

***EXC 2010/1 -***



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# Excise (Spirit blending exemptions) Determination 2010 (No.1)

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## *Excise Act 1901*

Under subsection 77FM(3) of the *Excise Act 1901* (Excise Act) I make the following determination:

### **Citation**

1. This determination may be cited as the *Excise (Spirit blending exemptions) Determination 2010 (No.1)*.

### **Legislative Instrument**

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

### **Commencement**

3. This determination is taken to have commenced on the day Schedule 6 to the *Tax Laws Amendment (2009 Measures No. 6) Act 2010* commences.

### **Application**

4. This determination applies to circumstances that occur on or after the date of commencement.

### **Object**

5. Under subsection 77FM(3) of the Excise Act, the CEO may determine that spirit blending to produce spirit is taken not to constitute the manufacture of that spirit if the blending occurred in certain specified circumstances.
6. By setting out in this determination the circumstances in which spirit blending to produce spirit is not the manufacture of that spirit for the purposes of the Excise Act, this ensures such spirit blending will not fall into the excise system and its regulatory requirements.

### **Interpretation**

7. In this determination:

**CEO** means the Commissioner of Taxation (see subsection 4(1) of the Excise Act).

**Spirit** means goods described in item 3 of the Schedule to the *Excise Tariff Act 1921* (Tariff Act).

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

## **Blending circumstances**

8. Spirit blending to produce spirit is taken not to constitute the manufacture of a spirit described by item 3 of the Schedule in the following circumstances:
- (a) the incidental blending that occurs where spirit, whether previously entered for home consumption or not, is placed in a vessel or container with remnants of a spirit or another substance.
  - (b) the blending of spirit that has been previously entered for home consumption under sub-items 3.5, 3.6 and 3.7 of the Schedule with like spirit also previously entered for home consumption or another substance by a person who has approval under the Excise Act to use that spirit.
  - (c) the blending of denatured spirit that has been previously entered for home consumption under sub-item 3.8 of the Schedule with like spirit also previously entered for home consumption or another substance by an end user.
  - (d) the blending of spirit that has been previously entered for home consumption with like spirit also previously entered for home consumption, where:
    - no skill, knowledge or judgment was used in the blending process; and
    - the product of the blending is not different from its inputs in any way (for example, colour, taste or percentage of alcohol by volume).

Dated this 31<sup>st</sup> day of March 2010

**Tim Dyce**

**Deputy Commissioner and Delegate of the Commissioner of Taxation**