Automotive Transformation Scheme Order 2010

as amended

made under regulations 3.12 and 6.7 of the

Automotive Transformation Scheme Regulations 2010

Compilation start date: 10 December 2011

Includes amendments up to: Automotive Transformation Scheme Amendment Order 2011 (No. 1)

Prepared by the Office of Parliamentary Counsel, Canberra
About this compilation

The compiled instrument

This is a compilation of the Automotive Transformation Scheme Order 2010 as amended and in force on 10 December 2011. It includes any amendment affecting the compiled instrument to that date.

This compilation was prepared on 5 June 2013.

The notes at the end of this compilation (the endnotes) include information about amending Acts and instruments and the amendment history of each amended provision.

Uncommenced provisions and amendments

If a provision of the compiled instrument is affected by an uncommenced amendment, the text of the uncommenced amendment is set out in the endnotes.

Application, saving and transitional provisions for amendments

If the operation of an amendment is affected by an application, saving or transitional provision, the provision is identified in the endnotes.

Modifications

If a provision of the compiled instrument is affected by a textual modification that is in force, the text of the modifying provision is set out in the endnotes.

Provision ceasing to have effect

If a provision of the compiled instrument has expired or otherwise ceased to have effect in accordance with a provision of the instrument, details of the provision are set out in the endnotes.
Contents

Part 1—Preliminary .......................... 1
  1.1 Name of Order ................................................................. 1
  1.2 Commencement ............................................................... 1
  1.3 Interpretation................................................................. 1

Part 2—Working out production and investment amounts for ATS participants ................. 3
  2.1 Working out production amounts for MVPs .................................. 3
  2.2 Working out capped investment amounts for MVPs ........................... 4
  2.3 Working out capped investment amounts for non-MVPs ....................... 5

Part 3—Working out quarterly modulation rates and assistance for an ATS year ................. 7
  Division 3.1—General ..................................................................... 7
  3.1 Secretary to work out modulation rates and assistance for ATS participants .... 7
  Division 3.2—MVP modulation rate for a quarter ....................................... 8
  3.2 Working out of modulation rate for certain quarters .............................. 8
  Division 3.3—Individual MVP quarterly assistance ...................................... 10
  3.3 Working out of quarterly assistance for all quarters ............................ 10
  Division 3.4—Non-MVP modulation rate for a quarter ................................. 11
  3.4 Working out of modulation rate for certain quarters ...................... 11
  Division 3.5—Individual non-MVP quarterly assistance .............................. 13
  3.5 Working out of quarterly assistance for all quarters ............................ 13

Part 4—Other Commonwealth assistance ................................................. 14
  4.1 Meaning of other Commonwealth assistance .................................... 14
  4.2 Other Commonwealth assistance that is not financial assistance ................ 14
  4.3 Working out the amount of other Commonwealth assistance .................. 15

Part 5—Miscellaneous ............................................................................ 16
  5.1 Particulars to be included in business plan etc ................................... 16
  5.2 Transitional: relevant quarter for recognition of eligible investments ........... 16

Schedule 1—Criteria for reporting progress on meeting object of Act ....................... 17
  Reporting criteria for meeting the object in section 3 of the Act ..................... 17
  Reporting criteria for achieving the object in a way that improves environmental outcomes ............................................................. 17
  Reporting criteria for achieving the object in a way that promotes the development of workforce skills ................................................. 18

Schedule 2—Investment under ACIS regarded as eligible investment for ATS ............... 19
  ATS Year 1 ............................................................................. 19
  ATS Year 2 ............................................................................ 20
  ATS Year 3 ............................................................................. 21
Endnotes

Endnote 1—Legislation history 22
Endnote 2—Amendment history 23
Endnote 3—Uncommenced amendments [none] 24
Endnote 4—Misdescribed amendments [none] 25
Part 1—Preliminary

1.1 Name of Order

This Order is the Automotive Transformation Scheme Order 2010.

1.2 Commencement

This Order commences on 1 July 2010.

1.3 Interpretation

In this Order, unless the contrary intention appears:

ATS means the Automotive Transformation Scheme prescribed for section 5 of the Act.

ATS stage means stage 1 or stage 2 (as the case requires) within the meaning of the Act.

final quarter means the period from 1 October to 31 December in an ATS year.

MVP modulation rate means the modulation rate for MVPs worked out in accordance with Part 3.

Note: The MVP modulation rate is used to modulate an amount, in relation to an MVP, to ensure that the funding for the relevant ATS year and relevant ATS stage is not exceeded.

non–MVP means an ATS participant who is an ACP, AMTP or ASP.

Note: ATS participant is defined in the Act.

non–MVP modulation rate means the modulation rate for non-MVPs worked out in accordance with Part 3.

Note: The non-MVP modulation rate is used to modulate an amount, in relation to a non-MVP, to ensure that the funding for the relevant ATS year and relevant ATS stage is not exceeded.

other Commonwealth assistance has the meaning given by section 4.1.

registration quarter means the quarter in which a person’s registration as a participant under ACIS took effect.

