FTR 2007/D2 - 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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Draft 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

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What this Ruling is about

1. This draft Ruling explains when a vehicle's travel on a public road is 'incidental to the vehicle's main use' for the purposes of subsection 43-10(4) of the *Fuel Tax Act 2006* (FT Act).

2. This draft Ruling also explains the road user charge, and the meaning of the terms 'vehicle', 'travel', 'public road', 'main use' and 'incidental to' for the purposes of subsections 43-10(3) and (4) of the FT Act.

Legislative context

3. To the extent that you acquire, manufacture in, or import into, Australia taxable fuel for use in a vehicle travelling on a public road in carrying on your enterprise, you are entitled to a fuel tax credit under section 41-5 of the FT Act.

4. However, under subsection 43-10(3) of the FT Act, the amount of the fuel tax credit to which you are entitled is reduced by the road user charge. Subsection 43-10(3) of the FT Act provides:

> To the extent that you acquire, manufacture or import taxable fuel to use, in a vehicle, for travelling on a public road, the amount of your fuel tax credit for the fuel is reduced by the amount of the road user charge, as determined by the Transport Minister.
>
> **Note:** only certain motor vehicles whose gross vehicle mass is more than 4.5 tonnes are entitled to any credit (see sections 41-20 and 41-25).

5. Subsection 43-10(4) of the FT Act provides a carve-out from the application of the road user charge in the calculation of the amount of the fuel tax credit to which an entity is entitled. The subsection states:

> However, the amount is not reduced under subsection (3) if the vehicle's travel on a public road is incidental to the vehicle's main use.

Interpretation

6. Unless otherwise stated, all legislative references in this draft Ruling are to the FT Act.

7. In this draft Ruling, unless otherwise stated:

- a reference to:
  - 'acquire' or 'acquired' in relation to taxable fuel should be read as including the manufacture in or importation into Australia of taxable fuel;
  - the 'carve-out' is a reference to the effect of subsection 43-10(4) in not requiring an entity to reduce the amount of a fuel tax credit by the road user charge;
  - 'Energy Grants Act' is a reference to the *Energy Grants (Credits) Scheme Act 2003*;
  - 'entity' refers to an entity that is registered or required to be registered for GST or is a non-profit body that provides emergency services in a clearly identifiable emergency services vehicle;[1]
  - 'fuel' is a reference to 'taxable fuel' as defined in section 110-5;
  - 'GST Act' is a reference to the *A New Tax System (Goods and Services Tax) Act 1999*;
  - 'GVM' (gross vehicle mass) of a vehicle means the maximum loaded mass of a vehicle:
    (a) as specified by the manufacturer; or
    (b) as specified by the vehicle registration authority if:
      (i) the manufacturer has not specified a maximum loaded mass; or
      (ii) the manufacturer cannot be identified; or

[1] Subsections 41-5(2) and (3).

(iii) the vehicle has been modified to the extent that the manufacturer's specification is no longer appropriate;[2]

– 'heavy vehicle' means:

(a) a vehicle of more than 4.5 tonnes GVM; or

(b) a vehicle of 4.5 tonnes GVM acquired before 1 July 2006 that uses on-road diesel fuel acquired, manufactured or imported on or after that date for travelling on a public road;[3]

– 'incidental use' is a reference to incidental use as defined in section 8 of the Energy Grants Act;

– 'Revised EM' is a reference to the Revised Explanatory Memorandum to the Fuel Tax Bill 2006 and the Fuel Tax (Consequential and Transitional Provisions) Bill 2006;

– 'Transitional Act' is a reference to the *Fuel Tax (Consequential and Transitional Provisions) Act 2006*; and

– 'you' in relation to provisions applies to entities generally unless its application is expressly limited;[4]

- it is assumed that:

– if you are entitled to a fuel tax credit you meet the requirements that entitle you to the credit and are not disentitled by the disentitlement rules[5] in the FT Act;

– if you are entitled to a fuel tax credit the requirements of either item 10 or 11 of Schedule 3 to the Transitional Act are met; and

– if you are claiming more than $3 million each financial year in fuel tax credits you meet the requirements of the Greenhouse Challenge Plus Programme or another programme determined, by legislative instrument, by the Environment Minister for the purposes of section 45-5.

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[2] As defined in the National Transport Commission (Road Transport Legislation—Heavy Vehicle Standards Regulations) Regulations 2006 Schedule 1.
[3] See item 12 of Schedule 3 to the Transitional Act and the Revised EM paragraph 3.49 and Example 3.5; 'on-road diesel fuel' has the meaning given by regulation 8 of the Energy Grants (Credits) Scheme Regulations 2003.
[4] See the meaning of 'you' in section 110-5.
[5] The disentitlement rules are set out in Subdivision 41-B.

Class of entities

8. This draft Ruling applies to the class of entities who acquire or manufacture in, or import into, Australia taxable fuel for use in carrying on an enterprise.[6]

Ruling

9. In working out the amount of your fuel tax credit, to the extent that you acquire fuel for use in your enterprise in a vehicle for travelling on a public road, you must reduce the amount by the road user charge.[7]

10. However, you do not reduce the amount of your fuel tax credit by the road user charge if the vehicle's travel on a public road is incidental to the vehicle's main use.[8]

Meaning of 'vehicle'

11. In subsections 43-10(3) and (4) 'vehicle' includes any vehicle that is capable of being authorised to travel on a public road by a relevant road traffic authority, whether or not the vehicle is designed for road travel or ordinarily travels on a public road.

12. The term 'vehicle' is not restricted in meaning to a conveyance for the carriage of passengers or goods. Nor is the term 'vehicle' confined to a self-propelled vehicle.

13. The term 'vehicle' includes any plant, machinery or equipment that is capable of locomotion and which may be authorised to travel on a public road by a relevant road traffic authority.

Meaning of 'travel'

14. In subsections 43-10(3) and (4), the terms 'travelling' and 'travel'[9] mean to go from one place to another place or to move from one point to another point.

15. A vehicle's travel begins when it commences to move and ends when it arrives at a destination, regardless of the distance.

16. Travel includes the ordinary incident of stopping in the course of a journey.

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[6] Subsections 41-5(2) and (3).
[7] Subsection 43-10(3). The road user charge ($0.19633 per litre as at 1 July 2006) is determined by the Federal Minister for Transport from time to time. The current road user charge determination can be accessed at www.comlaw.gov.au.
[8] Subsection 43-10(4).
[9] Subsection 43-10(3) uses the verb form 'travelling' which has a corresponding meaning: *Acts Interpretation Act 1901* section 18A.

