

# ***PCG 2016/8 - Fuel Tax Credits - apportioning fuel for fuel tax credits***

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## Fuel Tax Credits – apportioning fuel for fuel tax credits

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### 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

1. In Fuel Tax Determination FTD 2010/1, it is explained that entities may need to use a 'fair and reasonable' apportionment method to calculate the extent of their entitlement to a fuel tax credit.
2. This Guideline provides some acceptable, practical methodologies to assist taxpayers in apportioning taxable fuel to meet their fuel tax credit obligations. It also explains various principles, measures and factors that may be applied to determine if other methods used are also 'fair and reasonable.'
3. If one of the methods and measures set out in this Guideline is applied appropriately in the entity's circumstances, then it will be accepted as fair and reasonable apportionment. Taxpayers do not have to follow the methods outlined in this Guideline and may use other methods provided they can be shown to result in a fair and reasonable apportionment of taxable fuel use for the purpose of calculating fuel tax credit entitlements.
4. A glossary of terms used in this Guideline is provided in [Attachment A](#).

### Date of effect

5. This Guideline applies to tax periods ending on or after 31 July 2010. This broadly aligns with the date of effect for Fuel Tax Determination FTD 2010/1. This Guideline replaces Practice Statement Law Administration PS LA 2010/3 *Apportioning fuel for tax credits*.

### Which entities are covered by this Guideline?

6. This Guideline applies to an entity that has an entitlement to fuel tax credits for taxable fuel they acquired and, for the purposes of Divisions 41 to 43 of the *Fuel Tax Act 2006*, they need to apportion the taxable fuel between the different uses of the fuel.

### Apportionment – general principles

7. Apportionment may be required to work out the quantity of taxable fuel used in different activities. Apportionment may also be required to work out the quantity of taxable fuel used in a vehicle between powering the vehicle and its auxiliary equipment.
8. An entity may use more than one apportionment method for different fuel types, different activities or different types of vehicles, equipment or machinery.
9. Any method should be:
  - reviewed to determine if there are any extraordinary circumstances that may distort the results, for example, acquisitions or significant events requiring a larger volume of fuel usage
  - applied consistently for an activity across a tax period
  - reviewed to ensure it has not resulted in apportioning more taxable fuel than the entity has acquired.

### Commonly used methods that are considered fair and reasonable

10. The *Fuel Tax Act 2006* and regulations do not set out any methods that an entity must use to apportion taxable fuel.

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11. The most common methods which are considered fair and reasonable are:
- **Basic** method – determining the quantity of taxable fuel used for each business activity.
  - **Percentage use** method – where a reliable percentage of taxable fuel used for each business activity, for a sample period, is applied over a number of tax periods.

Within the basic method an entity may work out the fuel using these methods:

- **Constructive** – an entity adds up the quantity of taxable fuel, where there is an entitlement, that it actually acquired for use (or intended to use) in an activity in a tax period.
- **Deductive** – an entity subtracts the quantity of taxable fuel for which there is either no fuel tax credit entitlement or there is a different rate of fuel tax credit for the fuel from the total fuel acquired in the tax period.
- **Estimate use** – where the quantity of taxable fuel acquired for a particular use in a tax period is estimated. The estimation should be reasonable and be supported to ensure that it appropriately reflects the usual acquisition and use of fuel in the entity's business operations.

12. The basic method, either constructive, deductive or estimate, and the percentage use method were prescribed in the Energy Grants (Credits) Scheme Regulations 2003. The Energy Grants Credits Scheme was the precursor scheme to fuel tax credits. Whilst these methods can be used for fuel tax credits purposes, they are not mandatory and other methods may provide a fair and reasonable basis for apportionment, taking into account business structure, fuel use and accounting systems.

13. An entity may use other methods or variations to the above methods provided they can substantiate that the method results in a fair and reasonable apportionment in their circumstances.

#### **Factors to be taken into account when applying the deductive or constructive method**

14. Using the deductive method, the apportionment will be fair and reasonable where the total quantity of taxable fuel acquired is determined by reference to the supplier's documentation or other relevant documentation.

15. Using the constructive method the apportionment will be fair and reasonable where:

- the quantity of taxable fuel calculated as used in the period takes account of fuel on hand at the beginning and at the end of the period and the amount of fuel acquired during the period
- only taxable fuel is included
- fuel that is lost or on-sold is not included
- fuel used in light vehicles travelling on a public road is not included
- the quantity of taxable fuel for which different rates of fuel tax credit apply is identified.

