



PGBR 2003/3W - Energy Grants: off-road credits for mining operations

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 This document has changed over time. This is a consolidated version of the ruling which was published on *17 August 2005*



Notice of Withdrawal

Product Grant and Benefit Ruling

Energy Grants: off-road credits for mining operations

Product Grant and Benefit Ruling PGBR 2003/3 is withdrawn with effect from today. PGBR 2003/3 is replaced by Product Grant and Benefit Ruling PGBR 2005/2.

1. PGBR 2003/3 explains the off-road credit entitlements for mining operations under the *Energy Grants (Credits) Scheme Act 2003* (the EGCS Act). In particular, PGBR 2003/3 dealt with the exclusion of limestone (other than agricultural use limestone) from the definition of minerals in section 20 of the EGCS Act. The Tax Office view expressed in PGBR 2003/3 (pending the outcome of an appeal to the full Federal Court) was that the exclusion of limestone (other than agricultural use limestone) means a person was not entitled to an off-road credit for diesel fuel purchased for use in the extraction from the ground of limestone or limestone material.
2. However, the majority of the full Federal Court in *Chief Executive Officer of Customs v. Adelaide Brighton Cement Ltd* [2004] FCAFC 183 (*Adelaide Brighton*) found that in certain circumstances, the extraction of limestone for its particular mineral content for use in the manufacture of cement is a 'mining operation' for the purposes of the previous off-road scheme.
3. PGBR 2005/2 takes into account the findings of the full Federal Court in *Adelaide Brighton*. As PGBR 2003/3 no longer reflects the Tax Office view in this matter, PGBR 2003/3 is therefore withdrawn.
4. The date of effect of PGBR 2005/2 is 1 July 2003. The Ruling has past and future application.

Commissioner of Taxation
17 August 2005

ATO references

NO: 2003/11684
ISSN: 1449-1583
ATOlaw topic: Energy Grants (Credits) Scheme ~~ Off-road ~~ mining