

EXC 2011/1 - Explanatory statement -



Excise (Volume of Liquid Fuels - Temperature Correction) Determination 2011 (No. 1)

Explanatory Statement

General Outline of Instrument

1. This Explanatory Statement is provided in accordance with section 26 of the *Legislative Instruments Act 2003*.
2. Under section 65 of the *Excise Act 1901* (Excise Act) the CEO may make rules for determining the volume 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.
3. This instrument is made under section 65 of the Excise Act. It provides rules for working out the excisable volume of liquid fuel that is being entered for home consumption, and for the purposes of working out the amount of excise duty payable on such fuel.
4. *Excise (Volume of Liquid Fuels – Temperature Correction) Determination 2011 (No. 1)* replaces and revokes *Excise (Volume of Fuels – Temperature Correction) Determination 2009 (No. 1)* (FRLI No. F2009L02547).

Date of effect

5. The determination will have effect from 1 December 2011.

Effect of this instrument:

6. The determination specifies the methods available for determining the volume of excisable liquid fuel. The determination also specifies the types of fuel and aggregated clearances as factors that permit the use of a particular method.
7. The new instrument is intended as a restatement of the previous instrument, adding in new definitions and clarifying and expanding on permissible method 1 for determining the volume of fuel by prescribing the appropriate volume correction factor (VCF) for fuel classifiable to sub-item 10.20 of the Schedule to the *Excise Tariff Act 1921*. The new instrument makes it clear that it only has application in relation to liquid fuels.
8. The compliance cost impact is considered to be low. The instrument will affect only a small proportion of businesses and confirms existing practice. Some taxpayers will need to be aware of the change and make some minor adjustments to their processes but these will be minimal. There will be no ongoing compliance cost.

The rules

9. The volume of liquid fuel must be determined at the time of delivery for home consumption using one of the permissible methods.
10. Pursuant to Method 1, a person who has aggregated clearances of liquid transport fuels exceeding 50,000 litres per accounting period must, depending on the type of fuel, use either the American Society for Testing and Materials (ASTM) volume correction factors or the Practical Alcohol Tables. Both available methods are used to convert the volume of fuel at ambient temperature to volume of fuel at 15 degrees Celsius.
Example: If 1 litre of diesel has a density of 840 kg/m³ at 15° Celsius, then 30,000 litres of diesel at 30° Celsius would need to be adjusted by the volume correction factor of 0.9873 m³ (as per the ASTM Petroleum Measurement Tables) to determine its volume at 15° Celsius. Application of the relevant factor would result in an adjusted volume of 29,619 litres. Excise duty is then calculated on 29,619 litres for a person who has aggregated clearances of transport fuels exceeding 50,000 litres per accounting period.
11. 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 fuel clearances may either correct the volume of fuel to 15 degrees Celsius (Method 1) or use the measured volume of fuel at ambient temperature (Method 2).
Example: Following on from the example at paragraph 10 if that person's aggregated clearances of liquid transport fuels are less than 50,000 litres per accounting period, that person may either correct the volume of fuel to 15° Celsius (i.e. 29,619 litres) or use the measured volume of fuel at ambient temperature (i.e. 30,000 litres).
12. A person who has clearances of fuels classified to sub-items 10.1, 10.2, 10.3, 10.15, 10.16, 10.25, 10.26, 10.27 and 10.28 of the Schedule to the *Excise Tariff Act 1921* in any quantity may use either Method 1 or 2.
13. A person must use one Method for the duration of an accounting period, unless authorised in writing by the CEO to do otherwise.
14. Aggregated clearances means the volume of liquid fuel delivered for home consumption in an accounting period of 12 months from all excise licensed establishment/s 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.
15. The period adopted for the calculation of aggregated clearances is the accounting period adopted for income tax purposes as provided in section 18 of the *Income Tax Assessment Act 1936*.
16. Liquid transport fuels are defined as gasoline (including that used in an aircraft), diesel, kerosene (for use in an aircraft), fuel oil, fuel ethanol, biodiesel and blends consisting primarily of gasoline or diesel.
17. For transport fuels classified as gasoline (including that used in an aircraft), diesel, kerosene (for use in an aircraft), fuel oil, biodiesel and blends consisting primarily of gasoline or diesel, the American Society for Testing and Materials (ASTM) *Petroleum Measurement Tables Volume Correction Factors, Volume VIII* are used to convert the volume of the fuel to 15° Celsius.
18. For transport fuels classified as fuel ethanol, the Practical Alcohol Tables are used to convert the volume of the fuel to 15° Celsius.

Consultation

19. Consultations on the original determination took place with major industry representatives through the Petroleum Corporate Consultative Forum in September 2007 and since that time through direct contact with affected entities. None of the industry consultation drew any comments that would indicate the proposals in the draft determination should not proceed.
20. Additional consultation on this determination took place with biodiesel and fuel ethanol representatives in September 2009, and in October 2009 through direct contact with affected entities. None of the industry consultation drew any comments that would indicate the proposals in the draft determination should not proceed.
21. Consultation was undertaken with the Revenue Analysis Branch and no monetary, financial or revenue impacts resulting from or associated with the volume of fuel legislative instrument were identified.
22. The Treasury have been consulted and do not have any issue with the determination.

James O'Halloran
Deputy Commissioner of Taxation
3/11/2011

Related Rulings/Determinations:

Previous Rulings/Determinations:

Subject references:

Excise

Excisable goods

Excise Duty

Legislative references:

Excise Act 1901 section 65

Excise Tariff Act 1921 (Schedule)

Legislative Instruments Act 2003 section 26

Income Tax Assessment Act 1936 section 18

Case references:

Other references:

American Society for Testing and Materials (ASTM) Petroleum Measurement Tables

Practical Alcohol Tables (PAT)