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### **Percentage use method for working out the apportionment of taxable fuel used in light vehicles**

16. Where an entity's activities involve the use of taxable fuel in light vehicles that travel on public roads and non-public road areas, the percentage use method may provide a fair and reasonable apportionment of the taxable fuel used in these vehicles.

17. The location where the light vehicle is used must be separately identifiable and the amount of travel at that location must be reasonably consistent.

18. When dealing with a large fleet of light vehicles a sample of the vehicles may assist in establishing a percentage that is fair and reasonable. This sample may be based on characteristics such as:

- the geographical location of the site, particularly if there is limited travel on public roads due to a majority of the roads being private or access roads
- whether the vehicles are used substantially on or off public roads due to the use of the vehicle or the workforce arrangements
- whether the vehicles access the taxable fuel onsite or travel on public roads to access the fuel
- the distance from populated centres (cities or towns) where travel is undertaken on public roads
- the activities undertaken at the site or location. For example, if the fuel is used solely within a remote site that does not have public roads.

19. The entity may determine the percentage of either the on public road or off-public road travel and apportion the taxable fuel according to this percentage. The percentage of taxable fuel use may then be applied over subsequent tax periods and to a fleet of light vehicles if the usage of the vehicles is consistent.

### **Measures that may be reliable for calculating the amount of taxable fuel consumed**

20. The type of measure will depend upon how the taxable fuel has been consumed such as, in a vehicle, or by equipment and machinery.

21. Examples of known reliable measures for calculating the amount of taxable fuel acquired for use in an eligible activity include:

- odometer readings of kilometres actually travelled
- route distances if a vehicle operates on fixed routes
- kilowatt hours of electricity generated
- hours of operation of equipment
- meter readings, for example to establish average hourly fuel consumption of a vehicle or equipment including auxiliary equipment or other machinery
- engine monitoring systems
- manufacturer's specifications
- fuel consumption trials
- GPS technology or various software applications confirming relevant information
- driver refuelling records.

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22. Some measures need to be considered in conjunction with other data. For example, driver refuelling records will only confirm the litres dispensed and not the activity in which the litres were used. Accordingly, additional records will be required to show how and where the fuel is consumed. Similarly, the hours of operation of equipment may not demonstrate the fuel consumed per hour. As such, both the fuel consumption per hour and the hours of operation must be reasonably determined.

23. Other measures may also be suitable using the various data available. It will be necessary to determine whether the data extrapolated from the measure demonstrates fuel usage accurately in order to establish that the methodology and any apportionment of the taxable fuel is fair and reasonable.

24. New and improved technology may allow for additional measures. If an additional measure, used appropriately, provides for a fair and reasonable apportionment that can be substantiated, then it can be accepted.

#### **Factors that need to be considered when using particular measures**

25. An entity may choose to reduce its compliance costs by relying on **manufacturer's specifications**, even if those specifications indicate lower fuel consumption than the actual fuel consumption. This is an acceptable practice.

26. If an entity is relying on the manufacturer's specifications to calculate fuel consumption (for example when using them in conjunction with the constructive or deductive method), the specifications must relate to the facts and circumstances of the vehicle or machinery. For example:

- the entity's vehicle or equipment use must align with the conditions on which the manufacturer based the fuel consumption indicators
- the vehicle or equipment's age must be taken into account when relying on the manufacturer's specifications
- the maintenance regime of the vehicle or equipment must conform to the manufacturer's specifications
- the entity must use the vehicle or equipment according to the manufacturer's indicators in respect to light, medium or heavy use.
- the climatic conditions must be taken into account.

27. When determining fuel consumption based on **hours of operation** the rate of fuel consumption must be taken into account. For example, where a vehicle travels on public roads, and operates auxiliary equipment on sites (off public roads), the rate of fuel consumed differs in respect of these different activities. Apportioning fuel consumption solely by the hours of operation will not give a fair and reasonable apportionment. Additional steps will be necessary to determine the rate of fuel consumption for the different activities prior to apportioning the taxable fuel based on the hours of operation of each activity.

#### **Sampling of vehicles and equipment for determining fuel consumption**

28. If an entity is using a number of the same or similar vehicles, or equipment in similar ways, a sample that is a reasonable representation of the fleet or equipment may be used in the apportionment methodology. A significant number of similar vehicles are not required in the sample size provided the circumstances and conditions of the use of the vehicles or equipment are consistent.

