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## Legislative Instrument

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### Excise (Mass of CNG) Determination 2016 (No. 2)

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I, Deborah Jenkins, Acting Deputy Commissioner of Taxation, make this determination under section 65 of the *Excise Act 1901* ('**Excise Act**').

#### Deborah Jenkins

Acting Deputy Commissioner of Taxation

Dated: 13/09/2016

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#### Name of determination

1. This determination is the *Excise (Mass of CNG) Determination 2016 (No. 2) 2016*.

#### Commencement

2. This determination commences on the day after registration.

#### Repeal of previous determination

3. *Excise (Mass of CNG) Determination 2016 (No. 1)* – F2016L0013 registered on the 19/02/2016 is repealed on the commencement of this determination.

#### Determination

5. This determination is a legislative instrument for the purposes of the *Legislation Act 2003*.
6. This determination applies to Compressed Natural Gas (CNG) classified to sub-item 10.19C of the Schedule to the *Excise Tariff Act 1921* (the Schedule) that is delivered for home consumption pursuant to section 61C of the *Excise Act* on or after the date of commencement.

#### Object

6. Under section 65 of the *Excise Act*, the CEO may determine rules for working out the volume or weight of excisable goods.
7. These rules govern the methods for calculating the mass of excisable CNG for the purposes of determining the amount of excise duty payable.

## Determining the mass of CNG

8. To determine the duty applicable to excisable CNG, the dutiable quantity must first be determined. For excisable CNG this is the mass in kilograms. In determining the mass of excisable CNG delivered into home consumption, the following methods are permissible:
9. Where a person's measuring equipment can differentiate quantities of excisable CNG from other quantities of CNG produced or natural gas used the person must, subject to paragraph 13, calculate the mass of excisable CNG delivered into home consumption using method 1, 2 or 3.

Method 1 - If your measuring equipment measures goods in kilograms, you must use this figure.

Method 2 - If your measuring equipment measures goods as energy (joules), you must convert to kilograms by either:

- (a) the use of the conversion factor stipulated in Section 24(3) of the *Excise Regulation 2015* (Excise Regulation); or
- (b) the use of a conversion factor based on the composition of the gas by mole fraction using the method as described in the International Organization for Standardization ISO 6976-1995, *Natural gas – Calculation of calorific values, density and Wobbe index from composition*.

Method 3 - If your measuring equipment measures goods in volume (cubic metres), you must calculate the mass of excisable CNG delivered into home consumption by either:

- (a)
    - (i) converting from cubic metres (m<sup>3</sup>) to megajoules by using the heating value and any associated correction/pressure factors of the gas, as supplied by your gas distributor in your most recent tax invoice, or by applying an average heating value and an average of any associated correction/pressure factors of the gas, as supplied by your gas distributor, over an accounting period; and then
    - (ii) converting the megajoule value to kilograms by employing the rate stipulated in Section 24(3) of the Excise Regulation; or
  - (b)
    - (i) correcting the volume of gas measured by you to standard referencing conditions (101.325 kPa and 288.15 K) using Australian Standard / International Organization for Standardization AS ISO 13443-2007, *Natural gas – Standard reference conditions*; and then
    - (ii) applying the conversion factor based on the composition of the gas by mole fraction as per the method described in the International Organization for Standardization ISO 6976-1995, *Natural gas – Calculation of calorific values, density and Wobbe index from composition*.
10. Where a person's measuring equipment cannot differentiate excisable quantities of CNG from other quantities of CNG produced or natural gas used and aggregated clearances of excisable CNG do not exceed 150,000 kilograms per accounting period, subject to paragraph 13, the following methods to calculate the mass of excisable CNG delivered into home consumption are permissible:

Method 4 - a measured constructive method of apportionment using an appropriate reliable measure (or combination of reliable measures) may be used as the basis for calculating the quantity of excisable CNG.

Method 5 - a measured deductive method of apportionment using an appropriate reliable measure (or combination of reliable measures) may be used as the basis for calculating the quantity of excisable CNG.

11. For methods 4 and 5, appropriate reliable measures that may be used as the basis for calculating quantities of excisable CNG include:
  - gas flow meter measuring equipment
  - a vehicle's odometer readings of kilometres actually travelled
  - route distances if a vehicle operates on fixed routes
  - kilowatt hours of electricity generated
  - hours of operation of vehicle or equipment, or
  - average hourly fuel consumption of vehicle or equipment
12. For the purposes of paragraph 9, the versions of the incorporated standards Australian Standard AS ISO 13443-2007 and the International Organization for Standardization ISO 6976-1995 that are current at the time of commencement of this determination are to be used.
13. A person must only use one Method for each excise licensed establishment for the duration of an accounting period unless authorised in writing by the CEO to do otherwise.

## Definitions

14. The following expressions are defined for the purposes of this determination:

**accounting period** means the 12 month period adopted for income tax purposes as provided by section 18 of the *Income Tax Assessment Act 1936*, or another period approved in writing by the CEO.

**aggregated clearances** means the mass of CNG delivered for home consumption by you in the accounting period from excise licensed establishments based on historical data, or the mass of CNG reasonably expected to be delivered for home consumption by you in an accounting period if no historical data is available.

**CEO** means the Commissioner of Taxation (see subsection 4(1) of the *Excise Act*).

**CNG** means compressed natural gas.

**Excisable CNG** means CNG classified to sub-item 10.19C of the Schedule.

**excise licensed establishment** means premises that are specified in an Excise licence issued pursuant to section 39A of the *Excise Act*.