Fuel Schemes Stakeholder Group

Access information from meetings of the Fuel Schemes Stakeholder Group.

QC 28466

Fuel Schemes Stakeholder Group key messages 29 July 2024

Key topics discussed at the Fuel Schemes Stakeholder Group meeting 29 July 2024.

Published 3 October 2024

On this page

Group governance

Integrity declaration

Members were advised of the introduction of an integrity declaration for all consultation groups. A copy of the declaration will be provided to members by email and will need to be completed and returned prior to the first meeting in 2025.

Integrity declarations are required to be signed annually by primary members of the group, as well as by proxy members at meetings. They are not required to be completed by Commonwealth members, who are covered by other Australian Public Service guidelines.

Annual review

An annual review is required for all consultation groups to ensure relevant representation of industry organisations and associations. Ongoing engagement is a factor in membership consideration. Following the review, a recommendation was made to offer an invitation for Fuel Tax Advisers which was accepted.

Charter

The Fuel Schemes Stakeholder Group (FSSG) charter has been updated to include the integrity declaration and a draft was provided with meeting papers. There were no comments received by members and the charter was endorsed.

Action item	FSSG Charter
Responsibility	Rowena Troth, Secretariat
Description	Enquire if endorsed FSSG charter can be published to FSSG webpage.

2023–24 reflections and 2024–25 compliance focus areas

The fuel tax credit program is operating as intended. Total fuel tax credit (FTC) claims for 2023–24 will be published in October 2024 in the Australian Taxation Office (ATO) Annual Report however, it was noted that FTC claims are approximately $7.5 billion to $8 billion each year, with around 300,000 registered claimants. Mining (49%), transport (18%), and agriculture forestry and fishing (10%) represented the largest industries based on value of claims, closely followed by the construction industry however, most FTC clients are in agriculture, fishing or forestry, or road transport sectors.

For further details of claims by industry and FTC rates back to 2006, see Historical FTC rates.

The ATO continues to monitor the potential impact of electric vehicle usage on FTC claims however, to date this has not been significant with overall claimant population numbers and total FTC amount claimed growing overall. We consider the FTC product to be low risk with a very high level of voluntary compliance. The 2021–22 tax gap was estimated at 2.6% or $175.3 million, which represents the net of over and underclaims.

Following a request at the 2023 FSSG meeting, a one-page fact sheet of common errors was produced and distributed to members. Earlier in 2024, FTC-related content on ato.gov.au was updated as part of a website upgrade. Feedback is always welcome to improve reference material on the website. The FTC calculator was updated over the last year based on changes in Road User Charge, indexation and biodiesel rates and members were encouraged to utilise the FTC calculator when preparing their claims to ensure they are using the latest rates.

Members noted continuing frustrations in non-alignment of rate changes with business activity statement (BAS) reporting periods, with updates commencing at the beginning of the financial year quarters preferred for ease of administration. Current rate changes are linked to indexation of fuel duty rates, which are governed by existing legislative requirements.

During 2023–24 we updated the telematics checklist, which assists advisors and technology providers, to reflect changes in positional certification and the impact of hybrid vehicles.

We continue to see some attempts to fraudulently extract refunds using BAS. As FTCs are claimed on the BAS, that label has also been used for potential fraud where clients deliberately overstate FTC claims to obtain a refund. We are managing that risk, with rules in place to detect suspicious claims. At times these may delay some legitimate claims, however those are quickly released following checks being carried out.

Apportionment of fuel between on and off-road use continues to be the main area of potential risk, whether due to errors in manual record-keeping or an over-reliance on technology and incorrect methodologies used for that specific business. Back claims over extended periods can also contribute to increased errors. Excise centre continues to work with advisers and clients to provide Product Rulings and Class Rulings to give greater assurance and certainty for clients in the use of Global Positioning Systems (GPS) telematics. There are currently 3 Product Rulings and 5 Class Rulings in place.

Another common error arises where the incorrect entity in a contractual relationship claims FTCs. Despite what is written in a contract, only the correct entity is entitled to make the claim and particular attention should be given to establishing which entity has the proprietary interest in the fuel. Finally, from a common errors perspective, it was noted that claims have also been found to incorrectly include quantities of diesel exhaust fluid (often referred to as AdBlue), as a taxable fuel. FTC cannot be claimed for this product.

The focus for 2024–25 will continue to be on supporting and helping clients to claim their correct entitlement. The ATO can provide information for industry articles to assist clients in making correct FTC claims. Excise centre will continue to liaise with advisers, developers and clients to develop Product and Class Rulings. A specific compliance/audit focus will be on back claims that have relied on manual calculations or estimations with little evidence to support a claim.

We encourage members to liaise with the excise centre if they believe there are further opportunities for safe harbours to be developed for FTC claims.

ATO technical advice

The Road User Charge (RUC) rate increased on 1 July 2024 from 28.8 cents per litre to 30.5 cents per litre, which reduces the fuel tax credit rate for fuel used in heavy vehicles travelling on public roads. Members were advised of the upcoming indexation of fuel excise rates which will take effect from Monday 5 August, in line with the consumer price index. The next indexation date of effect will be from 3 February 2025. The ATO's FTC calculator and web content will always reflect the most current rate.

