



Class Ruling

Fuel tax credits: clients of GPSI Group Pty Ltd who use the Fuel Tax Credit Report generated by the GPSI FleetConnect System for calculating the kilometres travelled in a vehicle as a record for fuel tax credit purposes

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① This publication provides you with the following level of protection:

This publication (excluding appendixes) is a public ruling for the purposes of the *Taxation Administration Act 1953*.

A public ruling is an expression of the Commissioner's opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes.

If you rely on this ruling, the Commissioner must apply the law to you in the way set out in the ruling (unless the Commissioner is satisfied that the ruling is incorrect and disadvantages you, in which case the law may be applied to you in a way that is more favourable for you – provided the Commissioner is not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any underpaid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.

Summary – what this ruling is about

1. This Ruling sets out the Commissioner's opinion on the way in which the relevant provisions identified below apply to the defined class of entities, who take part in the scheme to which this Ruling relates.

Relevant provisions

2. The relevant provisions dealt with in this Ruling are:
- Subdivision 41-B of the *Fuel Tax Act 2006* (FTA)
 - subsections 41-5(1) and (2) of the FTA
 - section 41-20 of the FTA
 - section 60-5 of the FTA
 - section 110-5 of the FTA

- section 382-5 of Schedule 1 to the *Taxation Administration Act 1953* (TAA)
- subsections 382-5(1) and 382-5(8) of Schedule 1 to the TAA.

All legislative references in this Ruling are to the FTA unless otherwise indicated.

Class of entities

3. The class of entities to which this Ruling applies are clients of GPSI Group Pty Ltd (GPSI) who:

- are registered for goods and services tax, and
- use the FTC Report generated by the GPSI FleetConnect System, for measuring the kilometres travelled and the location of the travel, in calculating the extent of their fuel tax credit entitlement.

Qualifications

4. The Commissioner makes this Ruling based on the precise scheme identified in the Ruling and does not rule on whether particular roads are public roads for the purposes of the FTA. Nor does this Ruling extend to determining entitlement to claim and calculation of fuel tax credits.

5. The class of entities defined in this Ruling may rely on its contents provided the scheme actually carried out is carried out in accordance with the scheme described in paragraphs 8 to 24 of this Ruling.

6. If the scheme actually carried out is materially different from the scheme that is described in this Ruling, then:

- this Ruling has no binding effect on the Commissioner because the scheme entered into is not the scheme on which the Commissioner has ruled, and
- this Ruling may be withdrawn or modified.

Date of effect

7. This Ruling applies from 20 June 2017 to 30 June 2020. However, this Ruling will not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of this Ruling (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10).

Scheme

8. The following description of the scheme is based on information provided by the applicant in the application and subsequently requested from the applicant.

Note: certain information has been provided on a commercial-in-confidence basis and will not be disclosed or released under Freedom of Information legislation.

9. The GPSI FleetConnect system is a global positioning system (GPS) technology based reporting tool that stores and processes GPS data to generate the Fuel Tax Credit Report that provides measurements which GPSI clients can use to apportion kilometres travelled in vehicles.

10. The Fuel Tax Credit Report generated by the GPSI FleetConnect system is based on vehicle trip data that are:

- gathered and communicated to the GPSI FleetConnect system by the GPSI RoadScout device (the Device) – a telematics and driver safety device, and
- processed by the GPSI FleetConnect system (the System) – a cloud based vehicle/driver management and reporting platform.

The Device

11. The Device is fitted to the vehicle's On Board Diagnostic port. It automatically and continuously records the vehicle's location, kilometres travelled and hours operated, and allows for recording of the time, date and categorisation of the kilometres travelled within and outside a GPSI client's declared geofence zones.

12. Through the incorporation of a GPS, the Device determines geographic coordinates with respect to the date and time in coordinated universal time (UTC) standard, and exchanges relevant vehicle data to and from the vehicle's electronic control unit.

13. These recordings are communicated to the System via wireless data interchange on a mobile network.

14. Data communicated by the Device to the System includes, but is not limited to:

- device identifier
- unique trip identifier
- driver identifier
- GPS location (latitude/longitude/accuracy/height/GPS satellite count)
- UTC time and date

- ignition status
- odometer reading
- vehicle engine data, and
- vehicle or asset performance data.

