



Fuel Tax (Fuel Blends) Determination 2006 (No. 2)

Fuel Tax Act 2006

Under section 95-5 of the *Fuel Tax Act 2006*, I make the following determination:

Citation

1. This determination may be cited as the *Fuel Tax (Fuel Blends) Determination 2006 (No. 2)*.

Legislative instrument

2. This determination is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Commencement

3. This determination commences on the day after it is registered.¹

Application of determination

4. This determination applies to blends made and packaged after commencement of this instrument.

Definitions

5. In this determination:

Excise tariff means the Schedule to the *Excise Tariff Act 1921*

fuel component means a product that is classified to subitem 10.15, 10.16, 10.25, 10.26, 10.27, 10.28 or 10.30 of the Excise tariff

fuel tax law has the same meaning as in section 110-5 of the *Fuel Tax Act 2006* (Fuel Tax Act)

Object

6. A blend covered by this instrument does not constitute a fuel for the purposes of the fuel tax law.
7. In making a blend that is not a fuel for the purposes of the fuel tax law under this determination, a fuel component of the blend is 'used' within the meaning of subsection 41-5 (1) of the Fuel Tax Act.² This means that the producer of the blend may be eligible to claim a fuel tax credit on the fuel component.

When a blend does not constitute a fuel

¹ Paragraph 12(1)(d) of the *Legislative Instruments Act 2003*

² Note: blends covered by this determination are not excisable goods under item 10 of the Excise tariff: paragraph 77H(1)(b) of the *Excise Act 1901*. This means that the blending process is not excise manufacture and duty is payable only on the excisable components of the blend.

8. A blend of one or more fuel components with one or more other substances does not constitute a fuel for the purposes of the fuel tax law if:
- (a) apart from the application of this determination, the blend would be classified to subitem 10.30 of the Excise Tariff; and
 - (b) the marketing test is satisfied.

Marketing test

9. The marketing test is satisfied where:
- (a) the blend is packaged into containers of not more than 20 litres capacity;
 - (b) the packaging does not indicate that the blend can be used as fuel in an internal combustion engine;
 - (c) the blend is sold in a single-use container;
 - (d) the blend is not added to a used container; and
 - (e) it is reasonable for the person who makes the blend to conclude that the blend will not be used as fuel in an internal combustion engine.

Dated this 25th day of July 2006

Kathleen Quigley
Acting Deputy Commissioner and Delegate of the Commissioner of Taxation