A draft **Miscellaneous Taxation Ruling MT 2024/D1** *Miscellaneous tax: time limits for claiming an input tax or fuel tax credit* was released for consultation in February 2024. This draft ruling explains the ATO's view on the 4-year time limit that applies to claims for input tax credits and fuel tax credits. The final ruling is expected to be published in the coming weeks and an email will be sent to FSSG members. Refer to the **ATO advice and guidance page** on the ATO website which provides details of draft and final public advice.

Excise Centre's Technical Advice team continue to develop new and renew existing Product and Class Rulings as well as responding to queries relating to FTC claims. Common queries include clarifying the fuel ownership for FTC purposes and determining the correct volume of fuel acquired when fuel has been invoiced based on a temperature corrected volume. The ATO noted that regardless of contracts including references to which entity can claim FTCs under the contract, this does not override the legislative requirements as set out in **Section 41 of the Fuel Tax Act 2006**.

Excise centre continues to work with clients and advisers regarding apportionment methodologies which can be complex. It was noted that clients cannot simply rely on methodologies or results prepared by another entity. Each client's assumptions/variables need to be supported by testing and adequate sampling, particularly in relation to testing of inputs and fuel consumption rates.

The ATO is aware of incorrect advice being provided to clients that diesel particulate regeneration fuel is not subject to the RUC and attracts a higher FTC. The ATO advised members that the Commissioner of Taxation’s view is that this use is considered ‘travelling’ and that this view is supported by the **Decision Impact Statement Linfox > Australia Pty Ltd v Commissioner of Taxation of the Commonwealth of Australia**. The **Fuel Tax Ruling FTR><2008/1** *Fuel tax: vehicle's travel on a public road that is incidental to the vehicle's main use and the road user charge* deals in part with ‘travelling’ and that the FTC for this fuel is reduced by the RUC.

Since the 2023 FSSG meeting, the previous legislative instrument for correcting errors had sunsetted, with the update remade on 25 September 2023, *Fuel Tax Act 2006* Legislative Instrument **LI 2023/33**.

Members were advised of recent deregulation streamlining changes to the administration of excise and excise equivalent goods. Measures came into effect on 1 July 2024 dealing with licensing fees and renewal requirements, as well as entity level licensing. These changes impacted excise and customs duty payers. The final measure of this package, to take effect on 1 January 2025, relates to removing excise and customs duty for fuel used in commercial shipping, which would have an impact on FTC claims by those clients in relation to fuel used in domestic voyages. Excise centres are currently updating ATO web content relating to bunker fuels and commercial shipping and will continue to liaise with FSSG members involved in the commercial shipping industry. The Association of Mining and Exploration Companies raised the issue of transition arrangements from 31 December 2024 to 1 January 2025 and asked that appropriate advice be provided in advance.

Action item	Deregulation new measures
Responsibility	Anthony Barnard, ATO
Description	Liaise with Australian Border Force in relation to transitional arrangements for deregulation new measures to ensure that appropriate advice regarding customs duty is developed and

	published prior to December 2024, in addition to ATO advice regarding excise duty.

Industry updates – roundtable

Pitcher Partners advised of instances where entities claiming fuel can be impacted by organisational restructures where fuel is purchased by one entity and used across the organisation, and subsequently recharged across the group.

Support was shown for development of safe harbours and the potential expansion of the current safe harbour **Practical Compliance Guideline PCG 2021/2** *Fuel tax credits – basic method for heavy vehicles* relating to businesses claiming $10,000 or less in FTCs annually. Analysis has found that the current safe harbour is not being widely used, with customers relying on the FTC calculator. The ATO is happy to consider safe harbours or practical approaches where the demand is there and feedback from industry and advisors is important in determining that demand.

Support was shown for an expanded threshold to the existing safe harbour, noting that larger clients were more likely to utilise GPS for other compliance purposes, while smaller clients were not able to afford the cost of GPS technology. A potential safe harbour relating to burn rates was suggested.

The continued move by the mining industry toward use of renewable fuel sources was discussed. Over the last 6 to 18 months several companies, particularly in Western Australia, have been importing electric vehicles (EVs) for use in remote and regional environments. Over the past 5 to 10 years, power requirements at sites are being transitioned from diesel to solar power. Companies are testing electrified four-wheel drive and heavy vehicle fleets (dump trucks) and are working with vehicle manufacturers to operate effectively with EVs. This is likely to lead to a notable reduction in diesel used in some remote facilities.

Despite this, the mining industry continues to be a significant user of diesel which is not likely to change in the short term without breakthroughs in technology, particularly for trucks carrying ore and diesel locomotives pulling ore cars. Industry continues to work with equipment providers for alternative solutions. Although solar and wind farms are providing some stationary energy for industry, issues are still being worked through in terms of storage of energy. The Minerals Council of Australia has contributed to a government discussion paper on low carbon liquid fuels, noting that while the use of biofuels being used to replace diesel was gaining traction in the USA, Australia was still some way behind.