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29. A sampling size will be appropriate where:

- a fleet consisting of different types of vehicles, equipment or assets is sorted into groups, based on vehicle and equipment type, age and use, and then each group is tested
- the sample size delivers a consistent result
- the sample is representative of the population from which it is drawn.

30. The Commissioner does not prescribe a set period an entity must use for sampling. The entity must be able to show that the length of the sample period can provide a result that demonstrates normal fuel usage for their business operations. Any seasonal fluctuations in fuel usage, changes in contracts and other factors affecting fuel usage should be considered when determining the length of the sample period and the time that the sample is undertaken.

31. The Commissioner does not prescribe a particular confidence interval or tolerable error rate in relation to any sampling carried out.

#### **Matters to be considered in relation to fuel and auxiliary equipment**

32. The fuel tax credit for taxable fuel used in a heavy vehicle for travelling on a public road is reduced by the road user charge. The fuel tax credit for taxable fuel used in the auxiliary equipment of a heavy vehicle travelling on a public road is not reduced by the road user charge. Therefore, the fuel used in a heavy vehicle that has auxiliary equipment must be apportioned according to whether it is used in the auxiliary equipment or in the vehicle for travelling on a public road.

33. PS LA 2013/4 (GA) *Fuel tax credits – Road user charge – apportioning taxable fuel used in a vehicle for powering the auxiliary equipment of the vehicle* sets out the percentage of taxable fuel used in a heavy vehicle that is considered to be a fair and reasonable apportionment of the fuel used to power the auxiliary equipment of the vehicle. Where an entity chooses to apply the percentage set out in PS LA 2013/4 (GA) for the relevant vehicle, it is taken that the apportionment is fair and reasonable.

34. If an entity chooses to adopt another methodology to apportion the fuel in auxiliary equipment they must be able to substantiate that the methodology provides a fair and reasonable apportionment. The appropriate documentation for substantiation may include such things as results of any relevant fuel consumption testing, formulas and calculations, and other relevant data.

35. An entity may adopt different methodologies for working out the apportionment of taxable fuel for the different types of auxiliary equipment used in the enterprise.

36. In working out the fuel consumption, any sampling for fuel consumption testing purposes of the vehicles or the auxiliary equipment of the vehicles, must reasonably represent the vehicles and auxiliary equipment used in that particular enterprise. It must include vehicles of various sizes, ages and configurations. Where the results of any fuel consumption trials are inconsistent, a larger test sample may be necessary. The fuel testing trials must reasonably take into account the conditions under which the vehicles and auxiliary equipment operate. The entity must be able to demonstrate that it is reasonable to apply the sampling result to the wider fleet or group of vehicles or equipment.

#### **Variables that affect fuel consumed by auxiliary equipment**

37. Fuel used to power the auxiliary equipment may be sourced from a separate fuel tank or from the tank that fuels the main engine of the vehicle. The auxiliary equipment may also take power from the main engine through a power take off (PTO), which in turn increases the fuel used by the vehicle while it is travelling, or while the vehicle is idling.

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38. Several variables may affect the amount of fuel consumed by the auxiliary equipment or the associated vehicle and may impact on the methodology used to determine fuel consumption. These variables may include:

- the terrain on which the vehicle travels
- variable distances travelled compared to the intervals between using the auxiliary equipment
- climatic conditions during transportation (including whether the cargo area is thermostatically controlled)
- age and design of the auxiliary equipment or the associated vehicle
- servicing and maintenance of the auxiliary equipment or vehicle
- weight and capacity of the cargo area
- configuration of the vehicle's cargo area (fully or partially insulated, curtain or solid construction, shipping container)
- Australian standards or statutory requirements to be met in relation to the goods transported, and
- driver influence (for example, conservative driving practices).

39. The following are some examples of the data that may be used to calculate fuel consumption:

- actual records of fuel supplied to auxiliary equipment, based on the amount of fuel acquired (for example, where the equipment is fuelled from a tank that is separate from the vehicle's main tank)
- manufacturer's specifications
- engine diagnostic downloads
- if the PTO is connected to the module, the running time and fuel consumption will be reported and, generally, the diagnostic will indicate the idle time and fuel consumption of the vehicle with and without the PTO engaged
- comparison of the vehicle's fuel consumption with and without the auxiliary equipment operating, and with and without loads, and
- comparison of the vehicle's fuel consumption while idling with and without the PTO engaged.

