

PCG 2016/11 - Fuel tax credits - apportioning taxable fuel used in a heavy vehicle with auxiliary equipment

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⚠ This document has changed over time. This version was published on *30 October 2019*



Fuel tax credits – apportioning taxable fuel used in a heavy vehicle with auxiliary equipment

! This Guideline is being reviewed as a result of recent court and tribunal decisions. Refer to Decision Impact Statement on [Linfox Australia Pty Ltd v Commissioner of Taxation of the Commonwealth of Australia \[2019\] FCAFC 131](#).

Relying on this Guideline

This Practical Compliance Guideline sets out a practical administration approach to assist taxpayers in complying with relevant tax laws. Provided you follow this guideline in good faith, the Commissioner will administer the law in accordance with this approach.

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What this Guideline is about

- Under subsection 43-10(3) of the *Fuel Tax Act 2006*, a fuel tax credit entitlement in relation to ‘heavy’¹ vehicles is reduced by the amount of the road user charge **to the extent** that the fuel is used for travel on a public road. This requires an apportionment of fuel between use for travel on a public road and use for other purposes.
- For the listed vehicles in the table following paragraph 9, this Guideline sets out what will be considered a fair and reasonable apportionment between fuel used for

¹ A heavy vehicle in the context of this Guideline is one that has a gross vehicle mass of greater than 4.5 tonnes (or, if acquired before 1 July 2006, has a gross vehicle mass of 4.5 tonnes or more). It is only these vehicles that are entitled to any credit for fuel used for travel on a public road (see Note to subsection 43-10(3)).

travelling on a public road (and therefore subject to the road user charge) and fuel used for other purposes (primarily to power auxiliary equipment but also for use off public roads).

3. This Guideline is intended to update and clarify guidance previously provided in Law Administration Practice Statement PS LA 2013/4 (GA) *Apportioning taxable fuel used in a vehicle for powering the auxiliary equipment of a vehicle*.

Date of effect

4. This Guideline applies to fuel tax credit entitlements attributed to a tax period where the return for the tax period is lodged with the Commissioner on or after 7 September 2016.

5. The Guideline also applies to fuel tax credit entitlements in relation to:

- (a) a request for an amendment of the assessed net fuel amount for tax periods commencing on or before 7 September 2016, and
- (b) the request for the amendment is lodged with the Commissioner after 7 September 2016.

Which entities are covered by this Guideline?

6. This Guideline applies:

- (a) to an entity that has an entitlement to fuel tax credits for taxable fuel under section 41-5 of the *Fuel Tax Act 2006*, and
- (b) the entitlement is for acquisitions of taxable fuels, and
- (c) the heavy vehicle is of a type listed in the table following paragraph 9.

A fair and reasonable apportionment

7. The following table sets out what we will accept as a fair and reasonable apportionment of taxable fuel used in a heavy vehicle. It lists various types of vehicles, the types of auxiliary equipment commonly associated with those vehicles and the percentage of taxable fuel for which it is accepted that the fuel tax credit is not reduced by the road user charge (this covers both fuel used in powering the auxiliary equipment of the relevant vehicle as well as fuel used while the vehicle is not on a public road).

8. The use of the percentages in the table is not mandatory. The entity may choose to use a percentage determined by any apportionment methodology that is fair and reasonable in their circumstances.

9. Changes to the apportionment methodology, or the use of an alternative fair and reasonable methodology, may be applied retrospectively, so long as this is done within the time limits for making claims for fuel tax credits.²

² The period of review is stipulated in section 155-35 of Schedule 1 to the *Taxation Administration Act 1953*.

| Item | Vehicle | % | Type of auxiliary equipment |
|------|---|----|--|
| 1 | Concrete transit vehicle | 30 | Includes the mixing barrel and all mechanisms used in loading, unloading and transporting the concrete. |
| 2 | Refrigerated vehicle | 10 | Refers to all the refrigeration units of a vehicle transporting temperature sensitive goods. Includes fuel sourced from a separate or the same fuel tank as that which fuels the main engine. |
| 3 | Waste management collection | 15 | Equipment of a vehicle used to lift the bin to deposit contents into the vehicle's hopper and to compact the contents of the hopper. Includes all configurations of bin lifting equipment. Does not include pumping in relation to waste management. This equipment is captured by item 4. |
| 4 | Vehicles with the specialised auxiliary equipment listed opposite | 5 | Specialised equipment: a) elevated work platform b) truck mounted loader cranes c) truck mounted drilling equipment d) pumping equipment e) truck blower for dry goods, or f) tipping equipment for loading and unloading. If the vehicle has more than one type of specialised equipment the 5% apportionment is only applied a single time. |
| 5 | Long haul vehicles with sleeper cabins | 5 | Air conditioner units that moderate the temperature of the vehicle's sleeping compartment when the driver is on a sleeping break during the course of a long-haul trip. |

Note: Generally, a vehicle will only qualify under one item, with the possible exception of a refrigerated long haul vehicle, which may qualify under both item 2 and item 5.

What is the effect of applying this Guideline?

10. We will accept claims for fuel tax credits that have been calculated in a manner consistent with this Guideline. However, as this Guideline only serves to simplify the apportionment of taxable fuel between different uses in your vehicle, you will still need to otherwise substantiate your claims for fuel tax credits.

Example – vehicles with specialised auxiliary equipment

11. Billboard Advertising erects and maintains advertising billboards. The billboards are placed in prominent positions either near a public road or on the street front of large buildings. Billboard Advertising operates heavy vehicles with auxiliary equipment in this activity. The auxiliary equipment includes a truck mounted drill, a mounted mobile crane and an elevated work platform.

12. The vehicles travel on public roads to the place where the billboards are to be erected. The auxiliary equipment of the vehicle is utilised in erecting the billboard.

13. Fuel is used in the vehicle for travelling on the public roads. The auxiliary equipment is powered through a power take off unit which draws power from the engine

while the vehicle is idling and, as such, fuel is used in the vehicle to operate the auxiliary equipment.

14. Billboard Advertising may choose to apportion the fuel between use in a heavy vehicle for travelling on a public road and for its other use by reference to item 4 in the table following paragraph 9 of this Guideline. Thus they deduct the road user charge from the fuel tax credit for 95% of the fuel used in the vehicle.

More information

15. For more information, see:

- [Fuel schemes](#)

Commissioner of Taxation

7 September 2016

Amendment history

| Date of Amendment | Part | Comment |
|-------------------|-------------------|--|
| 30 October 2019 | Paragraph 9 table | Removing reference to Commercial bus or coaches. This amendment applies to taxable fuel acquired on or after 1 November 2019. Following the commentary relating to Passenger air-conditioning outlined in the Decision Impact Statement on <i>Linfox Australia Pty Ltd v Commissioner of Taxation of the Commonwealth of Australia</i> [2019] FCAFC 131. |

References

| | |
|------------------------|--|
| ATOlaw topic | Excise -- Fuel tax credits -- Reporting |
| Legislative references | Fuel Tax Act 2006 41-5 Fuel Tax Act 2006 43-10(3) TAA 1953 Sch 1 155-35 |
| Other references | PS LA 2013/4 (GA) Decision Impact Statement on <i>Linfox Australia Pty Ltd v Commissioner of Taxation of the Commonwealth of Australia</i> [2019] FCAFC 131 |
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