17. Travel or travelling on a public road includes all the ordinary incidents of a journey undertaken by a vehicle. Therefore, taxable fuel you acquire to use in a vehicle for 'incidental use' while the vehicle is travelling on a public road is fuel you acquire for use in a vehicle travelling on a public road. This includes fuel used whilst the vehicle is stationary in the course of travelling, and fuel used in the vehicle to power auxiliary equipment on the vehicle, for example, air-conditioning, refrigeration units and agitators.

Movement by a vehicle engaged in road construction, repair or maintenance

18. The movement of a vehicle engaged in road construction, repair or maintenance to and from a road works site is 'travelling' for the purposes of subsection 43-10(3).

19. However, 'travelling' in the sense contemplated by subsection 43-10(3) does not include the movement of a vehicle on a public road or portion of a public road where:

- the vehicle is engaged in the construction, repair or maintenance of the road; and
- that road or portion of that road is under construction, repair or maintenance.

20. The movement of a vehicle engaged in the construction, repair or maintenance of a road, for example, a grader, bulldozer, water cart or tip truck, which occurs on the road or portion of the road that is under construction, repair or maintenance is not 'travelling' for the purposes of subsection 43-10(3).

Example 1: travel – truck

21. A truck delivers goods by public roads from its depot in Adelaide to a warehouse in Melbourne. The driver stops to have a meal en route to the warehouse.

22. The truck's travel begins when it leaves the depot and ends when it arrives at the warehouse.

Example 2: travel – mobile crane

23. A mobile crane moves from its depot to a building site to carry out construction activities.

24. The mobile crane uses a public road to relocate from the depot to the building site. The mobile crane's travel begins when it leaves the depot and ends when it is positioned for lifting at the building site.

Example 3: travel – cherry picker

25. A cherry picker is used for power line maintenance along a public road. The cherry picker moves along the road and stops at power poles to allow workers to replace electricity conductors. Sometimes the main engine is switched off while the maintenance is carried out, at other times it is left idling.

26. The cherry picker uses the public road to move from one point to another. The cherry picker's travel begins when it leaves its depot and ends when it stops at a point to carry out repairs, and recommences when it moves from that point to the next point along the road. The vehicle's travel does not include standing on the road while the maintenance functions are carried out.

Example 4: travel – garbage truck

27. A garbage truck collects rubbish from rubbish bins along a public road. The garbage truck moves along the road to a bin, momentarily stops to empty the contents of the bin into its enclosed rubbish container, and then moves to the next bin. Upon completion, it deposits the collected rubbish at a council landfill site.

28. The garbage truck is using the public road to collect rubbish and transport the rubbish collected to a landfill site. The garbage truck's travel begins when it leaves its depot and ends when it arrives back at the depot.

Example 5: travel – street sweeper

29. The Shahani Shire Council (Shahani) uses a diesel powered street sweeper with a GVM of 7 tonnes to wash and vacuum public roads managed by the shire.

30. The street sweeper uses a public road to move from its depot to the point where it commences washing and vacuuming (cleaning) the road. Upon cleaning the road, it transports collected rubbish to a waste collection site and returns to its depot.

31. The street sweeper's travel begins when it leaves its depot and ends when it stops at a point to commence cleaning the road, and recommences when it completes cleaning the road and ends when it arrives back at the depot. This travel includes the transportation of collected rubbish to the waste collection site.

Example 6: movement that does not constitute travel – street sweeper when maintaining the road

32. Following on from Example 5, the street sweeper carries out maintenance work on the public road by washing and vacuuming the road.

33. The street sweeper's movement on the public road when it is washing and vacuuming the road does not constitute travel as contemplated by subsections 43-10(3) and (4). The street sweeper is engaged in the maintenance of the road.[10]

Example 7: travel – grader

34. The Boilabilly Shire Council (Boilabilly) uses a grader to patrol and maintain public roads controlled by the shire, and to construct roads.

35. The grader uses the public road to move from its depot to the point where it commences inspecting the road to carry out maintenance work as required, or to construct roads. After inspecting the road or constructing the road, it returns to its depot.

36. The travel begins when it leaves its depot and ends when it stops at a point to commence inspecting the road or constructing the road, and recommences when it completes inspecting the road or constructing the road and ends when it arrives back at the depot.

Example 8: movement that does not constitute travel – grader

37. Following on from Example 7, the grader patrols, that is moves slowly along a public road while the driver inspects the road. As necessary, the grader carries out maintenance work on the road surface.

38. The grader's movement on the public road in the course of inspecting the road does not constitute travel as contemplated by subsections 43-10(3) and (4). The stretch of road being patrolled is considered to be under maintenance and the grader is engaged in the maintenance of the road.[11]

Example 9: movement that does not constitute travel – grader

39. Following on from Example 7, the grader carries out road construction and maintenance activities on a public road by grading the road surface and spreading road material. To do this work, the grader moves along the road.

40. The grader's movement in the road construction and maintenance activity on the public road does not constitute travel as contemplated by subsections 43-10(3) and (4). The road is under construction and maintenance and the grader is engaged in the construction and maintenance of the road.[12]

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[10] However, an entitlement to a fuel tax credit for fuel may exist: see subitems 10(3), 11(3) and 11(6) of Schedule 3 to the Transitional Act.
[11] However, an entitlement to a fuel tax credit for fuel may exist: see subitem 11(6) of Schedule 3 to the Transitional Act.
[12] However, an entitlement to a fuel tax credit for fuel may exist: see subitem 11(6) of Schedule 3 to the Transitional Act.

Meaning of 'public road'

Roads that are public roads

41. For the purposes of subsections 43-10(3) and 43-10(4) a road is a public road if:

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

42. For the purposes of subsections 43-10(3) and (4) a public road encompasses any shoulder of the road and auxiliary lanes, for example emergency lanes.

Roads that are not public roads

43. The following are not public roads for the purposes subsections 43-10(3) and 43-10(4):

- a road constructed or maintained under a statutory regime by a public authority that is not an authority responsible for the provision of road transport infrastructure, in circumstances where the statutory regime provides that public use of, or access to, the road is subordinate to the primary objects of the statutory regime; or
- a road that has not been dedicated as a public road over privately owned land.

