

EXC 2016/7 -



Australian Government

Australian Taxation Office

Legislative Instrument

Excise (Volume of Liquid Fuels – Temperature Correction) Determination 2016 (No. 2)

I, Deborah Jenkins, Acting Deputy Commissioner of Taxation, make this determination under section 65 of the *Excise Act 1901* (***Excise Act***).

Deborah Jenkins

Acting Deputy Commissioner of Taxation

Dated: 13/9/2016

Name of determination

1. This determination may be cited as the *Excise (Volume of Liquid Fuels – Temperature Correction) Determination 2016 (No. 2)*.

Commencement

2. This determination commences on the day after it is registered.

Repeal of previous determination

3. *Excise (Volume of Liquid Fuels – Temperature Correction) Determination 2016 (No. 1) (the previous determination)* - F2016L00133, registered on 22 February 2016, is repealed on commencement of this determination.

Determination

5. This determination is a legislative instrument for the purposes of the *Legislation Act 2003* (***Legislation Act***).
6. This determination applies to liquid fuel delivered for home consumption pursuant to section 61C of the *Excise Act* on or after the date of commencement.

Object

6. Under section 65 of the *Excise Act*, the CEO may determine rules for working out the volume of excisable goods including fuel.
7. These rules govern the volume of liquid fuel for the purposes of working out the amount of excise duty payable on such fuel.

Determining the volume of fuel

8. The volume of liquid fuel for working out the amount of excise duty payable must be determined at the time of delivery for home consumption using one of the permissible methods.
9. Permissible methods for determining the volume of fuel are:
 - a. Method 1 – depending on the type of liquid fuel, the use of the appropriate temperature correcting method as set out in sub-paragraphs 10(a) or 10(b) below to convert the volume of the fuel to 15° Celsius; or
 - b. Method 2 – measurement of volume at ambient temperature.
10. For the purposes of sub-paragraph 9(a), the appropriate temperature correcting method depends on the type of liquid fuel as follows:
 - a. For fuels classified to sub-items 10.5, 10.6, 10.7, 10.10, 10.12, 10.17, 10.18, 10.21 and 10.30 of the Schedule - the use of the American Society for Testing and Materials (ASTM) *Petroleum Measurement Tables Volume Correction Factors, Volume VIII*, to convert the volume of the fuel to 15° Celsius; or
 - b. For fuel classifiable to sub-item 10.20 of the Schedule,
 - i. the use of the American Society for Testing and Materials (ASTM) *Petroleum Measurement Tables Volume Correction Factors, Volume VIII*, to convert the volume of the fuel ethanol to 15° Celsius wherein the density of the fuel ethanol is taken to be 785 kg/m³ at 15°C; or
 - ii. the use of the *Practical Alcohol Tables*, to convert the volume of the fuel ethanol to 20° Celsius and then multiplying the result with a conversion factor of 0.995 to convert the volume of fuel from 20° Celsius to 15° Celsius.
11. A person who has aggregated clearances of liquid transport fuels exceeding 50,000 litres per accounting period must use Method 1 for all fuel other than fuel to which *Excise (Volume - recycled waste oil) Determination 2006 (No. 2)* (or any subsequent Determination that replaces it) applies.
12. A person who does not have aggregated clearances of liquid transport fuels exceeding 50,000 litres per accounting period and does not have a requirement on their periodic settlement permission to correct to 15° Celsius on all their liquid fuel clearances may use either Method 1 or 2 for all liquid fuel.
13. For the purposes of paragraph 10, the versions of the incorporated *ASTM Petroleum Measurement Tables Volume Correction Factors* and the *Practical Alcohol Tables* that are current at the time of commencement of this determination are to be used.
14. A person must use one Method for the duration of an accounting period, unless authorised in writing by the CEO to do otherwise.

Definitions

15. The following expressions are defined for the purposes of this determination:

accounting period means the 12 month period adopted for income tax purposes as provided by section 18 of the *Income Tax Assessment Act 1936*, or another period approved in writing by the CEO;

aggregated clearances means the volume of liquid transport fuels delivered for home consumption in the accounting period from a person's excise licensed establishments based on historical data, or the volume of liquid fuels reasonably expected to be delivered for home consumption in an accounting period if no historical data is available;

biodiesel has the meaning given by subsection 3(1) of the *Excise Tariff Act 1921*;

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

excise licensed establishment means premises that are specified in an Excise licence issued pursuant to section 39A of the *Excise Act*;

fuel ethanol means denatured ethanol for use as fuel in an internal combustion engine;

liquid fuels means goods of a kind that fall within a classification in item 10 of the Schedule to the *Excise Tariff Act 1921* (the Schedule) excluding goods classified to sub-items 10.19A, 10.19B and 10.19C;

liquid transport fuels means gasoline (including that used in an aircraft), diesel, kerosene (for use in an aircraft), fuel oil, fuel ethanol, biodiesel and blends of gasoline or diesel; and

volume correction factor (VCF) means a figure that is used to convert a volume taken at ambient temperature to a volume at 15° Celsius.