ER 2012/1EC - Compendium

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This edited version of the Compendium of Comments is not intended to be relied upon. It provides no protection from primary tax, penalties, interest or sanctions for non-compliance with the law.

Ruling Compendium – ER 2012/1

This is a compendium of responses to the issues raised by external parties to draft Excise Ruling ER 2012/D1 – *Excise: the meaning of the expression 'manufactured or produced' for the purposes of the Excise Acts*.

This compendium of comments has been edited to maintain the anonymity of entities that commented on the draft Ruling.

Summary of issues raised and responses

Issue No.	Issue raised	ATO Response/Action taken
1	Section 68 of the *Excise Act 1901* provides that no person shall be deemed to manufacture because he or she cures tobacco leaf. A number of suggestions to improve clarity and/or readability.	Revised paragraph 34 of the Ruling to clarify that the Commissioner considers that in the context of the Excise Acts (*Excise Act 1901* and *Excise Tariff Act 1921*), the curing of tobacco leaf that is stripped from a plant in order to convert it into leaf tobacco is deemed not to be 'manufacture'. Adopted.
2	Suggest that in relation to 'Change in Form' (Paragraph 13), the example could also usefully include something along the lines of 'a change in chemical characteristic, by adding, removing, combining or altering the chemical characteristic of the thing being produced'.	The recommendation in relation to 'Change in Form' has been adopted. The wording of the paragraph has been amended.

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Issue No.	Issue raised	ATO Response/Action taken
3	Recommend that paragraph 40 of the draft ruling be reworded in relation to the manufacture of Compressed Natural Gas (CNG) to read as follows: 'The process natural gas undergoes resulting in compressed natural gas for use in a motor vehicle is manufacturing. When natural gas is compressed in this way, it has new qualities/properties that are very different from natural gas.'	Recommendation to amend paragraph 40 is not adopted. Section 77HA of the *Excise Act 1901* (Excise Act) commences with the phrase 'Compressed natural gas is exempt from excise duty if ... the gas was compressed for use other than as a fuel for a motor vehicle…'. Although the compression of natural gas to form CNG is manufacture, the compression of natural gas to make CNG that is exempt under section 77HA does not constitute the manufacture of excisable goods (that is, goods dutiable under the Schedule to the *Excise Tariff Act 1921* (Excise Tariff Act) and manufactured or produced in Australia). The Excise Tariff Act only imposes duty on excisable goods. When paragraph 40 is read in conjunction with paragraphs 41 and 42 it is clear that while compressing natural gas to form compressed natural gas would be considered to be manufacturing it is not considered to be the manufacture of excisable goods if one or more of the exemptions contained in the Excise Act are applicable (subsections 77HA(1) and 77HA(2) of the Excise Act).