Meaning of 'main use' in relation to a vehicle

44. For the purposes of subsection 43-10(4), a vehicle's 'main use' is the vehicle's primary or principal use.

45. A vehicle's 'main use' is a question of fact, to be decided on the facts and circumstances of each case by a process of evaluation and after weighing a range of factors including:

- the purpose for which the vehicle is designed;
- any specific alterations or modifications which makes the vehicle's use different from the use for which it was originally designed;
- the ordinary pattern of use of the vehicle;

- time spent or distance travelled (as appropriate) by the vehicle in carrying out a particular operation, compared to the time or distance spent in carrying out other operations; and
- the nature of the entity's enterprise.

46. Where a vehicle is purpose-built or permanently modified to carry out a specialised function and it is used to carry out that function, the main use of that vehicle can be characterised as that specialised function even though the vehicle may not carry out that function for the majority of its operating time.

47. You must identify a vehicle's main use so that it is clear what relationship the vehicle's travel on a public road bears to the vehicle's main use. The description of the vehicle's main use must be capable of indicating the relationship it bears to travel on a public road.

Example 10: main use – water cart

48. Wishy Washy Pty Ltd (Wishy Washy) uses a water cart to suppress dust and facilitate the compaction of road material at a road construction site. A water cart is purpose-built to transport and spray water. Wishy Washy's vehicle is engaged in actually spraying water for less than half of its operating time.

49. Having regard to the design and use of the vehicle, the main use of Wishy Washy's water cart is to transport and spray water.

Example 11: main use – mobile crane

50. Liftaloft Co (Liftaloft) uses a mobile crane to carry out lifting and positioning of heavy objects across a range of sites. A heavy mobile crane is designed to lift and position heavy objects while stationary. Liftaloft's mobile crane travels to and from work sites under its own power and may spend hours or days at a work site.

51. Having regard to the design and use of the vehicle, the main use of Liftaloft's mobile crane is to lift and position heavy objects while stationary.

Example 12: main use – concrete truck

52. Marvin's Enterprises Ltd (Marvin) uses a concrete truck to transport and deliver concrete in its plastic state to construction sites. A concrete truck is designed to transport and deliver concrete in its plastic state.

53. Having regard to the design and use of the vehicle, the main use of Marvin's concrete truck is to transport concrete.

Example 13: main use – grader

54. The Lucinup Shire Council (Lucinup) uses a grader to construct and maintain roads in the shire. A grader is designed to cut, move and spread material on roads and road-related areas.

55. Having regard to the design and use of the vehicle, the main use of Lucinup's grader is to undertake grading in road construction and maintenance.

Travel 'incidental to' a vehicle's main use

56. For the purposes of subsection 43-10(4), the expression 'incidental to' means:

- not essential, not necessary or not integral to; and/or
- minor or subordinate to.

Road transport

57. Travel on a public road by a vehicle whose main use involves the use of a public road for transportation is not travel incidental to the vehicle's main use. Travel by such a vehicle on a public road is always integral to the main use of the vehicle. Subsection 43-10(4) has no application to travel by a vehicle engaged in the transportation of passengers or goods by public road.

58. Travel on a public road by a special purpose vehicle that is designed for road travel and ordinarily travels on a public road[13] is not travel incidental to the vehicle's main use if the travel is integral to that main use, for example, travel to and from a work site for any vehicle will not be incidental.

Vehicles for off-road use

59. Travel by a vehicle that is designed primarily for off-road use[14] and which is used mainly in off-road activities is incidental where it occurs in the course of the vehicle's off-road use and:

- is insubstantial in extent; or
- is so interspersed with the vehicle's off-road use (its main use) so as to be part of that off-road use.

60. The determination of whether travel is incidental to a vehicle's main use turns on the particular facts of each case and requires a process of evaluation, after weighing all the relevant factors.

[13] Vehicles such as a mobile crane, concrete pump, mobile elevated working platform or drilling rig.
[14] The term off-road use in this context refers to use off a road or not on a road.

61. Where a vehicle is at the work site and commences its off-road activity, for example grading or spraying water, travel on a public road during the course of this activity is incidental to its main use where it is insubstantial in extent or is so interspersed with its main off-road use so as to be part of that off-road use.

Example 14: travel on a public road that is incidental to the vehicle's main use – harvester

62. Roo Minate Enterprises Ltd (Roo Minate) carries on a primary production business on an agricultural property. Parts of the property are separated by a public road. Roo Minate uses a harvester it owns to harvest crops on its farm. In the course of harvesting, the harvester travels 2 kilometres on the public road to get from one part of the property to another.

63. The harvester's main use is to harvest crops. The harvester only travels on the road to go from one part of the farm to another during the course of harvesting. The travel on the public roads is insubstantial in extent, and occurs in the course of the harvester's off-road use. The travel on the public road is incidental to the harvester's main use.

Example 15: travel on a public road that is incidental to the vehicle's main use – water cart

64. In the course of carrying on its enterprise, Waterwize Enterprises (Waterwize) uses a water cart on a construction site that straddles a public road. To move between parts of the construction site, the water cart has to travel along or across the public road. The distance travelled along the public road is no more than 500 metres.

65. The water cart travels along or across the public road on several occasions during the day. The water cart's main use is off road to transport and spray water for dust suppression.

66. The water cart's travel on the public road occurs in the course of its off-road use. The travel on the public road is incidental to the water cart's main use as it is so interspersed with its off-road use so as to be part of that vehicle's off-road use (main use).

Example 16: travel on a public road that is not incidental to the vehicle's main use – water cart

67. Following on from Example 15, the water cart is garaged overnight at Waterwize's depot. At the beginning of each day the water cart travels from the depot to the construction site and returns to the depot at the end of the day. This travel is not in the course of the water cart's off-road use and is not incidental to the cart's main use.

Example 17: travel on a public road that is not incidental to a vehicle's main use – concrete truck

68. Joshua's Enterprises Ltd (Joshua) transports concrete in its plastic state to construction sites. Joshua uses a concrete truck to maintain the concrete in its plastic state by agitation while the concrete is transported from a concrete plant to building construction sites.

69. The main use of the concrete truck involves using public roads to transport concrete in its plastic state. The travel that the truck undertakes in transporting the concrete is not incidental to the vehicle's main use. This travel is integral to the main use of the vehicle.