Regulations means the Automotive Transformation Scheme Regulations 2010.

relevant quarter means:

(a) in relation to an ATS participant to whom the transitional arrangements under Part 7 of the Regulations do not apply and who provides a return for a particular quarter under regulation 3.1, each of the quarters included within the period comprising:

(i) if the quarter is the first quarter in an ATS year after an application for registration is granted, the 8 quarters before the quarter; and
(ii) if the quarter is the second quarter in an ATS year after an application for registration is granted, the 9 quarters before the quarter; and
(iii) if the quarter is the third quarter in an ATS year after an application for registration is granted, the 10 quarters before the quarter; and
(iv) if the quarter is the fourth quarter in an ATS year after an application for registration is granted, or any later quarter, the 11 quarters before the quarter; and
(b) in relation to a participant in ACIS whom becomes an ATS participant and who provides a return for a particular quarter under regulation 3.1:
(i) until the end of ATS year 3, each of the quarters included within a period set out in column 3 of Schedule 2; and
(ii) after the end of ATS year 3, the 11 quarters before the particular quarter.

Note: Schedule 2 sets out the number of quarters under ACIS that may be treated as eligible investment under the Scheme.

**Scheme** means the ATS.

**Scheme debt capped offset amount** means the amount of capped assistance that is Scheme debt being recovered by offsetting under regulation 4.2.

**Scheme debt uncapped offset amount** means the amount of uncapped assistance that is Scheme debt being recovered by offsetting under regulation 4.2.

Note: Several other words and expressions used in these Orders have the meaning given by regulation 1.5 of the Regulations. For example:
- ACP
- allowable plant and equipment
- allowable research and development
- AMTP
- ASP
- ATS year
- automotive component
- automotive machine tools
- automotive services
- automotive tooling
- eligible investment
- engine
- engine components
- MVP
- MVP’s own use.
Part 2—Working out production and investment amounts for ATS participants

General notes:

There are several matters for which provision is made by the Regulations that are taken into account in working out amounts in the Order, including the following:

Regulation 1.18 provides for a *maximum claimable value for allowable plant and equipment* for an MVP and regulation 1.19 does the same for a non-MVP. Regulation 1.17 defines *allowable plant and equipment*.

Regulation 1.21 provides for a *maximum claimable value for allowable research and development* for an MVP and regulation 1.22 does the same for a non-MVP. Regulation 1.20 defines *allowable research and development*.

Regulation 1.25 provides for a *maximum claimable value for allowable production for an MVP*.

Regulation 3.11 provides for a sales-based cap for the payment of assistance.

Also, under regulation 3.10, capped assistance is to be divided 55% to 45% in an ATS year in favour of MVPs over non-MVPs.

Payment of capped investment amounts under the Order are to be worked out using a rolling average based on the number of relevant quarters applicable to the ATS participant. Division 3.1 of the Regulations requires an ATS participant to prepare and lodge quarterly returns and provides for the content of those returns.

2.1 Working out production amounts for MVPs

(1) As soon as practicable after an MVP provides a return to the Secretary for a quarter, the Secretary must work out the uncapped production amount for the MVP for the quarter in accordance with the formula:

\[ A \times B \times C \]

where:

\( A \) is the maximum claimable value for allowable production for an MVP in the quarter.

\( B \) is the assistance multiplier, if any, for the ATS year mentioned in column 1 of the following table, being the multiplier, if any, mentioned in column 3 for the year.

\( C \) is the assistance rate, if any, for the ATS year mentioned in column 1 of the following table, being the rate mentioned in column 4 for the year.

<table>
<thead>
<tr>
<th>ATS year</th>
<th>ATS Stage</th>
<th>Assistance multiplier (B) (%)</th>
<th>Assistance rate (C) (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1</td>
<td>10.0</td>
<td>15</td>
</tr>
<tr>
<td>2</td>
<td>1</td>
<td>8.5</td>
<td>15</td>
</tr>
<tr>
<td>3</td>
<td>1</td>
<td>7.0</td>
<td>15</td>
</tr>
<tr>
<td>4</td>
<td>1</td>
<td>5.5</td>
<td>15</td>
</tr>
<tr>
<td>5</td>
<td>1</td>
<td>4.0</td>
<td>15</td>
</tr>
</tbody>
</table>
Part 2 Working out production and investment amounts for ATS participants

Section 2.2

<table>
<thead>
<tr>
<th>ATS year</th>
<th>ATS Stage</th>
<th>Assistance multiplier (B) (%)</th>
<th>Assistance rate (C) (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>2</td>
<td>2.5</td>
<td>15</td>
</tr>
<tr>
<td>7</td>
<td>2</td>
<td>1.0</td>
<td>15</td>
</tr>
<tr>
<td>8</td>
<td>2</td>
<td>0.0</td>
<td>0</td>
</tr>
<tr>
<td>9</td>
<td>2</td>
<td>0.0</td>
<td>0</td>
</tr>
<tr>
<td>10</td>
<td>2</td>
<td>0.0</td>
<td>0</td>
</tr>
</tbody>
</table>

(2) As soon as practicable after an MVP provides a return to the Secretary for a quarter, the Secretary must work out the capped production amount for the MVP for the quarter in accordance with the formula:

$$A \times 1\% - CA$$

where:

$A$ is the maximum claimable value for allowable production for an MVP in the quarter.