#### **Using a third party's apportionment**

40. Although entities must determine their own fuel apportionment and calculate their own fuel tax credit claims, it may be fair and reasonable to use a third party's methods and calculations in a particular circumstance. Where subcontractors perform the same services as the contractor and under the same conditions, for example in the cement transport and commercial coach and bus industries, it is reasonable for the subcontractor to apportion fuel use in the same way as their contracting entity if they:

- work exclusively for the entity they are contracted to
- own or lease the vehicle they use under the contract
- operate a vehicle of a similar type, size and age as those typically operated by the contracting entity

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- perform journeys under the contract that are identical to those performed by the contracting entity's vehicles, and
  - operate their vehicle under the same conditions as those of the contracting entity's vehicles.

41. Where an entity chooses to use a third party's apportionment methodology they must be able to demonstrate that they meet the above conditions.

#### **Can an entity use a safe harbour?**

42. On occasion, the Commissioner may determine and publish safe harbour approaches that stipulate an acceptable apportionment amount or a specific practice for determining fuel tax credit entitlements. An example is PS LA 2013/4 (GA) which sets out percentage rates representing fair and reasonable apportionment of fuel used to power the auxiliary equipment of various heavy vehicle types.

43. Where such a safe harbour is available, the apportionment resulting from its use will be accepted as fair and reasonable. Entities are not obliged to use safe harbours and may choose to use an alternate apportionment methodology that is fair and reasonable to determine actual fuel use. However, a safe harbour approach cannot be used together with an alternate methodology to effectively distort the proxy provided by the safe harbour.

#### **Methodology used to consider temperature correction and ambient temperature for liquid fuels**

44. Excise duty is payable on the volume of taxable liquid fuel (such as diesel or petrol) measured either at a standard temperature or, in limited cases, at ambient temperature. An entity may acquire taxable fuel where the relevant documentation shows the number of litres supplied but does not state the method used to measure the volume of fuel. There is no requirement for fuel tax credit purposes for suppliers to include this information on the relevant tax invoice.

45. If an entity uses an apportionment methodology based on use of fuel rather than acquisition, the volume of fuel will be based on the ambient temperature at the time of use of the fuel which may differ from the volume of litres of fuel when acquired. If the apportionment methodology is fair and reasonable it can be accepted.

#### **When is it advisable to review a methodology used?**

46. If an entity's circumstances change in a material way, it will be necessary to review the apportionment method used.

47. The entity should consider the nature of any change in circumstances and how much time has elapsed since the methodology was last reviewed. Relevant changes in circumstances may include:

- an increase or decrease in the number, type or make of vehicles or equipment used
- changes in the vehicle or equipment used (new trucks replacing older models)
- variations in the type or volume of work undertaken including changes in truck routes.

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## What types of records are kept?

48. Records kept by the entity should support the claims made and should contain the following information:

- the total quantity of taxable fuel that was acquired for use in an eligible activity
- the quantity of fuel that was actually used in an eligible activity in a tax period
- each use of taxable fuel in an eligible activity in a tax period, and
- the methods used to calculate the fuel tax credit entitlement.

49. Similarly, records to substantiate the outcome of an apportionment method and measurements will also be relevant and need to be retained by the entity. These records also need to support that the apportionment methodology used is fair and reasonable. Records supporting an apportionment method and measurements may be records that an entity normally keeps as part of carrying on its enterprise or may be additional records. For example, additional records may include any fuel consumption trials, reports and other data, GPS and software data, and information establishing a representative period for pattern of use or sampling.

50. Types of records (not an exhaustive list) are contained in [Table 1](#).

## More information

51. For more information, see:

- [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?*
- [PS LA 2013/4 \(GA\)](#) *Fuel tax credits – Road user charge – apportioning taxable fuel used in a vehicle for powering the auxiliary equipment of the vehicle*
- [PCG 2016/2](#) *Fuel tax credits – practical compliance methods for small claimants*
- [PCG 2016/3](#) *Fuel tax credits – fuel tax credit rate for non-business claimants*
- [PCG 2016/4](#) *Fuel tax credits – incidental travel on public roads by certain vehicles*
- [Business activity statements – Fuel tax credits \(FTC\)](#)
- [Fuel schemes](#)
- [Fuel tax credit calculator](#)
- [Fuel tax credit eligibility tool](#)
- [EXC 2011/1](#) *Excise (Volume of Liquid Fuels – Temperature Correction) Determination 2011 (No.1)*