Example 18: travel on a public road that is not incidental to the vehicle's main use – harvester

70. Reapers Grim Co (Reapers) carries on a contract harvesting enterprise. Reapers uses its harvester to provide harvesting services to a number of farms located across a district. The harvester is not floated and needs to travel on a public road to relocate from one job to another.

71. The harvester's main use is to harvest crops. However, the harvester uses the public road to travel from one property to another. The travel on the public roads does not occur in the course of the harvester's off-road use. The travel on the public road is not incidental to the harvester's main use.

Date of effect

72. When the final ruling is released, it will explain the Commissioner's view of the law as it applies from 1 July 2006. However, the final Ruling will not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of issue of the final Ruling (see paragraphs 75 and 77 of Taxation Ruling TR 2006/10).

Commissioner of Taxation
5 December 2007

Appendix 1 – Explanation

This Appendix is provided as information to help you understand how the Commissioner's preliminary view has been reached. It does not form part of the proposed binding public ruling.

The road user charge

73. Subsection 43-10(3) is the legislative mechanism for reducing, by the amount of the road user charge, the amount of an entity's fuel tax credit for taxable fuel acquired for use in its enterprise in a vehicle for travelling on a public road. This means that the entity is entitled to a partial fuel tax credit in respect of fuel used in that travel.

74. The road user charge is a key element of the national heavy vehicle charges system to recover heavy vehicles' share of costs of providing and maintaining the public road network. The road user charge is a non-hypothecated charge raised as a portion of the tax on fuel. The remaining part of cost recovery is collected by State and Territory governments as heavy vehicle registration charges.[15]

75. The rate of the road user charge is determined by the Federal Minister for Transport in accordance with the National Transport Commission's (NTC) heavy vehicle charges determination process and is subject to periodic review.[16]

76. The road user charge applies generally to travel by heavy vehicles on public roads. The Explanatory Statement to the Road User Charge Determination 2006 (No. 1) states:

> The *Fuel Tax Act 2006* (the Act) establishes a mechanism to reduce the fuel tax credit provided to eligible businesses and non-profit bodies for fuel used on a public road in vehicles with a gross vehicle mass of more than 4.5 tonnes for business purposes.

77. This understanding of the policy intent of the road user charge is consistent with the approach taken by the NTC in determining heavy vehicle registration charges.

78. The NTC determines registration charges for all heavy vehicles using public roads. In determining what level of registration charge is appropriate for a particular class of vehicle, the NTC takes into account the rate of fuel consumption of the class of vehicle on a public road and therefore the extent to which costs are recovered through the road user charge.[17]

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[15] National Road Transport Commission (NRTC), June 2002, *Fact Sheet: Heavy Vehicle Charges*. (Note: the NRTC was the predecessor of the National Transport Commission.)

[16] See Revised EM, paragraphs 2.81 and 2.84.

[17] NRTC, *Updating Heavy Vehicle Charges: Technical Report*, September 1998, pp 11-12, 63; NRTC, *Updating Heavy Vehicle Charges: Draft Policy Paper*, August 1998, pp 10-11, 27-28; NTC, February 2004, *Fact Sheet: Road Pricing*, p 1.

The purpose or object of subsection 43-10(4)

79. Subsection 43-10(4) provides a carve-out[18] from the application of the road user charge in the calculation of the amount of the fuel tax credit to which an entity is entitled. The application of this subsection means that an entity's fuel tax credit is not reduced by the road user charge under subsection 43-10(3).

80. Having regard to the legislative and broader policy context, the purpose of the carve-out is to moderate the strict application of subsection 43-10(3) so that an entity does not need to take the road user charge into account for minor and relatively insignificant travel on a public road associated with off-road operations.

Meaning of 'vehicle'

81. The term 'vehicle' is not defined for the purposes of subsections 43-10(3) and (4). The Revised EM provides no guidance on the meaning of 'vehicle'.

82. Therefore, the ordinary meaning of the term 'vehicle' is relevant in determining its meaning in the context of the two provisions.

83. *The Macquarie Dictionary*[19] relevantly defines 'vehicle' to mean:

> **1.** any receptacle, or means of transport, in which something is carried or conveyed, or travels.
>
> **2.** a carriage or conveyance moving on wheels or runners.

84. A number of cases have discussed the ordinary meaning of 'vehicle', and observed that the meaning is broader than the traditional dictionary definitions of a vehicle as a conveyance on wheels or runners for the transportation of persons or goods.[20]

85. *R v. Pratt*[21] (*Pratt*) considered the ordinary meaning of 'vehicle'. In the course of determining whether a road roller was a vehicle for the purposes of the *Crimes Act 1961* (NZ), McMullin J considered a submission that the dictionary definitions of vehicles indicate that 'it is of the essence of a vehicle that its purpose is to carry passengers or some other load.'[22] In rejecting this submission, McMullin J observed:

> While the dictionary meanings of vehicle seem to give some emphasis to a means of conveyance used for the carriage of passengers or goods, it is noteworthy that this definition is founded on the early usage of the appliance when mechanical appliances such as tractors, road graders, bulldozers, mobile cranes were not much in vogue or had not even been developed.

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[18] See paragraph 7 of this draft Ruling for what is meant by the term 'carve out'.
[19] *The Macquarie Dictionary,* 2001 rev. 3rd edn The Macquarie Library Pty Ltd, NSW.
[20] Refer to *The Macquarie Dictionary,* 2001 rev. 3rd edn The Macquarie Library Pty Ltd, NSW and *The Australian Oxford Dictionary*, 1999, Oxford University Press, Melbourne definitions.
[21] *R v. Pratt* [1990] 2 NZLR 129.
[22] *R v. Pratt* [1990] 2 NZLR 129 at page 131.