An update was provided about the impacts of global tensions on international shipping routes, which is leading to significant increases in delivery delays and the cost of shipping freight. The International Maritime Organisation has adopted a strategy to decarbonise the shipping industry by 2050, with the use of methanol increasing across industry. In the last 3 years, the number of methanol powered vehicles has increased from zero to approximately 350, while other renewable energy sources being considered are LNG, hydrogen and ammonia.

Wayne Calder advised members of a name change from the former 'Australian Petroleum Production and Exploration Association' to 'Australian Energy Producers'.

The Maritime Industry Australia Ltd offered support in liaising with the shipping industry on the implementation of deregulation new measures relating to bunker fuels.

The significant number of FTC claimants in the construction industry was discussed, with approximately 1,200 contractors. It was noted that the Civil Contractors' Federation was interested to work with the ATO to look at options for administrative savings, particularly for the 300 to 400 smaller contractors.

Action item	Civil construction industry assistance
Responsibility	Michael Brooks, ATO
Description	Liaise with Nicholas Proud (Civil Contractors Foundation) to explore options for administrative savings in the civil construction industry.

Attendees

Attendees list

Organisation	Attendee
ATO	Tony Poulakis (Chair), Small Business
ATO	Alexandra Godwin, Small Business
ATO	Anthony Barnard, Small Business
ATO	Bonnie Joshi, Small Business
ATO	Claudia Bianco, ATO Corporate
ATO	Michael Brooks, Small Business
ATO	Michael Hughes, Small Business
ATO	Michelle Scott, Small Business
Association of Mining and Exploration Companies	Darryl Daisley
Australian Energy Producers	Wayne Calder
BAS Agent	Nikki Hannaford
Bioenergy Australia	Shahana McKenzie
Civil Contractors' Federation	Nicholas Proud
Deloitte	James Hallebone
EY	Kylie Norman
Fuel Tax Advisers	Peter Perich

KPMG	Anthony Harmer
Maritime Industry Australia Limited	Sarah Cerche
Minerals Council of Australia	Ross Lyons
National Farmers' Federation	Guy Nicol
National Road Transport Association	Samuel Marks
Pitcher Partners	Peter Quattrocchi
Ryan	Chris Sant
Shipping Australia Limited	Jim Wilson
Shipping Australia Limited	Melwyn Noronha
Treasury	Caitlin Payne
Treasury	Isaac Rosser
Treasury	Liz Jaspers
Treasury	Zoe Chalmers

Apologies

Apologies list

Organisation	Member
ATO	Mark Arnold, Small Business
Ampol Australia Petroleum Pty Ltd	Megan Kirkby
Australian Trucking Association	Christopher Wren
Bus Industry Confederation	Roz Chivers

Commonwealth Fisheries Association	Andrew Sullivan
Deloitte	Laura O'Brien
KPMG	Andy Larmour
Maritime Industry Australia Limited	Angela Gillham
National Farmers' Federation	Ash Salardini
PwC	Gary Dutton
Transport Certification Australia	John Gordon

QC 103110

Fuel Schemes Stakeholder Group key messages 25 July 2023

Key messages from the Fuel Schemes Stakeholder Group meeting 25 July 2023

Last updated 30 August 2023

On this page

Welcome and introductions

Tony Poulakis opened the meeting with an Acknowledgment of Country, welcomed members and called for conflicts of interest, noting that Fuel Schemes Stakeholder Group (FSSG) discussions were not of a confidential nature, with key messages from meetings published on the ATO website. No conflicts of interest were declared.

The FSSG 11 August 2022 meeting key messages have been published on ato.gov.au

There are no outstanding action items from previous meetings.

2022–23 Results and 2023–24 Focus areas

Mark Arnold advised that the overall trends for the 2022–23 financial year are in line with expected outcomes. The temporary excise rate reduction which concluded in September 2022 did have an impact on fuel tax credits (FTC) claims. Prior to the rate reduction, and since the conclusion, claims were trending as per previous years, noting that the mining industry is the largest industry participant in the FTC scheme.

The FTC population is considered relatively stable and consistent. The current state of electric vehicle (EV) take-up and EV technology generally is being monitored given potential impacts on the FTC scheme.

In 2022–23, the overall FTC risk remained low but will continue to be monitored for potential impacts relating to GPS technology claims, unsubstantiated methodologies, incorrect assumptions being made, and where there is a lack of testing to support assumptions.

The FTC label on the business activity statement (BAS) has also been used for fraudulent claims as part of BAS–level fraud identified by the ATO. The ATO continues to work on improving risk models and detection to stop this behaviour.

There has been an increase in label 7c adjustments in the BAS, as a result of clients identifying overclaims made in previous BAS, usually in relation to the excise rate reduction.

Despite some clients self-correcting overclaims, compliance casework in 2022–23 included identification of FTC overclaims during the period of the excise rate reduction, resulting in a high level of voluntary disclosures. The ATO identified instances where contracts that included the provision of fuel were not clear as to which party should be claiming FTCs. Communications were issued to clients to advise of errors made suggesting adjustments be done where appropriate.

