


# ***FTR 2008/1A7 - Addendum - Fuel tax: vehicle's travel on a public road that is incidental to the vehicle's main use and the road user charge***

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## Addendum

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### Fuel Tax Ruling

#### Fuel tax: vehicle's travel on a public road that is incidental to the vehicle's main use and the road user charge

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Fuel Tax Ruling FTR 2008/1 to clarify the meaning of 'public roads.'

#### **FTR 2008/1 is amended as follows:**

**1. Paragraph 44**

Before the paragraph; insert:

43D. The term 'public road' is not defined in the FT Act and therefore it takes its ordinary meaning.

**2. Paragraph 44**

Omit the paragraph; substitute:

44. For the purposes of subsections 43-10(3) and 43-10(4), examples of a 'public road' include, a road:

- opened, declared or dedicated as a public road under a statute;
- vested in a government authority having statutory responsibility for the control and management of public road infrastructure; or
- dedicated as a public road at common law.

**3. Paragraph 46**

Omit the first sentence; substitute:

For roads that do not otherwise fall within the ordinary meaning of the term public road, examples of roads that are not public roads for the purposes of subsections 43-10(3) and 43-10(4) include:

#### 4. Paragraph 121

Omit the paragraph; substitute:

121. The term 'public road' is not defined in the FT Act and therefore it takes its ordinary meaning<sup>31</sup>. A public road is a road that is available for use by members of the public.

121A. At the time that the Fuel Tax law was introduced, the relevant Explanatory Memorandum<sup>32</sup> provided a non-exhaustive list of some examples of roads that are public roads and by contrast, those that are not public roads.

#### 5. Paragraph 122

(a) Omit the first sentence; substitute:

For the purposes of subsections 43-10(3) and 43-10(4), examples of public roads, include a road that is:

(b) Omit the last dot point; substitute:

- dedicated as a public road at common law.

#### 6. Paragraph 127

Omit the first sentence; substitute:

For roads that do not otherwise fall within the ordinary meaning of the term public road, examples of roads that are not public roads for the purposes of subsections 43-10(3) and 43-10(4) include a:<sup>35</sup>

#### 7. Paragraph 127A

Omit the paragraph; substitute:

127A. If a statutory scheme confers a limited right of public access, which is subordinate to the main objects of the statute, then members of the public have a lesser entitlement to that access than the entitlement they have to use public highways, main roads, local roads and suburban streets. Such roads cannot be characterised as public roads.

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<sup>31</sup> *Statutory Interpretation in Australia*, 2014 8<sup>th</sup> Edition, DC Pearce & RS Geddes, Chapter 4.8.

<sup>32</sup> The Revised EM, paragraphs 2.50 to 2.53.

<sup>35</sup> [Omitted.]

This Addendum applies on and from 1 July 2006.

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**Commissioner of Taxation**

7 September 2016

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ATO references

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