales cap for a participant for an ACIS year

(1) The 5% of sales cap for a participant for an ACIS year is:

(a) for the purposes of determining a modulation rate under Part 3 — the 5% of sales cap determined under subsection (2) at the time of determining the modulation rate; or

(b) for the purposes of determining a 5% cap rate under Part 4 — the 5% of sales cap determined under subsection (2) at the time of determining the 5% cap rate.

(2) The 5% of sales cap for a participant for an ACIS year is:

(a) if paragraph 16 (1) (a), 17 (1) (a) or (2) (a), 18 (1) (a) or 19 (1) (a) of the Act applied to the participant — 5% of the sales value of the participant’s ACIS goods and services for the year immediately preceding that ACIS year; or

(b) if paragraph 16 (1) (b) or (c), 17 (1) (b) or (c) or (2) (b) or (c), 18 (1) (b) or (c) or 19 (1) (b) or (c) of the Act applied to the participant:

(i) for the ACIS year in which the participant is registered as a participant — 5% of the sales value of the participant’s ACIS goods and services for that ACIS year; and

(ii) for an ACIS year following the ACIS year in which the participant is registered as a participant — 5% of the sales value of the participant’s ACIS goods and services for the year immediately preceding that ACIS year.

(3) For subsection (2), in determining the sales value of the participant’s ACIS goods and services for a year, the following value is to be used:

(a) for each quarter in that year for which the actual sales value of the participant’s ACIS goods and services is known — the actual sales value; and

(b) for each other quarter in that year — the value estimated, in the latest business plan provided by the participant that contains information about that quarter, as the sales value of the participant’s ACIS goods or services for that quarter.

(4) In this section:

sales value of ACIS goods and services, of a participant, has the meaning given by subsection 54 (4) of the Act.
Notes to the ACIS Administration (Modulation) Guidelines 2000

Note 1

The ACIS Administration (Modulation) Guidelines 2000 (in force under section 55 of the ACIS Administration Act 1999) as shown in this compilation is amended as indicated in the Tables below.

Table of Instruments

<table>
<thead>
<tr>
<th>Title</th>
<th>Date of notification in Gazette</th>
<th>Date of commencement</th>
<th>Application, saving or transitional provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACIS Administration (Modulation) Guidelines 2000</td>
<td>1 Sept 2000 (see Gazette 2000, No. S 476)</td>
<td>1 Sept 2000</td>
<td></td>
</tr>
<tr>
<td>ACIS Administration (Modulation) Amendment Guidelines 2003 (No. 1)</td>
<td>27 Mar 2003 (see Gazette 2003, No. S 98)</td>
<td>27 March 2003</td>
<td>—</td>
</tr>
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</table>
### Table of Amendments

<table>
<thead>
<tr>
<th>Provision affected</th>
<th>How affected</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Part 1</strong></td>
<td></td>
</tr>
<tr>
<td>S. 4</td>
<td>am. 2003 No. 1</td>
</tr>
<tr>
<td><strong>Part 2</strong></td>
<td></td>
</tr>
<tr>
<td>S. 5</td>
<td>am. 2003 No. 1</td>
</tr>
<tr>
<td>S. 6</td>
<td>am. 2003 No. 1</td>
</tr>
<tr>
<td><strong>Part 3</strong></td>
<td></td>
</tr>
<tr>
<td>Heading to Part 3</td>
<td>rs. 2003 No. 1</td>
</tr>
<tr>
<td><strong>Division 1</strong></td>
<td></td>
</tr>
<tr>
<td>Heading to Division 1</td>
<td>rs. 2003 No. 1</td>
</tr>
<tr>
<td>S. 7</td>
<td>am. 2003 No. 1</td>
</tr>
<tr>
<td>S. 8</td>
<td>rs. 2003 No. 1</td>
</tr>
<tr>
<td>S. 9</td>
<td>rs. 2003 No. 1</td>
</tr>
<tr>
<td>S. 12</td>
<td>rep. 2003 No. 1</td>
</tr>
<tr>
<td><strong>Division 2</strong></td>
<td></td>
</tr>
<tr>
<td>Heading to Division 2</td>
<td>rs. 2003 No. 1</td>
</tr>
<tr>
<td>S. 14</td>
<td>rs. 2003 No. 1</td>
</tr>
<tr>
<td>S. 15</td>
<td>rs. 2003 No. 1</td>
</tr>
<tr>
<td>S. 17</td>
<td>rep. 2003 No. 1</td>
</tr>
<tr>
<td><strong>Division 3</strong></td>
<td></td>
</tr>
<tr>
<td>Heading to Division 3</td>
<td>rs. 2003 No. 1</td>
</tr>
<tr>
<td>S. 19</td>
<td>rs. 2003 No. 1</td>
</tr>
<tr>
<td>S. 20</td>
<td>rs. 2003 No. 1</td>
</tr>
<tr>
<td>S. 21</td>
<td>rs. 2003 No. 1</td>
</tr>
<tr>
<td>S. 23</td>
<td>rep. 2003 No. 1</td>
</tr>
<tr>
<td><strong>Part 4</strong></td>
<td></td>
</tr>
<tr>
<td>S. 24</td>
<td>am. 2003 No. 1</td>
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<tr>
<td>S. 27</td>
<td>am. 2003 No. 1</td>
</tr>
<tr>
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<tr>
<td>S. 28</td>
<td>am. 2003 No. 1</td>
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