


***CR 2019/54 - Clients of EROAD (Australia) Pty Ltd
who use the EROAD Fuel Tax Credits Product Report
information showing litres allocated according to
travel generated by EROAD Fuel Tax Credits product
for fuel tax credit purposes***

 This cover sheet is provided for information only. It does not form part of *CR 2019/54 - Clients of EROAD (Australia) Pty Ltd who use the EROAD Fuel Tax Credits Product Report information showing litres allocated according to travel generated by EROAD Fuel Tax Credits product for fuel tax credit purposes*



Class Ruling

Clients of EROAD (Australia) Pty Ltd who use the EROAD Fuel Tax Credits Product Report information showing litres allocated according to travel generated by EROAD Fuel Tax Credits product for fuel tax credit purposes

🔔 Relying on this Ruling

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

If this Ruling applies to you, and you correctly rely on it, we will apply the law to you in the way set out in this Ruling. That is, you will not pay any more tax or penalties or interest in respect of the matters covered by this Ruling.

Further, if we think that this Ruling disadvantages you, we may apply the law in a way that is more favourable to you.

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What this Ruling is about

1. This Ruling sets out when the EROAD Fuel Tax Credits product report (the Report) generated from EROAD (Australia) Pty Ltd's EROAD Fuel Tax Credits product (the Product) can be used as a record (but not the only record) for record-keeping purposes as part of the process for calculating fuel usage.
2. Full details of the EROAD Fuel Tax Credits product are set out in paragraphs 10 to 43 of this Ruling.
3. 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 *Fuel Tax Act 2006* (FTA).¹ Nor does this Ruling extend to determining entitlement to claim and calculation of fuel tax credits. It does not extend to determining whether or not

¹ All legislative references in this Ruling are to the FTA unless otherwise indicated.

the road user charge is correctly applied in the apportionment methodology. For example, this Ruling does not rule on whether the methodology or processes used to determine location, the nature of the activity taking place at that location or other inputs such as fuel consumption rates are correct.

Note: By issuing this Ruling, the ATO is not endorsing the EROAD Fuel Tax Credits product. Potential purchasers/users must form their own view about this product.

Who this Ruling applies to

4. This Ruling applies to you if you are a client of EROAD (Australia) Pty Ltd registered for goods and services tax purposes and use measurements from the EROAD Fuel Tax Credits product (including the EROAD telematics system and associated reports) for apportioning fuel usage between activities for fuel tax credit purposes.

When this Ruling applies

5. This Ruling applies from 21 January 2019 to 30 June 2020.

Ruling

6. EROAD (Australia) Pty Ltd's EROAD Fuel Tax Credits product (the Product) is a Global Positioning System (GPS) technology based reporting tool which generates a report named the EROAD Fuel Tax Credits product report (the Report). The Report provides information on the litres used based on categorisation of the travel, the idle litres and auxiliary equipment litres used for a tax period.

7. The Report is in English.

8. The Report is a document that is a record for the purposes of subsection 382-5(8) of Schedule 1 to the *Taxation Administration Act 1953* (TAA).

9. Provided the Report is retained for 5 years, or in accordance within the specific requirements of section 382-5 of Schedule 1 of the TAA, it can be used as a record (but not the only record) for record-keeping purposes as part of the process for calculating fuel usage to the extent that it shows details of the:

- total litres after information from other source documentation has been incorporated
- litres based on the categorisation of travel on public roads and off public roads
- litres used in auxiliary equipment (where applicable)
- litres used while the vehicle is idling off-road based on time and the categorisation of off-road use.

Scheme

10. The following description of the scheme is based on information provided by the applicant. If the scheme is not carried out as described, this Ruling cannot be relied upon.

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

11. EROAD (Australia) Pty Ltd has developed the Product. This system has a means of electronically recording and reporting information relevant to fuel tax credits.

12. The Product system consists of:

- a secure in-vehicle electronic distance recorder (IVEDR)
- unique serial number embedded on the enclosure and internally in the CPU
- a secure remote application server (Gateway)
- a secure central data repository
- cellular service connection from the IVEDR to the applications server
- a secure remote client self-service portal (Depot)
- capability to record fuel transactions electronically
- internet service connection between the client and Depot.

13. The central piece of equipment is the IVEDR. The IVEDR gathers a range of data relating to the location and operation of the vehicle it is installed in. This is a hard-wired installation that draws information on the vehicle system's activities from the electrical system.

