

EXPOSURE DRAFT

EXPOSURE DRAFT EXPLANATORY STATEMENT

Issued by authority of the Treasurer

Income Tax Assessment Act 1997

Income Tax Assessment (Hydrogen Production Tax Incentive—Grid Matching Requirements) Instrument 2026

The *Income Tax Assessment (Hydrogen Production Tax Incentive – Grid Matching Requirements) Instrument 2026* (the Instrument) is a legislative instrument made under the *Income Tax Assessment Act 1997* (the Act)

The Hydrogen Production Tax Incentive (HPTI) is a refundable tax offset outlined in Division 421 of the Act. The HPTI was introduced in Schedule 1 of the *Future Made in Australia (Production Tax Credits and Other Measures) Act 2025* (FMA PTI Act) and commenced on 11 December 2025.

The HPTI is a refundable tax offset that is available at a rate of \$2 per kilogram of eligible hydrogen for companies that satisfy the eligibility requirements. It is available in respect of hydrogen produced during income years commencing on or after 1 July 2027 and ending before 1 July 2040.

Section 421-5 of the Act outlines the requirements for companies engaged in hydrogen production activities to be eligible for the offset. To be eligible to claim an offset in relation to hydrogen production, among other criteria, if the facility producing the hydrogen is connected to an electricity grid, and electricity from that grid is used to produce hydrogen, the electricity that the facility obtains from the grid must satisfy the grid matching requirements. This criterion is outlined in subparagraph 421-5(1)(b)(iii) of the Act

Section 421-25 of the Act provides that the Minister may make a legislative instrument for the purposes of prescribing the grid matching requirements.

The purpose of the Instrument is to prescribe the grid matching requirements. These requirements are intended to ensure that where renewable hydrogen is produced using renewable electricity, that electricity is connected to the same electrical grid as the hydrogen production facility, thus not creating additional demand for non-renewable electricity elsewhere in Australia.

The Act does not specify any conditions that need to be satisfied before the power to make the Instrument may be exercised.

The Instrument is a legislative instrument for the purposes of the *Legislation Act 2003* and is subject to the sunset and disallowance regimes set out there.

The Instrument will commence on the day after the instrument is registered on the Federal Register of Legislation.

Details of the Instrument is set out in Attachment A.

Details of the Income Tax Assessment (Hydrogen Production Tax Incentive – Grid Matching Requirements) Instrument 2025

Section 1 – Name

This section provides that the name of the Instrument is the *Income Tax Assessment (Hydrogen Production Tax Incentive – Grid Matching Requirements) Instrument 2025*.

Section 2 – Commencement

The Instrument commences on the day after the instrument is registered on the Federal Register of Legislation.

Section 3 – Authority

The Instrument is made under the *Income Tax Assessment Act 1997* (“Act”).

Section 4 – Schedule

This section provides an outline of the defined terms used in the instrument and their definitions:

Large-scale generation certificate has the same meaning as in the *Renewable Energy (Electricity) Act 2000*.

Registered REGO certificate is defined as a REGO certificate (as provided in the *Future Made in Australia (Guarantee of Origin) Act 2024*), that has been registered by the Clean Energy Regulator under section 104 of that Act and has not been retired under section 107.

Registered renewable electricity facility has the meaning given in the *Future Made in Australia (Guarantee of Origin) Act 2024*.

The *Income Tax Assessment Act 1997* is defined as The Act.

Section 5 – Grid Matching Requirements

This section sets out the circumstances in which the grid matching requirements apply for hydrogen production under section 421-25 of the Act, and the obligation imposed on facilities that rely on renewable electricity certificates.

Eligibility to claim a HPTI relies on certifications issued under the GO scheme. To qualify as eligible hydrogen under section 421-5 of the Act, a company during an income year (between income years beginning 1 July 2027 and ending 1 July 2040) must produce hydrogen covered by a registered PGO certificate that confirms the emissions intensity threshold is met and that, where renewable electricity used was sourced from a grid, the grid matching requirements are satisfied.

The Guarantee of Origin (GO) scheme provides for two types of certificates:

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- Renewable Electricity Guarantee of Origin (REGO) certificates, which certify renewable electricity generation attributes, including when and where electricity was produced; and
- Product Guarantee of Origin (PGO) certificates, which record how was a product was made; the emissions associated with its production, transport and storage; and other related attributes.

The grid matching requirement prescribed by this instrument is in addition to the PGO certification requirements. When accounting for electricity-use emissions associated with a batch of hydrogen production on a PGO certificate, renewable electricity certificates such as REGOs and LGCs are accepted as evidence of renewable electricity use. The GO scheme does not require renewable electricity generation to be located on the same grid as the hydrogen production facility. However, information collected through the PGO registration process will be sufficient to demonstrate whether this grid-matching requirement has been met.

Use of certificates for electricity attribution

This section applies where a company uses renewable electricity certificates to account for some or all of the electricity used produce hydrogen. There are two types of certificates that may be relied upon:

- REGO certificates, where the certificate has been retired in relation to a hydrogen production facility; or
- Large-scale generation certificates (LGC), where the certificate has been voluntarily surrendered in relation to the hydrogen production facility.

When the grid-matching requirement applies and what it requires

Where a company relies on a retired REGO certificate or surrendered LGC to demonstrate the use of renewable electricity in hydrogen production, the grid matching requirement applies. The requirement is that the hydrogen production facility must be connected to the same electricity grid as the renewable electricity facility identified in the relevant certificate.

This ensures that renewable electricity claims reflect electricity that is physically deliverable within the same interconnected grid region, reinforcing the integrity of emissions accounting and preventing the use of certificates from facilities on grids that are not electrically linked to the hydrogen production site.