15. If the Device loses connectivity to the satellite, the Device will calculate the location data through an internal capability in order to generate an appropriate geospatial point of reference.

16. If the Device loses connectivity to the mobile network, the Device will store the geospatial data to on-board memory and actively attempt to re-establish connection with that mobile network or to other GPSI devices including GPSI's smartTRAX satellite device via Bluetooth. Once the connection is re-established, the data stored on the Device will be transmitted to the System.

The System

17. As the Device operates, the System continuously receives all transmissions and verifies data integrity and receipt. The System then processes the vehicle trip data recorded and validates the categorisation of the location based on the segment of the travel being either within or outside of the GPSI client's declared geofence zone.

18. The declared geofence zone is a virtual polygon perimeter relating to real life geospatial boundaries that the GPSI client categorised to reflect the GPSI client's manual assessment of a location of travel for the purposes of fuel tax credits.

19. GPSI clients manually ascribe the parameters of declared geofence zones through the input of geocoded coordinates to the System, and hence the System is customised for each GPSI client.

20. The System calculates the proximity of a Device's location to the GPSI client's declared geofence zones in order to establish geofence entry and exit events. These events encompass critical vehicle and telematics data including, but not limited to, odometer readings, time, and date of the geofence entry and exit events.

21. The geofence entry and exit events allow measurement of time and distance travelled by a Device within the declared geofence zone and consequently enable the System to determine the distance travelled and duration of operation within the declared geofence zone.

22. The System stores data for an unlimited period and can generate reports for any period required.

23. The System allows the GPSI client using the Device in their enterprise to generate the Fuel Tax Credit Report which provides the following information in a selected period:

- date of each individual trip
- vehicle registration

- driver identification
- name of declared geofence zone
- categorisation of a declared geofence zone
- time of entry into a declared geofence zone
- time of exit from a declared geofence zone
- total time spent in a declared geofence zone, and
- total distance travelled in a declared geofence zone.

24. The Fuel Tax Credit Report is produced in English and is exportable to Microsoft excel (xls), portable document format (PDF) and comma separated values (csv) format.

Ruling

25. The System is a GPS technology based reporting tool which generates the Fuel Tax Credit Report that details the kilometres travelled by a vehicle in a declared geofence zone. The declared geofence zones are geocode coordinates, ascribed and input by the GPSI client to the System, that reflect the GPSI client's assessment of a location of travel for the purposes of fuel tax credits.

26. The Fuel Tax Credit Report is in English.

27. This report is a document that satisfies a record for the purposes of subsection 382-5(8) of Schedule 1 to the TAA.

28. Provided the report is retained for 5 years or in accordance with the specific requirements of section 382-5 of Schedule 1 to the TAA, it can be used for record keeping purposes to the extent of the kilometres travelled and/or hours operated by the vehicle for the purposes of providing a step in the calculation of fuel tax credits.

Commissioner of Taxation

15 November 2017

Appendix 1 – Explanation

1 *This Appendix is provided as information to help you understand how the Commissioner's view has been reached. It does not form part of the binding public ruling.*

Is apportionment a requirement to work out the entitlement to a fuel tax credit?

29. Subsection 41-5(1) provides that an entity is entitled to a fuel tax credit for taxable fuel they acquire or manufacture in, or import into, Australia to the extent that they do so for use in carrying on their enterprise.

30. Taxable fuel is defined in section 110-5.

31. However, under subsection 41-5(2), the entity is only entitled to the fuel tax credit if they are registered for goods and services tax at the time they acquire, manufacture or import the fuel.

32. Subdivision 41-B contains the disentitlement rules for fuel tax credits and includes at section 41-20 the following disentitlement:

41-20 No fuel tax credit for fuel to be used in light vehicles on a public road

You are not entitled to a fuel tax credit for taxable fuel to the extent that you acquire, manufacture or import the fuel for use in a vehicle with a gross vehicle mass of 4.5 tonnes or less travelling on a public road.