14. At the start of a journey when ignition is switched on, the following information is collected:

- Location – Global Positioning System (GPS) satellite information is captured and returned to the IVEDR when the ignition is turned on. This includes longitude and latitude.
- Time/date – Time and date are collected from the GPS satellite and returned to the IVEDR at the time the ignition is turned on.
- GPS tracking – GPS tracking hardware device tracks all vehicle travel on public roads, off public roads and idle time. It automatically classifies into one of these activities using a mapping data tool.
- Auxiliary equipment usage – Each GPS tracking hardware device can connect up to three digital inputs/outputs for monitoring the auxiliary equipment usage. It also collects the time the auxiliary equipment is in operation.

15. At the end of each vehicle journey the following information is collected:

- Location – GPS satellite information is captured in the IVEDR when the ignition is turned off. This includes longitude and latitude.
- Time/date – Time and date are collected from the GPS satellite and captured by the IVEDR at the time the ignition is turned off.

16. Vehicle travel related information on each journey is sent as encrypted data via the mobile network from the IVEDR and stored in an Amazon Web Services data centre (a third-party central data store and application server) where it is accessed via the Depot portal. All Depot portal users are given an individual user name and a password for access to the web portal.

17. If the mobile network is not available, all data is stored on the IVEDR until such time as the network becomes available again. Each IVEDR has an inbuilt battery unit that will continue to record and provide a signal in the event of vehicle battery failure.

18. All information sent via the mobile network is encrypted to ensure secure transmission, and backed up to ensure safety of the information in the event of a disaster.

19. The EROAD back office system called 'Depot' is used to create vehicle and auxiliary equipment master data. Vehicles are classified as heavy or light based on their gross vehicle mass (GVM) entered into Depot. The following vehicle and auxiliary equipment data must be entered by the clients using Depot:

- vehicle registration number, display name, make, model, year and GVM
- vehicle fuel type
- hourly fuel consumption rate for idling
- auxiliary equipment name and fuel type
- hourly fuel consumption rate for operating auxiliary equipment.

20. EROAD's Depot is used for entering fuel acquisitions data:

- manually for each vehicle
- using 'Upload Fuel Records' function (csv file upload) for multiple vehicles, or
- via daily electronic fuel transactions update from fuel companies via an application programming interface.

21. The fuel purchases must record, within Depot, the following details:

- date of the dispense
- vehicle ID
- fuel type
- number of litres dispensed
- supplier
- location.

Fuel dispense data is sourced from the client's fuel acquisition or purchase records.

22. The Product requires clients to create their vehicles and auxiliary equipment master data (vehicle make, model, year and fuel type combination) along with the vehicle idle consumption rates and auxiliary consumption rates.

23. Clients can enter idling consumption rates using the following methods:

- sampling (units per hour)
- manufacturing (units per hour)
- engine diagnostics (units per hour).

24. Clients can enter auxiliary equipment consumption rates using one of the following methods:

- sampling (units per hour)
- manufacturing (units per hour)
- engine diagnostics (units per hour).

25. Clients can set geo-fenced areas on a temporary basis to exclude areas from automatically being determined as public roads. When this overlaps with the public roads

network, there will be warnings within the system and an explanation is required and will be included in the off-road trip detail report. A review date is input for assurance purposes. Examples include a temporary construction zone, a depot or factory sitting flush with the road and within the automated geotunnel for the road identified by the mapping data tool.

26. The client can extract the off-road trip extract (in csv format) listing all off-road trips per vehicle for the selected period. The client can review this report and where the client finds an invalid geo-fence or off-road journeys they can re-apportion the distance travelled off-road to on-road and disregard idling duration in the invalid geo-fence.

27. The Product provides a summary and detailed fuel apportionment reports for clients to review and use that data to submit a fuel tax credit claim for a specified period. Clients can search for a particular vehicle activity or can filter by business department activity.

28. The Report (organisation level data) shows the following information:

- selected period date range
- group filter options
- total on-road travel (kilometres)
- percentage of on-road travel in comparison with total travel
- total off-road travel (kilometres)
- percentage of off-road travel in comparison with total travel
- total off-road idling time (hours)
- total auxiliary equipment use (hours)
- fuel apportioned for each activity (litres)
- fuel type and unit.