The ATO continues to identify issues relating to on and off-road apportionment with the use of incorrect rates, not reconciling litres calculated by the apportionment methodology to litres acquired, not conducting suitable testing to determine burn rates, and using other entity's apportionment methods without testing to confirm similarity in use. There were issues in relation to claims for battery powered sleeper cabins, differences in eligibility to claim depending on whether a client used cash or accrual accounting and some instances of clients claiming for AdBlue. Audits and reviews carried out have assisted clients with information and education about correct reporting.

The FTC Tax Gap methodology is being reviewed and an updated Tax Gap will be published in the ATO's Annual Report published in October 2023.

A major component of the FTC risk strategy has been the continuation of early engagement with advisors and the publication of Product and Class Rulings relating to the use of GPS technology and telematics products used in the calculation of FTCs. To date, 2 Product Rulings and 3 Class Rulings have been published on ato.gov.au

The ATO previously advised members of plans to review and update FTC content on the ATO website. Content relating to heavy vehicles was updated in February 2023, however other updates have been paused due to a freeze on publishing pending a release of a new ATO website. FTC content will be reviewed in early 2024 and FSSG members will be consulted as part of that review.

The ATO previously advised of a planned targeted mailout to clients who may have utilised GPS based systems to calculate FTC claims to highlight common issues with those systems, however due to delays caused by COVID-19 lockdowns and weather events the mailout was delayed and the strategy is being reviewed before any further action.

A small survey of businesses and tax agents was undertaken to ascertain interest in expanding eligibility for the current **Practical Compliance Guide (PCG) 2021/2 (Fuel tax credits – basic method for heavy vehicles)**. It was found that clients either used the ATO's FTC Calculator or their own method and were not interested in changing.

The ATO will be following up with agents who expressed interest in the current PCG to build further awareness.

Initial modelling of the temporary excise rate reduction showed some clients had continued to claim at the full rate. A sample set of cases identified a lack of awareness of changes as a key contributor to the use of incorrect rates. The ATO undertook a range of communications activities to remind claimants of the change in FTC rates. Some issues around use of the apportionment method and backclaiming have been identified and these have been included in the risk treatment strategy for 2023–24.

The 2023–24 plan will continue to support most claimants who claim correct amounts. The ATO will continue to liaise with agents and GPS providers for ongoing assurance of governance and consider strategies to further educate clients.

Other issues identified in relation to the misuse of public guidance included:

- Where agents and entities claim they are using ATO-accepted burn rates which have been approved for other entities. Mark reminded members that unless the PCG 2021/2 was being used, fuel burn rates used to support FTC apportionment methodologies should be supported by an entity's own evidence and testing.
- The use of ATO simplified methods such as the total cost of fuel being divided by the average price per litre being applied by clients who were ineligible, with those methods only relating to clients who claim less than $10,000 of FTCs annually.
- Incorrect application of PCG 2016/11 *Fuel tax credits – apportioning taxable fuel used in a heavy vehicle with auxiliary equipment*. This included incorrectly combining an apportionment methodology plus the safe harbour for a vehicle; claiming 5% for battery powered sleeper cabin air-conditioning units where there is no entitlement and failing to limit claims to 10% in relation to refrigerated trailers (even if a vehicle may be moving multiple trailers).

The ATO is noting an increase in the use of hybrid vehicles and will be monitoring that to determine the potential impact on apportionment in relation to data captured by GPS telematics.

Darryl Daisley advised that the ATO had previously issued a 'common errors in calculating and claiming FTCs'. Industry supported a revised version of this type of information which was found to be valuable for members.

Anthony Harmer noted the increase in costs for clients to access raw data for telematics-based calculations. At times that cost far outweighs the additional benefits of apportioning for off-road use. Various industries are looking at possible solutions, for example, installation of low-cost devices in fleets to access data more cost-effectively.

Action item	25072023-3-1
Due date	October 2023
Responsibility	Rowena Troth, FSSG secretariat
Action item details	Following the release of the updated FTC Tax Gap in October 2023, ATO are to arrange an out of session meeting for interested FSSG members to discuss the updated tax gap methodology.

Action item	25072023-4-2
Due date	September 2023
Responsibility	Mark Arnold, ATO
Action item details	The ATO to work with Marketing and Communications staff to develop an updated 'common errors in calculating and claiming FTCs' for distribution to FSSG members.

Industry updates – Roundtable

Gary Dutton, PwC noted that some clients are continuing to rely on burn rates established some years ago. It is important to ensure that clients are aware that those burn rates can continue to be relied on while considered to be fair and reasonable, however there is a requirement for burn rates to be revalidated within 5 years.

Andy Larmour, KPMG noted that while the capture of data becomes more sophisticated, calculation can be less sophisticated. He observed that technology is advancing and assisting with claims. In relation to processing governance, Andy referred to selected organisations completing combined assurance reviews for GST and income tax. Consideration should be given to ultimately incorporating FTC in future assurance approaches. FTC could also be included to provide similar manuals and workflows to assist staff new to FTC calculation and claiming. KPMG has also noted errors in relation to claims for AdBlue that appear to be caused by clients not reviewing data prior to completing claims.