$CA$ is the total amount of other Commonwealth assistance, if any, received by the MVP in relation to the allowable production described in component $A$ of the formula.

Note: Section 4.3 sets out how the amount of other Commonwealth assistance is worked out.

2.2 Working out capped investment amounts for MVPs

(1) As soon as practicable after an MVP provides a return for a quarter, the Secretary must work out the capped investment amounts for the MVP for the quarter for investments to which regulation 1.18 or 1.21 applies.

(2) The Secretary must work out the investment amount for the MVP for the quarter for allowable plant and equipment to which regulation 1.18 applies in accordance with the formula:

$$\frac{D + E \times 15\% - CA}{RQ + 1}$$

where:

$CA$ is the total amount of other Commonwealth assistance, if any, received by the MVP in relation to investment mentioned in components $D$ and $E$ of the formula.

Note: Section 4.3 sets out how the amount of other Commonwealth assistance is worked out.

$D$ is the amount of investment in allowable plant and equipment, to which regulation 1.18 applies, undertaken by the MVP in the quarter.

$E$ is the total investment in the allowable plant and equipment undertaken by the MVP in all relevant quarters before the quarter.

$RQ$ is the total number of relevant quarters in relation to the quarter.
Section 2.3

(3) The Secretary must work out the investment amount for the MVP for the quarter for allowable research and development to which regulation 1.21 applies in accordance with the formula:

\[
\frac{F + G}{RQ + 1} \times 50\% - CA
\]

where:

CA is the total amount of other Commonwealth assistance, if any, received by the MVP in relation to investment mentioned in components F and G of the formula.

Note: Section 4.3 sets out how the amount of other Commonwealth assistance is worked out.

F is the amount of investment in allowable research and development to which regulation 1.21 applies undertaken by the MVP in the quarter.

G is the total amount of investment in the allowable research and development undertaken by the MVP in all relevant quarters before the quarter.

RQ is the total number of relevant quarters in relation to the quarter.

2.3 Working out capped investment amounts for non-MVPs

(1) As soon as practicable after a non-MVP provides a return for a quarter, the Secretary must work out the capped investment amounts for the non-MVP for the quarter for investments to which regulation 1.19 or 1.22 applies.

(2) The Secretary must work out the investment amount for the non-MVP for the quarter for allowable plant and equipment to which regulation 1.19 applies in accordance with the formula:

\[
\frac{H + I}{RQ + 1} \times 15\% - CA
\]

where:

CA is the total amount of other Commonwealth assistance, if any, received by the non-MVP in relation to investment mentioned in components H and I of the formula.

Note: Section 4.3 sets out how the amount of other Commonwealth assistance is worked out.

H is the amount of investment in allowable plant and equipment, to which regulation 1.19 applies, undertaken by the non-MVP in the quarter.

I is the total investment in the allowable plant and equipment undertaken by the non-MVP in all relevant quarters before the quarter.

RQ is the total number of relevant quarters in relation to the quarter.

(3) The Secretary must work out the investment amount for the non-MVP for the quarter for allowable research and development to which regulation 1.22 applies in accordance with the formula:
Part 2 Working out production and investment amounts for ATS participants

Section 2.3

\[ \frac{J + K}{RQ + 1} \times 50\% - CA \]

where:

*CA* is the total amount of other Commonwealth assistance, if any, received by the non-MVP in relation to investment mentioned in components J and K of the formula.

Note: Section 4.3 sets out how the amount of other Commonwealth assistance is worked out.

*J* is the amount of investment in allowable research and development, to which regulation 1.22 applies, undertaken by the non-MVP in the quarter.

*K* is the total eligible investment in the allowable research and development undertaken by the non-MVP in all relevant quarters before the quarter.

*RQ* is the total number of relevant quarters in relation to the quarter.
Part 3—Working out quarterly modulation rates and assistance for an ATS year

Division 3.1—General

3.1 Secretary to work out modulation rates and assistance for ATS participants

The Secretary must work out the modulation rates and assistance for MVPs and non-MVPs in accordance with the relevant steps set out in Divisions 3.2 to 3.5.
Division 3.2—MVP modulation rate for a quarter

3.2 Working out of modulation rate for certain quarters

(1) For working out the MVP modulation rate for each of the first three quarters in an ATS year, the Secretary is to use steps 1 to 5 in this Division and for working out the MVP modulation rate for the final quarter in an ATS year, the Secretary is to use steps 2 to 5 in this Division.

(2) The MVP modulation rate for a quarter for the ATS year is the rate determined under step 5(c) worked out as soon as practicable after the last day of the quarter for which MVPs are required to make a return for the quarter under regulation 3.1.