> All these appliances are now commonly regarded as vehicles. Although not used for the carriage of goods or passengers they require to be driven by an operator who sits on or in them. It is noteworthy that a shift in meaning away from the carriage of passengers or other loads is indicated in other dictionary meanings. Hence Chambers 20th Century Dictionary defines vehicle as 'a means of conveyance or transmission' and Heinemann's New Zealand Dictionary as 'any device for moving or carrying, especially one on wheels'...The need to modify the traditional meaning to meet modern technology was mentioned in *Sugar City Municipal District No. 5 v. Bennett & White (Calgary) Ltd* [1950] 3 DLR 81 by Rand J at p 93:
>
> > The word 'vehicle' in its original sense conveys the meaning of a structure on wheels for carrying persons or goods. We have generally distinguished carriage from haulage, and mechanical units whose chief function it is to haul other units, to do other kinds of work than carrying, are not usually looked upon as vehicles. But that meaning has, no doubt, been weakened by the multiplied forms in which wheeled bodies have appeared with the common feature of self propulsion by motor.[23]

86. In *Anderson v. Chigwidden*[24] (*Anderson*), Adam J considered whether a caravan fell within the ambit of 'other vehicle' in the Motor Car Regulations 1952 (Vic). The defendant contended that a caravan was not a vehicle, based on the 'dictionary and etymological meaning of 'vehicle' as a conveyance for the carriage of passengers or goods'.[25]

87. In the course of his decision, Adam J indicated that he considered that that the word 'vehicle' is one 'capable of a more extended meaning should this be required by the context'.[26] He referred to Hewart CJ's comments in *Garner v. Burr* [1951] 1 KB 31 at page 33:

> Hewart CJ, said… 'It is true that, according to the dictionary definition, a 'vehicle' is primarily to be regarded as a means of conveyance provided with wheels or runners and used for the carriage of persons or goods...but I think that the Act is clearly aimed at anything that will run on wheels which is being drawn by a tractor or another motor vehicle'. Hilbery, J, said, at p. 34: 'Having regard to the purpose of the Act to which my lord has called attention, I am satisfied that we ought to give a generous construction to the material words in the Road Traffic Act 1930. I am satisfied that, for the purposes of the Act, this poultry house on wheels being drawn along the highway was a vehicle'.[27]

[23] *R v. Pratt* [1990] 2 NZLR 129 at page 132.
[24] *Anderson v. Chigwidden* [1961] VR 564.
[25] *Anderson v. Chigwidden* [1961] VR 564 at page 566.
[26] *Anderson v. Chigwidden* [1961] VR 564 at page 566.
[27] *Anderson v. Chigwidden* [1961] VR 564 at page 566.

88. Although decided in the context of different legislations in other jurisdictions, the observations in *Pratt* and *Anderson* in relation to the extended meanings of 'vehicle' are relevant to the meaning of the term in subsections 43-10(3) and (4). The Commissioner considers that the term 'vehicle' in those provisions is not restricted to a conveyance for the carriage of passengers or goods. Nor is the term 'vehicle' confined to self-propelled vehicles, that is, it includes anything that will run on wheels that is drawn by another vehicle.

89. Based on the modern ordinary usage of 'vehicle' as expounded in the courts, it is clear that the term 'vehicle' is broader than 'motor vehicle' and should not be construed as referring only to a conveyance for the carriage of persons or goods.

90. This is consistent with the policy intent of the road user charge under subsection 43-10(3), which is intended to apply to heavy vehicles generally. Therefore, the term 'vehicle' should not be read restrictively to mean only vehicles that convey passengers or goods. This interpretation is consistent with the observations of the courts as well as the generality of the term in comparison with the more restrictive term 'motor vehicle' in section 41-25 or 'road vehicle' in the Energy Grants Act.[28]

91. Therefore, the term 'vehicle' should be construed in a broad, rather than a narrow sense to include any vehicle that can be authorised to travel on a public road by the relevant road traffic authority and is not restricted to registered vehicles.[29] This includes plant, equipment or machinery that is capable of locomotion and which may be authorised to travel on a public road by the relevant road traffic authority.

92. Since an entitlement to a fuel tax credit in the context of travelling on a public road can only arise for a heavy vehicle, the term 'vehicle' in subsections 43-10(3) and (4) necessarily refers only to a heavy vehicle.

93. The table below lists examples of heavy vehicles for the purposes of subsections 43-10(3) and (4).

prime mover
trailer
semi-trailer
B-double
road train
truck
grader
backhoe loader
front-end loader

[28] See for example subsection 53(3) of the Energy Grants Act.
[29] Unregistered vehicles may be permitted to travel on public roads by relevant road authorities.

wheeled excavator
mobile crane
mobile elevated working platform (travel tower; cherry picker)
mobile concrete pump
truck-mounted drilling rig
forklift
wheeled bulldozer
fertiliser spreader
harvester
combine harvester
cane transporter
tractor
street sweeper
garbage truck

Meaning of 'travel'

94. The terms 'travelling' and 'travel' are not defined in the FT Act. Furthermore, the Revised EM provides no guidance as to the meaning of 'travelling' and 'travel' for the purposes of subsections 43-10(3) and (4).

95. Therefore, the ordinary meaning of the terms is relevant in determining its meaning in the context of the two provisions.

96. The *Macquarie Dictionary*[30] relevantly defines 'travel' to mean:

> *verb (i)*
>
> **1.** to go from one place to another; make a journey: *to travel for pleasure.*
>
> **2.** to move or go from one place or point to another.
>
> …
>
> *noun*
>
> **11.** the act of travelling; journeying, especially in distant or foreign places.
>
> …
>
> **15.** movement or passage in general.

[30] *The Macquarie Dictionary,* 2001 rev. 3rd edn The Macquarie Library Pty Ltd, NSW.

97. The ordinary meaning of the term 'travelling' was considered in *Prospect District Council, Re By-law; Hill, Exp*[31] (*Prospect District Council*). In the course of discussing a district council's power, through by-law, to regulate and control passing or travelling of certain vehicles in or along streets and roads, and to regulate the traffic and standing of vehicles in streets and roads, Murray CJ observed that:

> The words 'passing', 'travelling' and 'standing' are used, but the word 'stopping' is not…If it is not included in 'standing', I cannot doubt that it comes within 'travelling.' 'Stopping,' I should say, is the beginning of 'standing,' and is an ordinary incident of 'travelling.'[32]

98. The observation in *Prospect District Council* in relation to the ordinary meaning of 'travelling' is relevant to the meaning of the term in subsections 43-10(3) and (4). As such, the term 'travelling' does not require a continuous movement in going by road from one place or point to another. When read in context, the term 'travelling' in subsection 43-10(3) is intended to cover all the ordinary incidents of road travel, which includes stopping or standing in the course of travelling.

99. Having regard to the purpose of subsection 43-10(3) in relation to the recovery of the cost of public road infrastructure, the terms 'travelling' and 'travel' in subsections 43-10(3) and (4) mean movement from one place to another using a road.