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**Commissioner of Taxation**

3 May 2016

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## Attachment A – Glossary of terms

Acquire	'acquire' refers to 'acquire, manufacture in, or import into Australia' in Divisions 41, 42 and 43 of the <i>Fuel Tax Act 2006</i> and to 'acquire manufacture or import taxable fuel' in Items 10 and 11 of Schedule 3 to the <i>Fuel Tax (Consequential and Transitional Provisions) Act 2006</i> .
auxiliary equipment	'auxiliary equipment' is a mechanism or apparatus that does not propel or operate the functions of the vehicle that are for the purpose of travelling. Examples of such equipment includes: <ul style="list-style-type: none"> <li>• the bin lifting and compacting equipment of a garbage compactor,</li> <li>• the refrigeration unit of a refrigerated vehicle</li> <li>• the concrete barrel of a concrete transit vehicle and</li> <li>• the air conditioning unit of commercial buses and coaches used for passenger comfort.</li> </ul>
eligible activity	'eligible activity' means an activity conducted in the course of carrying on an enterprise, making a taxable supply of taxable fuel for domestic heating, or for generating electricity for domestic use, for which an entity is entitled to a fuel tax credit.
enterprise	'enterprise' refers to 'enterprise' as defined in section 110-5 of the <i>Fuel Tax Act 2006</i> .
GVM	gross vehicle mass
heavy vehicle	A vehicle with a GVM of more than 4.5 tonnes. Diesel vehicles acquired before 1 July 2006 can equal 4.5 tonnes GVM and are still considered heavy vehicles.
light vehicle	A vehicle with a GVM of 4.5 tonnes or less.
taxable fuel	'taxable fuel' is a reference to 'taxable fuel' as defined in section 110-5 of the FTA.
tax period	'tax period' has the meaning given by section 195-1 of the <i>A New Tax System (Goods and Services Tax) Act 1999</i> .

## **Table 1: Types of records supporting apportionment**

Examples of records that may be relevant for supporting the method of apportionment adopted include (not an exhaustive list and depends on the circumstances and business):

<b>Types of records</b>	<b>Information that the record may provide</b>
Records of business expenses	Relate to activities conducted in the course of carrying on an enterprise
Sales and production records	
Lease documents	Supporting agricultural land, mining leases, equipment
Share farming contracts	
Work contracts	Supporting fuel usage and may provide details about the fuel acquisition arrangement.
Vehicle and equipment use and maintenance records	May support environmental criteria being satisfied. Also show usage of the vehicles and maintenance.
Government requirements (such as licenses)	
Tax invoices and acquisition records such as delivery documents	Support date of acquisition of fuel; type of fuel; quantity of taxable fuel; fuel delivery; location or address to which fuel was delivered.
Reports and data generated from device applications; software applications and other technology	May support routes, fuel usage and consumption depending upon the application and software.
Records of fuel usage including date and location of each activity.	Support fuel usage and may indirectly support consumption depending upon the record.
Engine reports including engine diagnostic report; computer management or monitoring systems reports	Supporting fuel consumption in vehicle including idling, auxiliary equipment etc.
Log books covering a representative period to establish a pattern of use in vehicles, machinery or equipment	To determine percentages, sampling etc.
Reconciliations of information on fuel acquisitions and other records of usage.	
Details of fuel usage trails of vehicles and/or auxiliary equipment	Information may be used as part of a methodology for apportioning fuel
Details of meter, odometer, kilowatt hours	Useful for establishing electricity generated and hour usage readings, kilometres travelled etc. to determine fuel consumption.
Route distance records of vehicle or equipment operation.	Records kilometres travelled that is used in conjunction with other records for fuel consumption.
Records showing type of vehicles with a GVM greater than 4.5 tonnes or, a light vehicle or machinery or equipment used in enterprise	Vehicle registration details; lease documents, hire purchase and purchase records.

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## References

Legislative references	Fuel Tax Act 2006 Fuel Tax Act 2006 Div 41 Fuel Tax Act 2006 Div 42 Fuel Tax Act 2006 Div 43 Fuel Tax Act 2006 110-5 ANTS(GST)A 1999 195-1 Fuel Tax (Consequential and Transitional Provisions) Act 2006 Sch 3
Related Rulings/Determinations	FTD 2010/1
Other references	PS LA 2013/4 (GA) PS LA 2010/3 EXC 2011/1 PCG 2016/2 PCG 2016/3 PCG 2016/4

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