Step 1—Work out forecast capped amounts for all MVPs for use in working out the modulation for Quarters 1 to 3 in an ATS year

<table>
<thead>
<tr>
<th>Step</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1(a)</td>
<td>Work out the forecast capped production amounts for each MVP for the remaining quarters in the ATS year worked out under subsection 2.1 (2) using the information included in the MVP’s business plans under subregulations 2.12 (3) and 2.27 (2).</td>
</tr>
<tr>
<td>1(b)</td>
<td>Work out the forecast capped investment amounts for each MVP for the remaining quarters in the ATS year worked out under section 2.2 using the information included in the MVP’s business plans under subregulations 2.12 (3) and 2.27 (2).</td>
</tr>
<tr>
<td>1(c)</td>
<td>Add together the amounts worked out under steps 1(a) and 1(b) for each MVP.</td>
</tr>
<tr>
<td>1(d)</td>
<td>Add together the amounts worked out under step 1(c) to obtain the forecast capped amounts for all MVPs.</td>
</tr>
</tbody>
</table>

Step 2—Work out individual MVPs capped and uncapped amounts for working out sales-based cap for the current quarter in an ATS year

<table>
<thead>
<tr>
<th>Step</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>2(a)</td>
<td>Work out the capped production amount for each MVP for the current quarter of the ATS year under subsection 2.1 (2).</td>
</tr>
<tr>
<td>2(b)</td>
<td>Work out the capped investment amounts for each MVP for the current quarter in the ATS year worked out under section 2.2.</td>
</tr>
<tr>
<td>2(c)</td>
<td>Add together the amounts worked out under steps 2(a) and 2(b) for each MVP.</td>
</tr>
<tr>
<td>2(d)</td>
<td>Work out the uncapped production amount for each MVP for the current quarter of the ATS year under subsection 2.1 (1).</td>
</tr>
<tr>
<td>2(e)</td>
<td>Add together steps 2(c) and 2(d) to obtain the total of the MVPs capped and uncapped amounts for the quarter.</td>
</tr>
</tbody>
</table>

Step 3—Work out the ceiling rate for an MVP for the current quarter in an ATS year

<table>
<thead>
<tr>
<th>Step</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>3(a)</td>
<td>Determine the sales-based cap for each MVP under regulation 3.11.</td>
</tr>
<tr>
<td>3(b)</td>
<td>Determine the total capped and uncapped amounts paid to the MVP in previous quarters in the ATS year.</td>
</tr>
</tbody>
</table>
| 3(c) | Work out the ceiling rate for each MVP for the current quarter by subtracting the amount obtained under step 3(b) from the sales-based cap amount for the MVP determined under step 3(a) and divide the result by the total of the MVPs capped and uncapped amounts for the quarter (obtained from step 2(e));  
• if the result of the calculation is equal to or greater than 1, the ceiling rate for the
MVP is 1.
• if the result of the calculation is less than 1, the ceiling rate for the MVP is the result.

**Step 4—Limit the capped amount for each MVP for the current quarter in an ATS year**

| 4(a) | Work out the current quarter limited capped amount for each MVP for the ATS year by multiplying the amount obtained under step 2(c) by the ceiling rate for the MVP obtained under step 3(c). |
|------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------
| 4(b) | Add together the results obtained under step 4(a) for all MVPs. |

**Step 5—Work out the MVP modulation rate for a quarter in an ATS year**

| 5(a) | Determine the proportion of the ATS year cap for MVPs from regulations 3.9 and 3.10 for the ATS year. |
|------|-------------------------------------------------------------------------------------------------------------------------------
| 5(b) | Combine the capped amounts (if any) paid to all MVPs in previous quarters of the ATS year. |
| 5(c) | Work out the MVP modulation rate for the quarter by subtracting the combined capped amounts worked out under step 5(b) from the amount worked out under step 5(a) and dividing the result by the amount obtained under step 4(b) if the current quarter is the final quarter, or the amount obtained by adding the result of step 1(d) to the result of step 4(b) for any other quarter, of the ATS year:
  • if the result of the calculation is equal to or greater than 1, the *modulation rate* for the MVP is 1.
  • if the result of the calculation is less than 1, the *modulation rate* for the MVP is the result. |
Part 3 Working out quarterly modulation rates and assistance for an ATS year
Division 3.3 Individual MVP quarterly assistance

Section 3.3

Division 3.3—Individual MVP quarterly assistance

3.3 Working out of quarterly assistance for all quarters

For working out the individual MVPs capped and uncapped amounts for all quarters in an ATS year, the Secretary is to use the following steps.

**Step 1—Modulate the capped amount for each MVP for a quarter in an ATS year**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Apply the modulation rate for each MVP for the current quarter by multiplying the amount obtained from Division 3.2, step 5(c) by the amount obtained from Division 3.2, step 4(a).</td>
</tr>
</tbody>
</table>

**Step 2—Work out the total capped amount to be paid for each MVP for a quarter in an ATS year**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>2(a)</td>
<td>Determine the Scheme debt capped offset amount for each MVP for the current quarter, mentioned in regulation 4.3.</td>
</tr>
<tr>
<td>2(b)</td>
<td>Determine the total capped amount to be paid for each MVP by subtracting the Scheme debt capped offset amount determined under step 2(a) from the modulated capped amount determined under step 1.</td>
</tr>
</tbody>
</table>

**Step 3—Limit the uncapped amounts for each MVP for the quarter in an ATS year**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>Limit the uncapped amount for each MVP for the current quarter by multiplying the amount determined under Division 3.2, step 2(d) by the rate obtained under Division 3.2, step 3(c).</td>
</tr>
</tbody>
</table>