33. Hence an entity that acquires taxable fuel for use in their enterprise in a vehicle with a gross vehicle mass of 4.5 tonnes or less (a light vehicle), is entitled to a fuel tax credit to the extent the fuel is used otherwise than in the vehicle travelling on a public road.

34. The use of the phrase 'to the extent' in section 41-5 and section 41-20 contemplates apportionment between fuel acquired for an eligible use and fuel acquired for an ineligible use. The implications of this phrase for the purposes of entitlement has been considered in paragraph 5 of FTD 2010/1 *Fuel tax: is apportionment used when determining total fuel tax credits in calculating the net fuel amount under section 60-5 of the Fuel Tax Act 2006?*

35. At paragraph 5 of FTD 2010/1 the Commissioner relevantly states:

5. The use of the phrase 'to the extent that' in the FT Act contemplates apportionment in the case of:

- section 41-5 of the FT Act between a use that entitles you to a fuel tax credit and one that does not, and between uses that give rise to different rates of fuel tax credits, taking into account the operation of Division 41 of the FT Act ...

36. To determine the extent of the fuel tax credit an entity that acquires taxable fuel, and uses the fuel in a light vehicle, will need to apportion the fuel between that used while travelling on a public road travel (ineligible use) and otherwise.

What are the principles for apportioning fuel used in a vehicle?

37. The FTA does not prescribe how to apportion fuel between different uses. The Commissioner has explained in FTD 2010/1 that methods that are fair and reasonable are acceptable.

38. Specifically paragraph 33 of FTD 2010/1 says:

33. It is not necessary for an apportionment method to track the intended use of every last drop of fuel. A method may be fair and reasonable without doing so provided that the application of the method reasonably reflects the extent to which taxable fuel is acquired for an eligible activity.

39. Apportionment of fuel for the purpose of working out an entitlement, and calculating the amount of the entitlement, are distinct phases. Specifically, an entity can either:

- undertake all the necessary apportionment as a single step process that encompasses working out the entitlement as well as the calculation of a fuel tax credit amount, or
- undertake apportionment as discrete steps, for example:
 - apportionment takes place in working out entitlement to a fuel tax credit and then in calculating the fuel tax credit amount, or
 - apportionment takes place in working out the amount of fuel used in particular equipment or particular auxiliary equipment of a vehicle travelling on a public road or in a group of equipment or group of auxiliary equipment and then apportioning the uses of fuel in relation to that equipment or group to calculate the fuel tax credit amount.

40. The amount of the entitlement calculated should be the same whether a single step process or a discrete step calculation is performed.

41. To apportion the taxable fuel an entity has acquired to the different activities for which the fuel was used, a measure can be used as part of an apportionment methodology. The Commissioner accepts that an entity can use any appropriate reliable measure as the basis for calculating the amount of taxable fuel that it acquires for use in an eligible activity.

42. Examples of known reliable measures include:
- odometer readings of kilometres actually travelled
 - route distances
 - hours of operation of vehicle or equipment, or
 - average hourly fuel consumption of vehicle or equipment.
43. Although these are commonly used measures, because of the diverse range of eligible activities, this is not an exhaustive list and there may be other measures that are appropriate to an entity's circumstances.

Does the GPSI FleetConnect system provide a step in the apportionment of fuel such that it determines the kilometres travelled by a vehicle and the location of the travel?

44. The GPSI FleetConnect system generates the Fuel Tax Credit Report based on vehicle trip data that are:
- gathered and communicated to the System by the GPSI RoadScout device (the Device) – a telematics and driver safety device, and
 - processed by the GPSI FleetConnect system (the System) – a cloud based vehicle/driver management and reporting platform.
45. The System processes the vehicle trip data recorded by the Device and validates the categorisation of the location based on the segment of the travel being either within or outside of the GPSI client's declared geofence zone.
46. The declared geofence zone is a virtual polygon perimeter relating to real life geospatial boundaries that the GPSI client categorised to reflect the GPSI client's assessment of a location of travel for the purposes of fuel tax credits.
47. GPSI clients manually ascribe the parameters of declared geofence zones through the input of geocoded coordinates to the System, and hence the System is customised for each GPSI client.
48. The System calculates the proximity of a Device's location to the GPSI client's declared geofence zones in order to establish geofence entry and exit events. These events encompass critical vehicle and telematics data including, but not limited to, odometer readings, time, and date of the geofence entry and exit events.
49. Subject to the parameters of the declared geofence zones, the System can be used as a step in determining the kilometres travelled for which the taxable fuel used may be eligible for fuel tax credit.
50. This travel data must then be used as part of the formula to determine the extent of the taxable fuel to be apportioned to use in the vehicle for fuel tax credit purposes.

