Australian Government
Australian Taxation Office

Australian Taxation Office Legislative Instrument
Instrument ID: 2006/BSL/09

Explanatory Statement

Excise Act 1901

Excise (Volume—recycled waste oil) Determination 2006 (No. 2)

General Outline

1. This Explanatory Statement is provided in accordance with section 26 of the *Legislative Instruments Act 2003*.

2. *Excise (Volume—recycled waste oil) Determination 2006 (No. 2)* is required by amendments to the Excise legislation effected by *Excise Laws Amendment (Fuel Tax Reform and Other Measures) Act 2006* and *Excise Tariff Amendment (Fuel Tax Reform and Other Measures) Act 2006*.

3. The amendments are the result of the Review of the Schedule to the *Excise Tariff Act 1921* (the Review) initiated by Treasury on 2 June 2005 with the release of an industry discussion paper and a targeted consultation process. The principal objects of the Review were to streamline the Schedule to the *Excise Tariff Act 1921* (the Excise tariff) and make it more user-friendly, make excise law clearer and less complex, and improve the integrity of the excise system.

4. The *Excise Laws Amendment (Fuel Tax Reform and Other Measures) Act 2006* inserts section 65, which allows the CEO (Commissioner of Taxation), by legislative instrument, to determine rules for working out the volume, weight and alcoholic strength of excisable goods. Paragraphs 2.37 to 2.42 of the Explanatory Memorandum to the amending Bills provide commentary on the intended operation of section 65.

5. The instrument provides rules for working out the volume of recycled waste oil that is an excisable good where a licensed manufacturer recycles waste oil and uses the recycled product.

6. The instrument is made under section 65 of the Excise Act.

Date of effect

7. The instrument commences on 1 July 2006.

Effect of the instrument:

8. The amount of excise duty payable is determined by multiplying the volume of excisable goods classified to item 10 of the Excise tariff by the rate of duty that applies to those goods.

9. This instrument provides rules to ensure that the correct amount of duty is paid by determining acceptable methods for working out the volume of recycled waste oil produced and then used by a licensed manufacturer.

10. Where a licensed manufacturer recycles waste oil for consumption in carrying on its own enterprise, the recycled product will generally not be stored in calibrated tanks or placed into containers which facilitate the measurement of volume. The product may, for example, be stored for a relatively short period in a holding tank or may be fed directly from the recycling process into consumption. It is appropriate to use alternative methods for the measuring of volume in such circumstances.

11. In these circumstances, the volume of excisable goods may be worked out by using a properly calibrated flow meter or a formula that calculates output on the basis of historical output from similar feedstock. Other methods providing comparable degrees of accuracy may be used also.

12. A formula must be capable of providing an accurate reflection of the volume of output. It should be reassessed for accuracy where there is change in recycling equipment or processes, or in the nature or source of the feedstock waste oil. Historical data will generally be dated within 6 months.

Impact of the instrument

13. The instrument provides greater administrative certainty around the rules for measuring the volume of excisable goods in these circumstances.

Consultation

14. On 1 June 2006 the Tax Office initiated a 2-week public consultation process on the legislative instruments arising from the Review, with the Assistant Treasurer approving the consultation prior to the related legislation being passed by Parliament.

15. The instruments and explanatory statements were published on the ATO website www.ato.gov.au in the form of drafts for consultation. The instrument, together with this explanatory statement, was included in that process.

16. Selected parties in industry were contacted and invited to comment on the content, form and language of the determination and explanatory statement.

Commissioner of Taxation
[30 June 2006]

Previous draft:
1 June 2006

Related Rulings/Determinations:
Excise (Volume—excisable beverages) Determination 2006 (No. 1)

Subject references:
Excise
Excisable goods
Excise duty
Beer excise

Legislative references:
Excise Act 1901 section 65
Excise Act 1901 section 77B

Excise Laws Amendment (Fuel Tax Reform and Other Measures) Act 2006
Excise Tariff Amendment (Fuel Tax Reform and Other Measures) Act 2006

Other references:

House of Representatives, *Hansard*, 7 November 1988, p 2482

Review of the Schedule to the Excise Tariff Act: industry discussion paper, Treasury, 2 June 2005

Explanatory Memorandum to the Excise Laws Amendment (Fuel Tax Reform and Other Measures) Bill 2006, Excise Tariff Amendment (Fuel Tax Reform and Other Measures) Bill 2006

ATO references

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