**Step 4—Work out the total uncapped amount to be paid for each MVP for a quarter in an ATS year**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>4(a)</td>
<td>Determine the Scheme debt uncapped offset amount, if any, for each MVP, for the current quarter, under regulation 4.3.</td>
</tr>
<tr>
<td>4(b)</td>
<td>Determine the total uncapped amount to be paid for each MVP for the current quarter by subtracting the Scheme debt uncapped offset amount arrived at under step 4(a) from the limited uncapped amount for each MVP worked out under step 3.</td>
</tr>
</tbody>
</table>

**Step 5—Work out the total amount to be paid for each MVP for a quarter in an ATS year**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>Add together the total capped amount to be paid for each MVP worked out under step 2(b) and the total uncapped amount to be paid for each MVP worked out under step 4(b) to determine the total amount to be paid for each MVP for the current quarter.</td>
</tr>
</tbody>
</table>

Note: Payments are made in accordance with regulation 3.13.
Division 3.4—Non-MVP modulation rate for a quarter

3.4 Working out of modulation rate for certain quarters

(1) For working out the non-MVP modulation rate for the first three quarters in an ATS year, the Secretary is to use steps 1 to 5 in this Division, and for working out the non-MVP modulation rate for the final quarter in an ATS year, the Secretary is to use steps 2 to 5 in this Division.

(2) The non-MVP modulation rate for a quarter for an ATS year is the rate determined under step 5(c) as soon as practicable after the last day of the quarter for which non-MVPs are required to make a return for the quarter under regulation 3.1.

Step 1—Work out forecast capped amounts for all non-MVPs for use in working out the modulation for Quarters 1 to 3 in an ATS year

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1(a)</td>
<td>Work out the forecast capped investment amounts for each non-MVP for the remaining quarters in the ATS year worked out under section 2.3 using the information included in the non-MVP’s business plans under subregulations 2.12 (3) and 2.27 (2).</td>
</tr>
<tr>
<td>1(b)</td>
<td>Add together the amounts from step 1(a) for all non-MVPs.</td>
</tr>
</tbody>
</table>

Step 2—Work out individual non-MVPs capped amounts for working out the sales-based cap in the current quarter of an ATS year

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Work out the capped investment amount for each non-MVP for the current quarter of the ATS year under section 2.3.</td>
</tr>
</tbody>
</table>

Step 3—Work out the ceiling rate for a non-MVP for the current quarter in an ATS year

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>3(a)</td>
<td>Determine the sales-based cap for each non-MVP under regulation 3.11</td>
</tr>
<tr>
<td>3(b)</td>
<td>Determine the total capped amounts paid to each non-MVP in previous quarters in the ATS year.</td>
</tr>
</tbody>
</table>
| 3(c) | Work out the ceiling rate for each non-MVP for the current quarter by subtracting the total capped amounts paid to the non-MVP in previous quarters in the ATS year obtained under step 3(b) from the sales-based cap for the non-MVP determined under step 3(a) and dividing the result by the amount obtained from step 2:  
  • if the result of the calculation is equal to or greater than 1, the ceiling rate for the non-MVP is 1.  
  • if the result of the calculation is less than 1, the ceiling rate for the non-MVP is the result. |

Step 4—Limit the capped amounts for each non-MVP for the current quarter in an ATS year

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>4(a)</td>
<td>Work out the current quarter limited capped amount for each non-MVP for the ATS year by multiplying the capped amounts for working out the sales-based cap obtained from step 2 by the ceiling rate for the non-MVP obtained under step 3(c).</td>
</tr>
<tr>
<td>4(b)</td>
<td>Add together the results obtained under step 4(a) for all non-MVPs.</td>
</tr>
</tbody>
</table>
### Step 5—Work out the non-MVP modulation rate for a quarter in an ATS year

<table>
<thead>
<tr>
<th>Step</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>5(a)</strong></td>
<td>Determine the proportion of the ATS year cap for non-MVPs from regulations 3.9 and 3.10 for the ATS year.</td>
</tr>
<tr>
<td><strong>5(b)</strong></td>
<td>Combine the capped amounts paid (if any) to all non-MVPs in previous quarters of the ATS year.</td>
</tr>
</tbody>
</table>
| **5(c)** | Work out the non-MVP modulation rate for the quarter by subtracting the combined capped amounts worked out under step 5(b) from the amount worked out under step 5(a) and dividing the result by the amount obtained under step 4(b) if the current quarter is the final quarter, or the amount obtained by adding the result of step 1(b) to the result of step 4(b) for any other quarter, of the ATS year:  
- if the result of the calculation is equal to or greater than 1, the **modulation rate** for the non-MVP is 1.  
- if the result of the calculation is less than 1, the **modulation rate** for the non-MVP is the result. |
Division 3.5—Individual non-MVP quarterly assistance

3.5 Working out of quarterly assistance for all quarters

For working out the individual non-MVPs capped amounts for all quarters in an ATS year, the Secretary is to use the following steps.