100. Travel relates directly to road use. It is an apt concept for applying the road user charge to heavy vehicles, as the charge is linked to the wear and tear caused by heavy vehicles using public roads and the added cost of providing public road infrastructure capable of carrying heavy vehicle traffic.

101. Travel begins when a vehicle commences a journey from the starting point and finishes when it arrives at the point of destination, regardless of the length of the journey.

'Incidental use' of fuel in a vehicle travelling on a public road

102. Subsection 43-10(4) refers in part to '… a vehicle's travel on a public road is incidental to the vehicle's main use'. 'Incidental' in the context of subsection 43-10(4) does not have the same meaning as the defined term 'incidental use' in section 8 of the Energy Grants Act.

103. Section 8 of the Energy Grants Act states:

> Each of the following, whether or not it takes place on a road, is an ***incidental use*** in relation to a vehicle:
>
> (a) powering the vehicle, or auxiliary equipment in or on the vehicle, while:
>
> (i) goods to be transported in or on the vehicle are loaded or goods that have been so transported are unloaded; or

[31] *Prospect District Council, Re By-law; Hill, Exp* [1926] SASR 326.
[32] *Prospect District Council, Re By-law; Hill, Exp* [1926] SASR 326 at page 331.

(ii) passengers who are to be transported in or on the vehicle board or passengers who have been so transported alight; or

(iii) the vehicle is moved to a place where anything in subparagraph (i) or (ii) is to happen or from a place where any such thing has happened;

(b) powering the vehicle, or auxiliary equipment in or on the vehicle, in order to maintain the quality of goods transported, or to be transported, in or on the vehicle;

(c) powering the vehicle, or auxiliary equipment in or on the vehicle, in order to clean or otherwise maintain the vehicle or auxiliary equipment in or on the vehicle;

(d) using the vehicle for training operators of vehicles.

104. Although fuel for 'incidental use' is not used directly for propelling a vehicle, the vehicle would not be able to efficiently or effectively carry out 'travelling' on a public road without fuel being used in the vehicle for such a use.

105. The Commissioner considers that '***incidental use***' that occurs while the vehicle is travelling on a public road is integral to and an ordinary incident of a journey undertaken by a vehicle travelling on a public road.

106. Items 10 and 11 of Schedule 3 to the Transitional Act, do not apply if you acquire taxable fuel for use in a vehicle travelling on a public road or for incidental use (within the meaning of section 8 of the Energy Grants Act) in relation to a vehicle travelling on a public road in carrying on an enterprise.

107. The effect of this is that you are entitled to a fuel tax credit under section 41-5 for taxable fuel acquired for use in carrying on your enterprise for incidental use in a vehicle travelling on a public road. The Commissioner accepts this 'incidental use' is an ordinary incident of a vehicle travelling on a public road.

108. To the extent that you acquire taxable fuel to use in a vehicle for this incidental use, the amount of your fuel tax credit is reduced by the road user charge as fuel for this incidental use is fuel acquired for use in a vehicle for travelling on a public road.

109. However, you do not need to reduce the amount of your fuel tax credit by the road user charge if the vehicle's travel on a public road is incidental to the vehicle's main use.

Movement by a vehicle engaged in road construction, repair or maintenance

110. However, not every movement of a vehicle on a road is travel. Where a vehicle is engaged in road construction, repair or maintenance and moves on the road or portion of the road that is under construction, repair or maintenance in the course of carrying out this work, the vehicle does not 'travel' on the road in the sense contemplated by subsections 43-10(3) and (4). The purpose of this movement is to benefit the road, not to use the road to relocate the vehicle.

111. However, if such a vehicle is driven to a new location to carry out road construction, repair or maintenance, it uses the road to travel to that new location.

112. The Commissioner considers that, having regard to the policy context of subsection 43-10(3), it would be inconsistent with that policy intent to impose the road user charge on a vehicle in the course of undertaking road construction, repair or maintenance, as the vehicle is not contributing to wear and tear on the road.

113. Having regard to the Transitional Act and the Energy Grants Act, it is clear that an entitlement to a fuel tax credit for a vehicle undertaking these functions is intended to be phased in up to 30 June 2012 and will not be subject to the road user charge when fully implemented.[33]

Meaning of 'public road'

114. The operation of subsections 43-10(3) and 43-10(4) relates or refers to travel on a public road. Therefore, it is important to define 'public road'.

Roads that are public roads

115. For the purposes of subsections 43-10(3) and (4), a road is a public road[34] if it is:

- 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.[35]

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[33] The Revised EM paragraph 3.49.
[34] For a full discussion on the meaning of 'public road' see paragraphs 519 to 537 of FTR 2006/1 Fuel tax: fuel tax credits for taxable fuel acquired or manufactured in, or imported into Australia for use in carrying on an enterprise involving 'agriculture' as defined in section 22 of the Energy Grants Act.
[35] The Revised EM, paragraph 2.50.

116. In Australia the vast majority of public roads are constructed by government. There are statutory authorities in each state and territory which are responsible for the construction, management and maintenance of the public road transport infrastructure within their own jurisdictions. Roads which are constructed, managed or maintained by these authorities are public roads. These roads fall into three main categories, being:

- national highways;
- state and territory highways and main roads; and
- local roads and streets.

117. If a road is not under the control and management of a state or territory authority which is responsible for the provision of road infrastructure to the public, then whether the road is a 'public road' under the common law is a question of fact.

118. In order to establish that a road has been dedicated as a public road at common law, there must be established an unequivocal indication of the intention of the owner of the land to dedicate it to the public as a road.[36]

119. The Commissioner considers, that having regard to the road user charge system,[37] a public road for the purposes of subsections 43-10(3) and (4) includes any shoulder of the road and auxiliary lanes, for example emergency lanes.

Roads that are not public roads

120. A road is not a public road[38] for the purposes of subsections 43-10(3) and (4) if it is a:

- road constructed or maintained under a statutory regime by a public authority that is not an authority responsible for the provision of road transport infrastructure, in circumstances where the statutory regime provides that public use of, or access to, the road is subordinate to the primary objects of the statutory regime;
- forestry road;
- private access road for use in a mining operation; or
- road that has not been dedicated as a public road over privately owned land.[39]

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[36] For a discussion on this, refer to Windeyer J *Permanent Trustee Co of NSW Ltd v. Campbelltown Corporation* (1960) 105 CLR 401; [1961] ALR 164; (1960) 34 ALJR 255.