Simon Whyte, EY supported earlier comments about the expense of obtaining GPS data. He noted that it would be useful for the FSSG to include more telematics providers as EY find clients are being advised by providers that the GPS records are sufficient for FTC claims.

Samuel Marks, NatRoad noted impacts caused by the sudden reduction in rate changes in 2022.

Darryl Daisley, Association of Mining and Exploration (AMEC) noted the increase of activity in the critical minerals area. AMEC has increased in membership, with a core membership in small to medium explorers and producers. Diesel fuel remained critical to the explorers and FTCs were still valuable to these entities. As producers moved to being operational, fuel consumption has increased. Darryl noted sensitivities in contracts as to which entity was entitled to claim FTCs. Members discussed awareness in the market of the ability to claim FTCs and noted that those who are new to the industry not maximising claims. Tony Poulakis offered assistance from ATO Marketing and Communications to assist associations with messaging to share with their members to increase awareness.

Nikki Hannaford, BAS Agent representative raised the issue of indexation rate changes not aligning with regular BAS reporting periods. Anthony Barnard advised that indexation was introduced in 1983 and related to the date fuel excise was indexed. This predated the current FTC scheme. Members noted that tax policy is the responsibility of the Treasury and transport policy, including the Road User Charge, is the responsibility of the Department of Infrastructure, Transport, Regional Development, Communication and the Arts. Michelle Scott advised that safe harbour arrangements are available for those claiming less than $10,000 in FTCs per year, where rates used are those at the end of BAS period. Nikki advised that some business software includes an FTC calculator which is automatically updated when rates changed.

Gavin Hill, Transport Certification Australia (TCA) advised members of the assurance and certification services provided to telematics providers and noted that telematics are becoming more sophisticated. TCA are seeing a shift not just from GPS-based records but including an amalgam of different data types being collected from vehicles. He noted that there may be opportunities in the future to use different data types to overcome some of the issues discussed by FSSG members.

Other Business

William Reid reminded members of the **draft legislative instrument and supporting explanatory statement for LI 2023/D14** which was distributed to FSSG members on 19 July 2023 and is available for comments to be provided by 5 August 2023.

Claudia Bianco reminded members that the new FTC rates (because of indexation) will be updated on 26 July 2023 to take effect from 1 August 2023. The ATO will provide the updated rates to FSSG members.

Rowena Troth advised FSSG members that a draft Charter is being finalised for the FSSG and will be distributed to members for consideration and endorsement out of session.

Meeting close

Tony Poulakis thanked members for their participation and their ongoing engagement throughout the year.

Attendees

Attendees list

Organisation	Attendees
ATO	Tony Poulakis (Chair), Small Business, Excise Centre

ATO	Anthony Barnard, Small Business, Excise Centre
ATO	Claudia Bianco, ATO Corporate
ATO	Mark Arnold, Small Business, Excise Centre
ATO	Michael Hughes, Small Business, Excise Centre
ATO	Michelle Scott, Small Business, Excise Centre
ATO	Rowena Troth (Secretariat), Small Business, Excise Centre
ATO	William Reid, Small Business, Excise Centre
Association of Mining and Exploration Companies	Darryl Daisley
Australian Trucking Association	Christopher Wren
BAS Agent Representative	Nikki Hannaford
Deloitte	Nick Boland
EY	Simon Whyte
KPMG	Andy Larmour
KPMG	Anthony Harmer
Minerals Council of Australia	Ross Lyons
National Road Transport Association	Samuel Marks
Pitcher Partners	Peter Quattrocchi
PwC	Gary Dutton

Ryan	Jordan LoRusso
Shipping Australia Limited	Jim Wilson
Transport Certification Australia	Gavin Hill

Apologies

Apologies list

Organisation	Member
Ampol	Megan Kirkby
Australian Institute of Petroleum	Nathan Dickens
Australian Petroleum Production and Exploration Association	Simon Staples
Australia Trucking Association	Bill McKinley
Bioenergy Australia	Shahana McKenzie
Bus Industry Confederation	Roz Chivers
Civil Contractors Federation	Duncan Sheppard
Commonwealth Fisheries Association	Andrew Sullivan
EY	Kylie Norman
Maritime Industry Australia Limited	Suzannah Rowley
National Road Transport Association	Edmund de Wet
Ryan	Chris Sant

Shipping Australia Limited	Melwyn Noronha
Transport Certification Australia	John Gordon
Treasury	Joshua Toohey

QC 73192

Fuel Schemes Stakeholder Group key messages 11 August 2022

Summary of key topics discussed at the Fuel Schemes Stakeholder Group meeting 11 August 2022.

Last updated 7 September 2022

On this page

Welcome and introductions

Tony Poulakis welcomed members to the annual meeting of the Fuel Schemes Stakeholder Group (FSSG).

No conflicts of interest raised by members.

Minutes of the previous meeting of 15 September 2021 had been published on ato.gov.au and action items had been finalised.