**Step 1—Modulate the capped amount for each non-MVP for a quarter in an ATS year**

| 1   | Apply the modulation rate for each non-MVP for the current quarter by multiplying the amount obtained from Division 3.4, step 5(c) by the amount obtained from Division 3.4, Step 4(a). |

**Step 2—Work out the total amount to be paid for each non-MVP for a quarter in an ATS year**

| 2(a) | Determine the Scheme debt capped offset amount for each non-MVP for the current quarter, mentioned in regulation 4.3 |
| 2(b) | Determine the total amount to be paid for each non-MVP for the current quarter by subtracting the Scheme debt capped offset amount arrived at under step 2(a) from the capped amount for each non-MVP worked out under step 1. |

Note: Payments are made in accordance with regulation 3.13.
Part 4—Other Commonwealth assistance

4.1 Meaning of other Commonwealth assistance

(1) For the Scheme, an ATS participant has received other Commonwealth assistance if the participant has received, and is entitled to, financial assistance (other than assistance under the Scheme) in relation to MVP production, or in relation to eligible investment, of a kind giving rise to an entitlement to an amount under the Scheme.

(2) However, other Commonwealth assistance includes financial assistance an MVP is taken to have received, and to which the MVP was entitled, in relation to unsold motor vehicles, engines or engine components.

(3) For subsection (1), neither assistance under the Scheme nor assistance mentioned in section 4.2 is to be regarded as other Commonwealth assistance.

4.2 Other Commonwealth assistance that is not financial assistance

For the Scheme, the following forms of assistance provided by the Commonwealth are not financial assistance:

(a) the income tax offset, known as the R&D tax offset, in respect of research and development activities as set out in the following provisions:
   (i) Division 355 of the Income Tax Assessment Act 1997;
   (iii) Part III of the Industry Research and Development Act 1986;

   Note: The new R&D tax credit arrangements replace the R&D tax concession arrangements for income years commencing on or after 1 July 2011.

(b) financial assistance under the Commonwealth Government program known as Commercialising Emerging Technologies (or ‘COMET’);

(c) financial assistance under the Commonwealth Government program known as the Cooperative Research Centres Program;

(d) financial assistance under the Strategic Investment Coordination process;

(e) financial assistance under the Structural Adjustment Fund for South Australia (SAFSA);

(f) financial assistance under the Automotive Industry Structural Adjustment Program (AISAP);

(g) financial assistance under the Geelong Investment and Innovation Fund;

(h) financial assistance under the South Australia Innovation and Investment Fund (SAIIF);

(i) financial assistance under the North East Tasmania Innovation and Investment Fund (NETIIF).
4.3 Working out the amount of other Commonwealth assistance

(1) For section 4.1, the amount of other Commonwealth assistance received by an ATS participant in relation to eligible investment in allowable research and development is worked out using the formula:

\[
\frac{A + B}{RQ + 1} \times 50%
\]

where:

- \(A\) is the total amount of the other Commonwealth assistance received in the quarter.
- \(B\) is the total amount of the other Commonwealth assistance received in all relevant quarters before the quarter.
- \(RQ\) is the total number of relevant quarters in relation to the quarter.

Note: Allowable research and development is defined in regulation 1.20.

(2) For section 4.1, the amount of other Commonwealth assistance received by an ATS participant in relation to eligible investment in allowable plant and equipment is worked out using the formula:

\[
\frac{E + F}{RQ + 1} \times 15%
\]

where:

- \(E\) is the total amount of the other Commonwealth assistance received in the quarter in relation to eligible investment in allowable plant and equipment.
- \(F\) is the total amount of the other Commonwealth assistance received in all relevant quarters before the quarter in relation to eligible investment in allowable plant and equipment.
- \(RQ\) is the total number of relevant quarters in relation to the quarter.

Note: Allowable plant and equipment is defined in regulation 1.17.

(3) For section 4.1, the amount of other Commonwealth assistance received by an MVP in relation to allowable production for an MVP is worked out using the formula:

\[
G \times 1\%
\]

where:

- \(G\) is the total amount of the other Commonwealth assistance received in the quarter in relation to allowable production for an MVP.

Note: Allowable production for an MVP is defined in regulation 1.24.
Section 5.1

**Part 5—Miscellaneous**

5.1 **Particulars to be included in business plan etc**

(1) For regulation 6.7, an ATS participant must set out in the participant’s business plan and any update of the business plan, information detailing relevant issues against the reporting criteria set out in Schedule 1.

(2) Information referred to in subsection (1) may be included in the Department’s annual report of progress towards achieving economic sustainability of the Australian automotive industry.

5.2 **Transitional: relevant quarter for recognition of eligible investments**

For regulation 3.12, eligible investment made in a relevant quarter by an ATS participant under ACIS that is mentioned, or included in a range of quarters, in column 3 of an item in Schedule 2 is to be regarded as eligible investment for the purpose of working out a quarterly payment under the Scheme for the quarter mentioned in column 1 of the item.

*Note:* Subregulation 7.3 (1) sets out when investment under ACIS may be treated as eligible investment under the Scheme.
Schedule 1—Criteria for reporting progress on meeting object of Act

(section 5.1)

Reporting criteria for meeting the object in section 3 of the Act

1. Innovation
   An ATS participant must report against each of the following items:
   (a) Research and development expenditure
   (b) Capability development:
      (i) participation in change management processes, for example:
          - management and leadership;
          - performance benchmarking;
          - customer relationships;
          - supply chain integration;
          - quality assurance;
          - strength, weakness, opportunity and threat (SWOT) analysis programs;
          - financial management systems.
      (ii) participation in government (federal, state or territory) or business programs designed to help businesses develop their strategic capability, for example:
          - Enterprise Connect;
          - Business Enterprise Centres;
          - the Automotive Supplier Excellence Australia (ASEA) Program;
          - Automotive Supply Chain Development Program.