29. The Report (vehicle level data) shows the following information for a selected period:

- vehicle ID
- fuel type
- fuel dispensed units
- public road (on-road) fuel used and percentage
- off-road fuel used travelling and percentage
- idle off-road fuel used and time (hours)
- auxiliary equipment name (if any)
- auxiliary equipment fuel used and time (hours).

Fuel apportionment calculation methods – idling

30. Idling time is based on a stationary heavy vehicle and engine turned on because the device connects to 'true ignition', which records the actual time the engine is operating. Only idle time used off public roads is apportioned within the system.

31. In heavy vehicles the system can attach to true idle and record when the engine is operating, this is not the case for all light vehicles, which fall into these categories:

- older models that have an ignition key setting that would, if used to determine idling hours generate inflated results in some cases, and
- new models with push-button ignition that generate a clear distinction between engine operating/not operating.

Only push-button ignition light vehicles where these vehicles operate in On or Off mode will have off-road idling time recorded for the purposes of fuel tax credits for this system.

Fuel apportionment calculation methods for vehicles without auxiliary equipment

32. For vehicles without auxiliary equipment, the Product apportions the fuel used by each vehicle by each activity as:

- off-road idling fuel = (number of hours idling off-road) × (hourly consumption rate for idling (entered in Depot))
- on-road travel percentage = (On-road Travel ÷ Total travel) × 100
- off-road travel percentage = (Off-road Travel ÷ Total travel) × 100.

33. Fuel dispensed for a vehicle is first reduced by the fuel calculated for off-road idling. The remaining fuel is allocated between the percentage of on-road travel and percentage of off-road travel on a distance basis.

Fuel apportionment calculation methods for vehicles with auxiliary equipment

34. Where the client does not enter an hourly consumption rate for the auxiliary equipment, the calculation method will be the same as for vehicles without auxiliary equipment set out in paragraphs 32 and 33 of this Ruling.

35. Where the client enters the hourly consumption rate for the auxiliary equipment, the apportionment of fuel for that vehicle will be calculated as:

- off-road idling fuel = (number of hours idling off-road) × (hourly consumption rate for idling (entered in Depot))
- auxiliary equipment = (number of hours auxiliary equipment used) × (hourly consumption rate for auxiliary equipment (entered in Depot))
- on-road travel percentage = (on-road travel ÷ total travel) × 100
- off-road travel percentage = (off-road travel ÷ total travel) × 100.

36. If the vehicle idles while operating auxiliary equipment it will be necessary to ensure that there is no double counting of fuel. For instance, you cannot use an hourly consumption rate for idling as well as an hourly consumption rate for auxiliary equipment that includes fuel used when idling.

37. Fuel dispensed for a vehicle is first reduced by the fuel calculated for off-road idling and for auxiliary equipment. The remaining fuel is allocated between the percentage of on-road travel and percentage of off-road travel on a distance basis.

Fuel apportionment – reconciliation

38. The Product reconciles the total fuel allocated to each activity with total fuel dispensed within the period to make sure it matches the fuel usage with on-road, off-road, idle off-road and auxiliary equipment usage (where entered) over the same period.

39. The Report contains other information on vehicle type, fuel type and auxiliary equipment type. The type of auxiliary equipment of a vehicle is not included in the Report if the client has not named and identified it.

40. Should any record details be incomplete the administrator will be alerted of these omissions through a scheduled exception report and will be able to take the appropriate action to correct.

41. The Fuel Exception Report for a period shows details of the transaction date, odometer reading, distance (kilometres), the fuel quantity (litres), cost (dollars), site location, the exception details and the driver (where applicable).

The Report

42. The EROAD system uses the off-road travel percentage (distance), on-road travel percentage (distance), off-road idle hours (time) and auxiliary equipment hours (time) that has been calculated within the system. The Report can only be processed once fuel acquisition data has been entered into the system. The EROAD Depot system produces the Report in English.

43. The Report provides the following information for the selected period:

- vehicle
- vehicle type (heavy vehicle, light vehicle, auxiliary equipment)
- fuel type
- type of auxiliary equipment
- litres dispensed
- public road (on-road) apportionment of fuel (litres) – total and also allocation of fuel to each vehicle
- off-road apportionment of fuel (litres) – total and also allocation of fuel to each vehicle
- idle off-road (litres)
- auxiliary equipment fuel use (litres).

Appendix – Explanation

ⓘ *This Explanation 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.*

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

44. Subsection 41-5(1) provides that an entity is entitled to a fuel tax credit for taxable fuel² they acquire or manufacture in, or import into, Australia to the extent that they do so for use in carrying on their enterprise.