Compliance focus areas

Results from 2021–22, Craig Powell

The 2020–21 outlay for fuel tax credits (FTC) was approximately $7.5 billion.2021–22 figures had not yet been released but were expected to reduce due to the temporary reduction in the fuel excise rate. The FTC population had slightly increased, trending in line with previous years. Excise Centre continued to monitor the development of electric vehicles and alternative fuel technologies for potential impacts on the fuel tax credit scheme. The year had been impacted by natural disasters and COVID-19.

The overall compliance risk for fuel tax credits was considered to be low, despite some issues relating to GPS-based technology claims discussed at the 2021 FSSG meeting. Excise Centre was working with clients regarding the use of methodologies and increased assurance evidence. Issues around supporting documentation for on/off road apportionment for road transport operators, particularly in relation to GPS/telematics-based claims continued. These issues relate to lack of corroborating evidence to support claims made, sample testing not adequately reflecting fleet composition (for example, different makes of vehicle) or business records not supporting GPS-based data.

There had been an increase in FTC fraudulent claims aligned with the ATO's Operation Protego which related to opportunistic claims on various labels of the business activity statement (BAS). These claims continue to be stopped prior to processing. ATO action to date has included adjustments to claims, penalties and criminal investigations.

Analysis of closed compliance cases suggested that 20% of errors related to the use of incorrect rates and calculation errors. The ATO would continue to address these issues through awareness and communications.

The ATO had previously advised that a new methodology for calculating the fuel tax credit tax gap was being developed; however due to data issues, the current tax gap would be formulated using the current methodology. Current indications are that the tax gap will remain low. Tony Poulakis noted that the fuel tax credit tax gap, although relatively small, comprised both overclaims and underclaims. The ATO provided calculators and safe harbours to assist clients in making correct claims to address underclaiming. The recent taxpayer alert and work on promoting the use of product and class rulings was designed to reduce overclaims.

Focus areas for 2022–23, Mark Arnold

At the 2021 FSSG meeting, the ATO advised that fuel tax credit web content would be streamlined and updated. This work has been delayed and was now scheduled for early 2023. Minor updates would continue to be made as required.

The ATO continued to explore potential safe harbours and the expansion of the Basic Method for Heavy Vehicles (BHVM) to larger claimants. This work had been paused due to the impact of the temporary fuel excise rate reduction but will be resumed in the coming months. A targeted mailout to back-claimants that appear to have relied on GPS data (potentially with insufficient checks and evidence) had also been deferred and would likely occur toward the end of 2022.

To promote greater certainty, the ATO continues to encourage early engagement by agents, technology providers and assurance providers through Product or Class Rulings to obtain assurance on methodologies where GPS or telematics are used.

It was noted that at the 2021 FSSG meeting, members had discussed the publication of **Practical Compliance Guideline PCG 2021/2** *Fuel tax credits – basic method for heavy vehicles* and feedback that the ATO needed to consider adjustment to the thresholds of $10,000. As a follow up to that discussion, Richard Calver queried whether any further analysis had been undertaken by the ATO on the take up rate Michael Hughes advised that it was difficult to measure take up of safe harbours as claims made on a BAS only referred to a single amount – how the client arrived at that amount was not known. The ATO had carried out some preliminary research ahead of publication of the PCG to establish a benchmark of client claiming methodologies, as well as client willingness, to consider applying the PCG safe harbour. Feedback received from clients consulted indicated an interest in utilising the safe harbour. The ATO was considering follow up calls to measure actual take up but were also progressing with previous feedback in relation to increasing the threshold of $10,000 and also potentially embedding the safe harbour calculation in the fuel tax calculator.

Members discussed difficulties in changing embedded practices by clients (such as relying solely on the FTC calculator) and noted that the ATO would seek to include safe harbours and processes into calculators. Members noted issues around diversity of operations creating challenges in striking a balance between protection of revenue and benefits to clients. Tony Poulakis encouraged members to provide feedback and suggestions for any improvements to assist clients in calculating their claims.

ATO focus topic – Fuel excise reduction

Michael Hughes noted that the temporary reduction in fuel excise rates affected all members and advisers and had been implemented at short notice and applied immediately. He acknowledged industry concerns regarding the impact and disruption caused by the changes on all stakeholders.

The 50% reduction on fuel excise rates across all petroleum products, other than aviation fuel, would cease on 29 September 2022, when rates would return to the full excise rate and would incorporate indexation of excise rates during the 6 month reduction period. He noted that the key messaging at commencement of the rate reduction was that for clients claiming only off-road use, the FTC rate was effectively halved; however for those travelling on public roads, heavy vehicles, the fuel tax credit rate reduced to zero. A transitional issue occurred at implementation for those clients acquiring fuel which reflected the full excise duty rate but then only able to claim fuel tax credits at the reduced rate. The ATO had introduced a concession for clients impacted by this aspect of the change to defer payment of any arising BAS debt until the end of the temporary reduction, where rates would have the reverse cashflow effect, that is, claiming at the full FTC rate but potentially acquiring fuel which reflected the lower fuel excise rate.

Bill McKinley had requested an update of the take-up of this concession, both in relation to the fuel tax credit / fuel excise rate issue and by fuel tax credit claimants more generally. Michael advised that only one client had been identified who had applied for the specific concession relating to fuel tax credit / excise rate disparity.