2. Improved business performance
   An ATS participant must report against one or more of the following items:
   (a) improved profitability;
   (b) value of production;
   (c) new customers;
   (d) increased sales;
   (e) increased productivity;
   (f) other activities resulting in the development of the participant’s capability.

3. Other activities
   An ATS participant may report other activities undertaken by the participant that would contribute to placing industry on an economically sustainable footing.

Reporting criteria for achieving the object in a way that improves environmental outcomes

An ATS participant must report against one or more of the following items, the extent to which the participant is improving its environmental outcomes, as demonstrated by, but not limited to:

1. a reduction in the environmental impact of the ATS participant’s manufacturing process, for example:
   - more efficient and sustainable energy sources for the manufacturing process;
   - recycling measures for waste products;
   - environmental upgrades of plant and equipment;
Schedule 1 Criteria for reporting progress on meeting object of Act

1. Use of sustainable materials.

2. Input into the development or manufacture of more environmentally sustainable cars, for example:
   - alternative fuels;
   - hybrid vehicles;
   - reduced greenhouse gas emissions;
   - mass reduction, including components;
   - environmentally sustainable materials;
   - increased fuel efficiency, including fuel management.

3. Participation in government (federal/state and territory) environmental programs, for example:
   - re-tooling for climate change;
   - Green Car Innovation Fund.

4. Compliance with national/international automotive environmental standards;

5. Other activities resulting in improved environmental outcomes.

Reporting criteria for achieving the object in a way that promotes the development of workforce skills
An ATS participant must report against one or more of the following items, the extent to which the participant is promoting the development of its workforce’s skills, as demonstrated by, but not limited to:

1. The number of people within the individual workforce with applicable post-school qualifications, for example:
   - Australian Qualification Framework (AQF) Certificate I & II;
   - AQF Certificate III & IV;
   - Trade qualifications;
   - Advanced Diploma, Diploma;
   - Bachelor Degree;
   - Postgraduate/Graduate Diploma.

2. The number of apprentices in the workforce;

3. The number of apprentices within the workforce successfully completing their apprenticeships;

4. Participation in government (federal, state or territory) or commercial training programs designed to help businesses more effectively train their workforce, for example:
   - the provision of training under the Automotive Training Package or other applicable training package; and
   - registered training providers providing flexible on-the-job recognised training;

5. Improved productivity in the workplace;

6. Other activities resulting in the development of the workforce.
### Schedule 2—Investment under ACIS regarded as eligible investment for ATS

(sections 1.3 and 5.2)

**ATS Year 1**

<table>
<thead>
<tr>
<th>Registration quarter for ACIS</th>
<th>The period for which investment under ACIS is to be regarded as eligible investment for working out unmodulated investment amount for: MVPs under section 2.2; and non-MVPs under section 2.3</th>
<th>No. of quarters under ACIS to be included in RQ in sections 2.2 and 2.3</th>
<th>No. of quarters under ATS to be included in RQ in sections 2.2 and 2.3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Quarter 1 01/10/2010–31/12/2010</td>
<td>01/10/2008–31/12/2010</td>
<td>9</td>
<td>0</td>
</tr>
<tr>
<td>01/07/2010–30/09/2010</td>
<td>01/07/2008–31/12/2010</td>
<td>10</td>
<td>0</td>
</tr>
<tr>
<td>01/04/2010–30/06/2010 or earlier</td>
<td>01/04/2008–31/12/2010</td>
<td>11</td>
<td>0</td>
</tr>
<tr>
<td>Quarter 2 01/10/2010–31/12/2010</td>
<td>01/10/2008–31/12/2010</td>
<td>9</td>
<td>1</td>
</tr>
<tr>
<td>01/07/2010–30/09/2010</td>
<td>01/07/2008–31/12/2010</td>
<td>10</td>
<td>1</td>
</tr>
<tr>
<td>01/04/2010–30/06/2010 or earlier</td>
<td>01/07/2008–31/12/2010</td>
<td>10</td>
<td>1</td>
</tr>
<tr>
<td>Quarter 3 01/10/2010–31/12/2010</td>
<td>01/10/2008–31/12/2010</td>
<td>9</td>
<td>2</td>
</tr>
<tr>
<td>01/04/2010–30/06/2010 or earlier</td>
<td>01/10/2008–31/12/2010</td>
<td>9</td>
<td>2</td>
</tr>
<tr>
<td>Quarter 4 01/10/2010–31/12/2010</td>
<td>01/01/2009–31/12/2010</td>
<td>8</td>
<td>3</td>
</tr>
<tr>
<td>01/07/2010–30/09/2010</td>
<td>01/01/2009–31/12/2010</td>
<td>8</td>
<td>3</td>
</tr>
<tr>
<td>01/04/2010–30/06/2010 or earlier</td>
<td>01/01/2009–31/12/2010</td>
<td>8</td>
<td>3</td>
</tr>
</tbody>
</table>
Schedule 2  Investment under ACIS regarded as eligible investment for ATS