[37] Road expenditure is used to calculate the road user charge and it includes road shoulder maintenance: pages 5 and 6 of the NRTC, *Updating Heavy Vehicle Charges: Draft Policy Paper*, August 1998.

[38] For a full discussion on roads that are not public roads see paragraphs 538 to 542 of FTR 2006/1.

121. A forestry road is a road within a forest or plantation which is constructed and maintained primarily and principally for the purposes of providing access to an area to facilitate forestry activities (for example, to facilitate trees to be planted or tended in the area, or timber felled in the area to be removed) and for related forestry management activities.[40]

122. A private access road for use in mining operations is a private road which is constructed and maintained by a person who carries on a mining operation for the purposes of providing access to, or from, either a mining operation or a place at which beneficiation of minerals or mineral ores occurs.[41]

Meaning of 'main use' in relation to a vehicle

123. The expression 'main use' is not defined in the FT Act.

124. The term 'main' is relevantly defined in the *Macquarie Dictionary*[42] as 'chief; principal; leading' and in the *Australian Oxford Dictionary*[43] as 'chief in size, importance, extent, etc.; principal'.

125. While in some contexts the term 'main' may be taken to mean 'more than half',[44] this interpretation is not always useful when considering the main use of a heavy vehicle. Necessarily, the context is relevant in determining what the expression 'main use' means.[45]

126. The concept of main use applies to 'the vehicle'. This suggests it applies to a particular vehicle, not the class of vehicle to which the vehicle belongs, and looks at this particular vehicle's typical pattern of use. The singular expression 'main use' also implies that a vehicle has a particular use that can be identified as its main use.

127. A vehicle's main use may change if the vehicle's pattern of use changes.

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[39] See Revised EM, paragraph 2.51.
[40] See Revised EM, paragraph 2.52. For a more detailed explanation of the meaning of 'forestry roads' see paragraphs 297 to 306 of Fuel Tax Ruling FTR 2006/3 Fuel tax: fuel tax credits for taxable fuel acquired or manufactured in, or imported into Australia for use in carrying on an enterprise involving 'forestry' as defined in section 35 of the Energy Grants Act.
[41] See Revised EM, paragraph 2.53. For examples of private access roads for use in mining operations see paragraphs 139 to 149 of FTR 2006/2 Fuel tax: fuel tax credits for taxable fuel acquired or manufactured in, or imported into Australia for use in carrying on an enterprise involving 'mining operations' as defined in section 11 of the Energy Grants Act.
[42] *The Macquarie Dictionary,* 2001 rev. 3rd edn The Macquarie Library Pty Ltd, NSW.
[43] *The Australian Oxford Dictionary*, 1999, Oxford University Press, Melbourne.
[44] See Taxation Ruling TR 2001/7 Income tax: the meaning of 'personal services income', paragraph 47.
[45] Per Hill J in *Davis v. FC of T; Sirise Pty Ltd v. FC of T* (2000) 171 ALR 654 at 667; 2000 ATC 4201 at 4212; (2000) 44 ATR 140 at 152.

128. Subsection 43-10(4) requires an entity to identify a vehicle's main use for the purpose of determining if travel on a public road is incidental to that main use. The way in which main use is defined, then, must be sufficiently specific to clearly indicate the relationship that the vehicle's main use bears to travel on a public road.

129. A vehicle's 'main use' is a question of fact, to be decided on the facts and circumstances of each case by a process of evaluation and after weighing a range of factors including:

- the purpose for which the vehicle is designed;
- any specific alterations or modifications which make the vehicle's use different from the use for which it was originally designed;
- the ordinary pattern of use of the vehicle;
- time spent or distance travelled (as appropriate) by the vehicle in carrying out a particular operation, compared to the time or distance spent in carrying out other operations; and
- the nature of the entity's enterprise.

130. The determination of 'main use' of a vehicle turns on the particular facts of each case and requires a process of evaluation, after weighing all the relevant factors.

131. The main use of a vehicle will usually be self-evident and indicated by the vehicle's design. However, it is also necessary to consider the way in which the vehicle is actually used.

132. Where a vehicle is purpose-built or permanently modified to carry out a specialised function and is used to carry out that function, the main use of that vehicle may be that specialised function even though the vehicle does not spend the majority of its operating time carrying out that function. This is because other activities that the vehicle carries out, such as travelling to and from work sites, serve that specialised function rather than dictate the vehicle's main use.

Meaning of 'incidental to'

133. The expression 'incidental to' is not defined for the purposes of subsection 43-10(4).

134. *The Macquarie Dictionary*[46] relevantly defines 'incidental' as:

> **1.** happening or likely to happen in fortuitous or subordinate conjunction with something else.
>
> **2.** incurred casually and in addition to the regular or main amount: *incidental expenses*'.
>
> …

[46] Refer to *The Macquarie Dictionary,* 2001 rev. 3rd edn The Macquarie Library Pty Ltd, NSW.

> **5. incidental to**, liable to happen in connection with; naturally appertaining to.

135. *The Australian Oxford Dictionary*[47] relevantly defines 'incidental' as:

> **1.** (often foll. by *to*) a having a minor role in relation to a more important thing, event, etc. b not essential;
>
> **2.** (foll. by *to*) liable to happen.

136. From these definitions it is clear that the ordinary meaning of 'incidental' encompasses various shades of meaning. Something is 'incidental' only in relation to something else that is principal, yet the incidental thing is not essential or integral to the principal thing, even though it may usually or always be associated with it. Another element of the meaning is that an incidental thing is minor in extent or in importance relative to, or subordinate to, the principal thing.

137. As noted by Rushing PJ in the Californian case *People v. Dominguez*,[48] there is an inherent tension in the concept of 'incidental', where a thing tends to accompany something else but is not essential to it. Something that tends to accompany something else is often – depending on the context – characteristic, significant or essential.[49] Rushing PJ observed:

> … 'incidental' is widely used throughout the law, with context generally determining which of its two aspects dominates its application. In many if not most settings, it is given the meaning of secondary, inessential, or minor. In some contexts, however, emphasis is placed on the relational aspect of the term.[50]

Travel 'incidental to' a vehicle's main use

138. Having regard to the object or purpose of subsection 43-10(4), the phrase 'incidental to' means:

- not essential, not necessary or not integral to; and/or
- minor, or subordinate to.