Work was also being carried out to identify the number of fuel tax credit claimants who had applied for payment arrangements generally, that is, not solely due to the transitional impact of the fuel excise reduction at commencement. The ATO was unable to provide the statistics prior to the meeting, mainly due to the final due date for most quarterly BAS lodgments occurring after the meeting date. Tony Poulakis noted that more granular data, when available, would assist in understanding which products had contributed to debt to obtain insights into the impact of the higher fuel prices on industry.

Bill McKinley had also sought advice on whether the payment deferral concession could be made available, and communicated as being available, to any business having trouble paying its BAS due to the fuel tax credit issue, not just those impacted by the transitional arrangements. He noted that the principal issue for trucking organisations was the inability to change contract prices, specifically where rate adjustments were determined by the terminal gate price of fuel. Tony Poulakis noted that the concession provided by the ATO was made in accordance with existing payment deferral policy. This concession related to the unique circumstances where claimants have been specifically impacted during the transition to reduced fuel excise rates. He noted that this concession could not be provided more generally across industry but that all taxpayers can enter into payment arrangements where they are having difficulty paying their debts.

Michael Hughes noted that analysis to date on the number of clients taking up concessional arrangements had focused on road transport operators. The ATO would look at the rules and filters being applied to ascertain whether a broader set of industries could be included but noted that the initial information may relate only to road transport operators. He noted that figures provided in the week of 15 August 2022 may not include all those who had lodged within the previous seven days but would undertake to provide a supplementary set of figures within a month of the FSSG meeting which would provide a fuller set of data.

The ATO had a communications strategy for the end of September when the fuel excise rate reduction ceases. Michael Hughes advised that there would be early engagement and that web content would be updated. A direct email / letter campaign for those clients claiming fuel tax credits, paying fuel excise, or engaged in the Product Stewardship for Oil Program would be undertaken to put those clients on notice of the change.

The FTC calculator would be updated and messaging would occur on social media channels. The Marketing and Communications team were keen to engage with industry to provide industry-specific articles. The ATO would be consulting with FSSG members as the messaging was formulated and encourage the promotion of messaging through industry forums and bulletins.

Richard Calver queried whether calculations would deal with a potential increase in the Road User Charge. Michael Hughes advised that the ATO has not been advised or held discussions with the relevant department at this stage.

Bill McKinley and Richard Calver emphasised the impact of the introduction of the reduction in the fuel excise rate on Australian Trucking Association and NatRoad clients, noting that this had been the most significant issue their associations had dealt with in recent months. They noted that the reduction in the fuel excise rates had reduced the amount of fuel tax credits that could be claimed for on-road travel to nil.

Focus topic –Transport Certification Australia

New member, Transport Certification Australia (TCA), John Gordon and Gavin Hill

John Gordon and Gavin Hill provided an overview of the work of TCA. Gavin advised that TCA was an independent not-for-profit entity with government oversight and ownership through Austroads. It was responsible for the administration of the National Telematics Framework and provided assurance services to underpin telematics applications and associated information and data services.

The Framework involved the roles of TCA, government agencies and other parties that use digital technologies and data, providers of digital technologies and associated services and operators who use digital technologies recognised through the Framework.

The overriding objective of TCA was to recognise technology providers that meet standard that are recognised by industry and government to ensure innovative performance-based approach to technology. They noted that not all providers elected to be certified – it was an open market with voluntary arrangements. Transport operators and providers are moving to a better assurance mechanism around GPS positional data for the purposes of fuel tax credit claims.

The TCA was introducing use of a new service – Telematics Positional Accuracy Assurance to assess and verify positional accuracy of telematics devices, oversight the in-service performance of those devices and manage data collected from telematics devised by certified Application Service Providers. This would provide a way to deliver stronger assurances in the use of positional data for FTC calculations and may be accepted for ATO rulings purposes. Members wishing to learn more about TCA's offerings were encouraged to contact the TCA for further discussions.

Member comments

Andy Larmour of KPMG advised of an increase in the number of organisations approaching KPMG to get improved governance in the fuel tax credit space. He noted that the publishing of the Taxpayer Alert may have provided extra emphasis.

Simon Whyte of EY queried whether there were any plans for the introduction of quotas approaching the end of September when the fuel excise rate reduction would cease. Tony Poulakis advised that an initial risk assessment had been carried out and quotas were not likely at this stage. Where quotas were being introduced, the ATO would provide ample notice.

Peter Quattrocchi of Pitcher Partners queried whether the treatment for BAS claims following Operation Protego would impact on refunds for legitimate clients. Tony Poulakis advised that the ATO built risk models and flags in the system to hold up refunds considered as high risk. As a result of Operation Protego, those risk models were being updated however he noted that this was unlikely to impact on legitimate claims.

Richard Calver of NatRoad advised that there were significant issues for industry related to the fuel excise rate reduction and noted that there were major industry exits due to cash flow. Communications from the ATO regarding the fuel excise rate being reintroduced need to be well in advance of the reduction ceasing.