Does the Fuel Tax Credit Report generated from the System satisfy a record for the purposes of subsection 382-5(8) of Schedule 1 to the TAA?

51. Section 382-5(1) of Schedule 1 of the TAA provides that you must keep records that record and explain all transactions and other acts you engage in that are relevant to an entitlement to a fuel tax credit.

52. You must retain these records for at least five years after the completion of the transactions or acts to which they relate.

53. Subsection 382-5(8) of Schedule 1 to the TAA provides that the records must be in English, or easily translated into English, and enable an entitlement under an indirect tax law, that is, a fuel tax law to be ascertained.

54. The Device incorporates a Global Positioning System (GPS) and automatically and continuously records the vehicle's location, kilometres travelled and hours operated, and allows for recording of the time, date and categorisation of the kilometres travelled within and outside a GPSI client's declared geofence zones.

55. As the Device operates, the System continuously receives all transmissions and verifies data integrity and receipt. The System then processes the vehicle trip data and validates the categorisation of the location based on the segment of the travel being either within or outside of the GPSI client's declared geofence zone.

56. If the Device loses connectivity to the satellite, the Device will calculate the location data through an internal capability in order to generate an appropriate geospatial point of reference.

57. If the Device loses connectivity to the mobile network, the Device will store the geospatial data to on-board memory and actively attempt to re-establish connection with that mobile network or to other GPSI devices including GPSI's smartTRAX satellite device via Bluetooth. Once the connection is re-established, the data stored on the Device will be transmitted to the System.

58. The System allows the GPSI client using the Device in their enterprise to generate the Fuel Tax Credit Report which provides the following information in a selected period:

- date of each individual trip
- vehicle registration
- driver identification
- name of declared geofence zone
- categorisation of a declared geofence zone
- time of entry into a declared geofence zone
- time of exit from a declared geofence zone

- total time spent in a declared geofence zone, and
- total distance travelled in a declared geofence zone.

59. A full trip log is available showing all the travel, date of travel, start and end times and address, total kilometres travelled, hours of operation and odometer readings at the start and end of travel.

60. The System stores data for an unlimited period and can generate reports for any period required.

61. The Fuel Tax Credit Report is produced in English and exportable to Microsoft excel (xls), portable document format (PDF) and comma separated values (csv) format.

62. The Fuel Tax Credit Report can be used in conjunction with a dedicated vehicle fuel card or other accurate record of fuel usage by a vehicle to allocate the System's recorded kilometres travelled or hours operated to that vehicle's fuel usage within the GPSI client's declared geofence zone.

63. The Fuel Tax Credit Report is a record that can be used in determining apportionment for fuel tax credit purposes. As such, the Fuel Tax Credit Report is a document that satisfies a record for the purposes of subsection 382-5(8) of Schedule 1 to the TAA.

Appendix 2 – Detailed contents list

64. The following is a detailed contents list for this Ruling:

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References

Previous draft:

Not previously issued as a draft

Related Rulings/Determinations:

TR 2006/10; FTD 2010/1;
CR 2015/60

Legislative references:

- FTA 2006
- FTA 2006 41-5
- FTA 2006 41-5(1)

- FTA 2006 41-5(2)
- FTA 2006 Subdiv 41-B
- FTA 2006 41-20
- FTA 2006 60-5
- FTA 2006 110-5
- TAA 1953
- TAA 1953 Sch 1 382-5
- TAA 1953 Sch 1 382-5(1)
- TAA 1953 Sch 1 382-5(8)

ATO references

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