139. The expression 'incidental to' in the context of subsection 43-10(4) has a relational aspect and a comparative aspect. The relational aspect considers whether or not something is inessential to or separable from the principal thing. The comparative aspect looks at the thing's significance from a quantitative point of view. Both of these aspects have a role to play in determining whether travel is incidental to a vehicle's main use.

140. Subsection 43-10(4) is expressed broadly, so that it could be interpreted to apply to travel that falls outside the intended scope of the provision as indicated by the extrinsic material.

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[47] *The Australian Oxford Dictionary*, 1999, Oxford University Press, Melbourne.
[48] *People v. Dominguez* (2004) 22 Cal. Rptr. 3d 249.
[49] *People v. Dominguez* (2004) 22 Cal. Rptr. 3d 249 at 265.
[50] *People v. Dominguez* (2004) 22 Cal. Rptr. 3d 249 at 266.

141. The Revised EM indicates that the carve-out is intended to apply only to vehicles primarily designed for an off-road use but which may travel on a public road in the course of their operations.

142. In determining whether a vehicle's travel is incidental to its main use, a practical commonsense approach needs to be taken in weighing and evaluating a range of factors having regard to the facts and circumstances of each case.

Road transport

143. Taking into account the object of the provision, it is the Commissioner's view that the carve-out does not apply to travel on a public road by a vehicle whose main use involves the use of a public road for travelling. Thus the carve-out has no application for vehicles engaged in the transportation of persons or goods by public road.

144. In addition, the carve-out does not apply where a special purpose vehicle, such as a mobile crane, concrete pump, mobile elevated working platform or drilling rig, uses a public road to travel, for example, to or from a work site. Such vehicles are designed to travel on a public road and are often overmass vehicles having a substantial impact on roads. Travel by such a vehicle in the course of its relocation from one site (for example, depot) to another (for example, work site) is similar in nature to road transportation.

145. In both these cases, it is reasonable to hold that travel on a public road is never incidental because it is so integral to the use of the vehicle so as to become part of or inseparable from its main use.

Vehicles for off-road use

146. Travel on a public road by a vehicle that is designed primarily for off-road use[51] and which is used mainly in off-road activities is incidental where it occurs in the course of the vehicle's off-road use and:

- is insubstantial in extent; or
- is so interspersed with the vehicle's off-road use (its main use) so as to be part of that off-road use.

147. Incidental travel by these vehicles occurs fortuitously or casually in conjunction with their off-road use and is minor in extent.

148. Travel on a public road by a vehicle of this kind is not incidental where:

- it is substantial in extent, or
- the vehicle uses the road to travel to or from an off-road work site.

[51] The term off-road use in this context refers to use off a road or not on a road.

Road construction, repair or maintenance

149. The movement by a vehicle engaged in road construction, repair or maintenance on a road works site is not travel.[52] However, in the course of working in road construction, repair or maintenance (its main use) the vehicle may travel on a public road off the road works site in a way that is incidental to its main use. In determining whether the travel is incidental, the principles explained in paragraphs 146 to 148 of this draft Ruling apply.

[52] See paragraphs 110 to 113 of the Explanation to this draft Ruling regarding the meaning of 'travel' in relation to the movement by a vehicle engaged in road construction, repair or maintenance.

Appendix 2 – Alternative views

This Appendix sets out alternative views and explains why they are not supported by the Commissioner. It does not form part of the proposed binding public ruling.

Travel 'incidental to' the vehicle's main use

150. Under the alternative view the main use of a vehicle is identified in a manner consistent with this draft Ruling but the expression 'incidental to' is interpreted differently.

151. Where the main use of the vehicle does not involve travel on a public road, any travel that the vehicle undertakes on a public road is taken to be incidental to the vehicle's main use. Thus, where a vehicle's main use is an off-road activity, all travel that the vehicle undertakes on a public road is incidental travel.

152. Under this view the concepts of the vehicle's main use and incidental travel are mutually exclusive.

153. The alternative view relies on a narrow interpretation of the expression 'incidental to' that emphasises only one aspect of its meaning. It equates incidental with subordinate or secondary, regardless of the nature of the relationship between the vehicle's main use and its travel on a public road. This interpretation ignores the sense of 'inessential' or 'casually occurring' in the ordinary meaning of the expression. The view also gives no regard to the comparative element of 'slight, peripheral, insignificant' in the meaning.

154. The Commissioner does not accept this view as it disregards the broad policy object of the road user charge, as explained in the Explanatory Statement to the Road User Charge Determination 2006 (No. 1) and other extrinsic materials. This interpretation does not promote the object or purpose of subsection 43-10(4) in its broader legislative context and undermines the process of determining heavy vehicle registration charges by effectively exempting certain classes of heavy vehicles from the road user charge.

155. While 'incidental to' can be interpreted in this narrow way, the Commissioner takes the view that an interpretation that promotes the broader policy object of the legislation is to be taken.

Appendix 3 – Your comments

156. We invite you to comment on this draft Fuel Taxation Ruling. Please forward your comments to the contact officer by the due date. (Note: the Tax Office prepares a compendium of comments for the consideration of the relevant Rulings Panel or relevant Tax officers. The Tax Office may use a version (names and identifying information removed) of the compendium in providing responses to persons providing comments. Please advise if you do not want your comments included in the latter version of the compendium.)

Due date:	**1 February 2008**
Contact officer:	**Anura Kuhan-Pilat**
Email address:	**Anura.Kuhan-Pilat@ato.gov.au**
Telephone:	**(08) 8218 9316**
Facsimile:	**(08) 8218 9255**
Address:	**Australian Taxation Office** **Law and Practice** **GST & Excise Centre of Expertise** **GPO Box 2318** **ADELAIDE SA 5001**

Appendix 4 – Detailed contents list

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References

Previous draft:

Not previously issued as a draft

Related Rulings/Determinations:

FTR 2006/1; FTR 2006/2;
FTR 2006/3; TR 2001/7;
TR 2006/10

Subject references:

- acquire
- carrying on your enterprise
- fuel
- fuel tax
- fuel tax credit
- fuel tax credit system
- gross vehicle mass
- incidental to
- incidental use
- main use
- partial fuel tax credit
- public road
- road user charge
- travel
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Legislative references:

- Acts Interpretation Act 1901 18A
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- FTA 2006
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- FTA 2006 43-10(3)
- FTA 2006 43-10(4)
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- EGCSA 2003 53(3)
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