Edmund de Wet of NatRoad advised he had been liaising with owner/operator companies finding it difficult to recover costs associated with the fuel excise rate reduction.

Darryl Daisley of AMEC provided an update of issues in the mining industry, noting that industry was seeing a high fuel price particularly in remote regional areas. He noted a positive sense in the industry generally however there was concern about the impact of global interest rates which may dampen investment in the short to medium term. Diversity was a current topic in mining. A big issue for the industry was concerns around skills shortages and lack of personnel, with approximately 30,000 to 40,000 personnel short across the mining industry. AMEC would be keen to publicise the return to the full fuel excise rate widely and noted that common errors were around claiming the correct rate aligning to the acquisition of fuel.

Melwyn Noronha of Shipping Australia Limited asked for an update about the excise deregulation measures particularly relating to bunker fuels. Tony Poulakis advised that the excise deregulation measures had been announced by the previous government in the March Budget. These were now considered to be 'announced but unenacted measures', which were being considered by government. The ATO is awaiting any further announcements by the government.

Shahana McKenzie of Bioenergy Australia advised that the Bioenergy Road Map was released by former Minister Angus Taylor in October 2021. This provided a long-range view across three pathways. She noted that renewable diesel was getting traction, with the first shipment taking place in previous weeks with a crane company now using renewable diesel. This meant a 100% drop in diesel, so it did not need blending as with biodiesels. Bioenergy Australia was working with the Department of Climate Change, Energy, the Environment and Water on fuel standards as a standalone for renewable diesel. Large construction firms were also adopting renewable fuels.

Other business

Richard Calver referred to a recent Productivity Commission report – Trade and Assistance Review 2020–21 which advised:

- Given that Australia's FTC system is consistent with Australia's general non-taxation of inputs to production, is available to all industries, does not reduce the price of fossil fuels below their supply price (but simply reduces the degree to which tax raises the price of fossil fuels above their supply price), and does not provide a relative price advantage to liquid fossil fuels over alternative fuels, the Commission does not regard FTCs as a form of industry assistance.

He noted that this reflected the view of NatRoad in relation to the fuel tax credit scheme.

Meeting close

Tony Poulakis thanked members for their assistance and contributions throughout the year and their participation at the meeting.

The meeting closed at 4:00pm.

Action items

Action item	11082022-2-1
Due date	30 October 2022
Responsibility	Mark Arnold, ATO
Action item details	The ATO to provide a tax gap time series including the fuel tax credits tax gap being published in 2022, as well as a breakdown of the gap between estimated underclaims and overclaims.

Action item	11082022-2-2
Due date	15 September 2022
Responsibility	FSSG members
Action item details	The ATO to convene a meeting with a sub-group of FSSG members to explore opportunities to expand the application of the PCG 2021/2, particularly for road transport operators in the hire and reward industry. FSSG members to advise the ATO of interest in being part of this group.

Action item	11082022-3-1
Due date	19 August 2022
Responsibility	Anthony Barnard
Action item details	ATO to provide to FSSG members: the number of FTC clients that had taken up the specific ATO concession relating to the fuel tax credit / fuel excise rate transitional issue; and the number of FTC clients seeking deferral of BAS debts generally.

Attendees

Attendees list

Organisation	Attendees
ATO	Tony Poulakis (Chair), Excise Centre, Private Wealth
ATO	Craig Powell, Excise Centre, Private Wealth
ATO	Mark Arnold, Excise Centre, Private Wealth
ATO	Michael Hughes, Excise Centre, Private Wealth
ATO	Michelle Scott, Excise Centre, Private Wealth
ATO	Rowena Troth (Secretariat), Excise Centre, Private Wealth
AMEC	Darryl Daisley
Ampol Australia Petroleum Pty	Jenny Park

Ltd	
Australian Petroleum Production and Exploration Association	Simon Staples
Australian Trucking Association	Bill McKinley
Bioenergy Australia	Shahana McKenzie
Bus Industry Confederation	Madonna Woodhead
Civil Contractors Federation	Duncan Sheppard
Deloitte	Laura O'Brien
EY	Simon Whyte
KPMG	Andy Larmour
Minerals Council of Australia	Ross Lyon
National Farmers' Federation	Ash Salardini
NatRoad Limited	Edmund de Wet
NatRoad Limited	Richard Calver
Pitcher Partners Advisory Pty Ltd	Peter Quattrocchi
Shipping Australian Ltd	Melwyn Noronha
Transport Certification Australia	Gavin Hill
Transport Certification Australia	John Gordon
Treasury	Evan Moriatis
Treasury	Tracy Richards

Apologies

Apologies list

Organisation	Members
ATO	Anthony Barnard, Excise Centre, Private Wealth
ATO	Claudia Bianco, ATO Corporate
Australian Institute of Petroleum	Paul Barrett
BAS Agent	Cate Kemp
Commonwealth Fisheries Association	Andrew Sullivan
Maritime Industry Australia Ltd	Teresa Lloyd
PwC	Gary Dutton
PwC	Paul Cornick
Ryan Financial Services	Chris Sant

QC 70335

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