45. 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 purposes at the time they acquire, manufacture or import the fuel.

46. Section 43-5 provides that the amount of an entity's fuel tax credit is the amount of effective fuel tax that is paid on the fuel. Subsection 43-10(3) provides that to the extent an entity acquires taxable fuel to use, in a vehicle, for travelling on a public road, the amount of its fuel tax credit for the fuel is reduced by the road user charge for the fuel.

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

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.

48. The use of the phrase 'to the extent' in section 41-5, section 41-20 and subsection 43-10(3) contemplates apportionment between fuel acquired for an eligible use and fuel acquired for an ineligible use, or uses which may give rise to different rates of fuel tax credit entitlement. The implications of this phrase for the purposes of entitlement has been considered in paragraph 5 of Fuel Tax Determination 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?*

² Taxable fuel is defined in section 110-5.

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

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 ...
- section 41-10 between a use that entitles you to a fuel tax credit and one that does not;
- section 42-5 between a use that entitles you to a fuel tax credit and one that does not;
- ...and
- subsection 43-10(3) between a use that reduces your fuel tax credit amount by the road user charge and one that does not.

50. To determine the extent of the fuel tax credit, an entity that acquires taxable fuel will need to apportion the fuel between:

- for vehicles with a GVM exceeding 4.5 tonnes – the use for travelling on a public road (where the fuel tax credit rate is the excise duty rate less the road user charge) and the use while travelling on non-public roads, or off-road while or while not for travelling (where the fuel tax credit rate is the excise duty rate), and
- for vehicles with a GVM of 4.5 tonnes or less – the use in a vehicle travelling on a public road and travelling on non-public roads or off-road.

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

51. 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.

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

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.

53. 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.

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

55. 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.

56. Examples of known reliable measures include:

- odometer readings of kilometres actually travelled
- route distances
- hours of operation of vehicle or equipment, or
- evidence-based average hourly fuel consumption of vehicle or equipment.

57. 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 Product provide a step in the apportionment of fuel?

58. The Product apportions the fuel used by each vehicle by first calculating fuel for use in off-road idling and (where applicable) auxiliary equipment by multiplying hours of operation by the hourly consumption rate. It deducts this fuel from the total fuel dispensed for each vehicle. Then it apportions remaining fuel dispensed for each vehicle using a percentage of the travel (public road or off-road) against total travel undertaken by the vehicle.

59. The Product then reconciles the total fuel allocated to each activity with total fuel dispensed within the period to make sure it matches the fuel usage with on-road, off-road, idle off-road and auxiliary equipment usage over the same period. The report also contains information on vehicle type, fuel type and auxiliary equipment type.

60. The Product provides a step in the apportionment of fuel based on categorisation of use.

Is the Report a record?

61. Subsection 382-5(1) of Schedule 1 to 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.

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

63. 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.

64. Clients using the Product can undertake a vehicle analysis of the fuel used when those vehicles are travelling on public roads, off public roads, idling and in auxiliary equipment for a tax period.

65. The portal allows the client using the Product in their enterprise to generate the Report after fuel acquisition information has been entered. The following information is available to the client on the Report for the selected period:

- vehicle
- vehicle type (heavy vehicle, light vehicle, auxiliary equipment)
- fuel type
- type of auxiliary equipment
- litres dispensed
- public road (on-road) apportionment of fuel (litres) – total and also allocation of fuel to each vehicle
- off-road apportionment of fuel (litres) – total and also allocation of fuel to each vehicle
- idle off-road (litres)
- auxiliary equipment fuel use (litres).

66. The Report is produced in English and allows users to export information showing litres allocated according to travel into a pdf document or csv format (Microsoft Excel file) for a specific period.

67. The Report is a record that can be used in determining apportionment, noting that this Ruling does not extend to the underlying assumptions, client entered data and the accuracy of determining public roads for fuel tax credit purposes. As such, the report is a document that is a record for the purposes of subsection 382-5(8) of Schedule 1 to the TAA. However, *it will not be the only record* that is used in determining apportionment for fuel tax credit purposes. Other reports although not limited to, may include data input information reports and, reports showing accuracy of fuel consumption rates used for vehicles etc.

References

Previous draft:

Not previously issued as a draft

Related Rulings/Determinations:

CR 2018/37; FTD 2010/1

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 43-5
- FTA 2006 43-10(3)
- 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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