ATS Year 2

<table>
<thead>
<tr>
<th>Registration quarter for ACIS</th>
<th>The period for which investment under ACIS is to be regarded as eligible investment for working out unmodulated investment amount for: MVPs under section 2.2; and non-MVPs under section 2.3</th>
<th>No. of quarters under ACIS to be included in RQ in sections 2.2 and 2.3</th>
<th>No. of quarters under ATS to be included in RQ in sections 2.2 and 2.3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Quarter 1 01/10/2010–31/12/2010 01/04/2009–31/12/2010</td>
<td>7</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>01/04/2010–30/06/2010 or earlier 01/04/2009–31/12/2010</td>
<td>7</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>Quarter 2 01/10/2010–31/12/2010 01/07/2009–31/12/2010</td>
<td>6</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>01/04/2010–30/06/2010 or earlier 01/07/2009–31/12/2010</td>
<td>6</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>Quarter 3 01/10/2010–31/12/2010 01/10/2009–31/12/2010</td>
<td>5</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>01/04/2010–30/06/2010 or earlier 01/10/2009–31/12/2010</td>
<td>5</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>Quarter 4 01/10/2010–31/12/2010 01/01/2010–31/12/2010</td>
<td>4</td>
<td>7</td>
<td></td>
</tr>
<tr>
<td>01/07/2010–30/09/2010 01/01/2010–31/12/2010</td>
<td>4</td>
<td>7</td>
<td></td>
</tr>
<tr>
<td>01/04/2010–30/06/2010 or earlier 01/01/2010–31/12/2010</td>
<td>4</td>
<td>7</td>
<td></td>
</tr>
</tbody>
</table>
### ATS Year 3

<table>
<thead>
<tr>
<th>Registration quarter for ACIS</th>
<th>The period for which investment under ACIS is to be regarded as eligible investment for working out unmodulated investment amount for: MVPs under section 2.2; and non-MVPs under section 2.3</th>
<th>No. of quarters under ACIS to be included in RQ in sections 2.2 and 2.3</th>
<th>No. of quarters under ATS to be included in RQ in sections 2.2 and 2.3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Quarter 1</td>
<td>01/10/2010–31/12/2010 01/04/2010–31/12/2010</td>
<td>3</td>
<td>8</td>
</tr>
<tr>
<td></td>
<td>01/04/2010–30/06/2010 or earlier 01/04/2010–31/12/2010</td>
<td>3</td>
<td>8</td>
</tr>
<tr>
<td>Quarter 2</td>
<td>01/10/2010–31/12/2010 01/07/2010–31/12/2010</td>
<td>2</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>01/04/2010–30/06/2010 or earlier 01/07/2010–31/12/2010</td>
<td>2</td>
<td>9</td>
</tr>
<tr>
<td>Quarter 3</td>
<td>01/10/2010–31/12/2010 01/10/2010–31/12/2010</td>
<td>1</td>
<td>10</td>
</tr>
<tr>
<td></td>
<td>01/04/2010–30/06/2010 or earlier 01/10/2010–31/12/2010</td>
<td>1</td>
<td>10</td>
</tr>
<tr>
<td>Quarter 4</td>
<td>01/10/2010–31/12/2010</td>
<td>0</td>
<td>11</td>
</tr>
<tr>
<td></td>
<td>01/07/2010–30/09/2010</td>
<td>0</td>
<td>11</td>
</tr>
<tr>
<td></td>
<td>01/04/2010–30/06/2010 or earlier</td>
<td>0</td>
<td>11</td>
</tr>
</tbody>
</table>
Endnotes

Endnote 1—Legislation history

This endnote sets out details of the legislation history of the *Automotive Transformation Scheme Order 2010*.

<table>
<thead>
<tr>
<th>Title</th>
<th>FRLI registration date</th>
<th>Commencement date</th>
<th>Application, saving and transitional provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Automotive Transformation Scheme Order 2010</td>
<td>9 June 2010 (see F2010L01551)</td>
<td>1 July 2010</td>
<td></td>
</tr>
<tr>
<td>Automotive Transformation Scheme Amendment Order 2011 (No. 1)</td>
<td>9 Dec 2011 (see F2011L02614)</td>
<td>10 Dec 2011</td>
<td>—</td>
</tr>
</tbody>
</table>
Endnote 2—Amendment history

This endnote sets out the amendment history of the *Automotive Transformation Scheme Order 2010*.

<table>
<thead>
<tr>
<th>Provision affected</th>
<th>How affected</th>
</tr>
</thead>
<tbody>
<tr>
<td>s. 4.2</td>
<td>am. No. 1 of 2011</td>
</tr>
</tbody>
</table>

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted    exp. = expired or ceased to have effect
Endnotes

Endnote 3—Uncommenced amendments [none]

Endnote 3—Uncommenced amendments [none]

There are no uncommenced amendments.
Endnotes

Endnote 4—Misdescribed amendments [none]

There are no misdescribed amendments.