

PS LA 2013/4 (GA) - Apportioning taxable fuel used in a vehicle for powering the auxiliary equipment of a vehicle

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Apportioning taxable fuel used in a vehicle for powering the auxiliary equipment of a vehicle

This Law Administration Practice Statement sets out the percentage of taxable fuel accepted as a fair and reasonable apportionment of the fuel used in a vehicle for powering its auxiliary equipment.

This practice statement is an internal ATO document, and is an instruction to ATO staff.

Taxpayers can rely on this practice statement to provide them with protection from interest and penalties in the following way. If a statement turns out to be incorrect and taxpayers underpay their tax as a result, they will not have to pay a penalty. Nor will they have to pay interest on the underpayment provided they reasonably relied on this practice statement in good faith. However, even if they don't have to pay a penalty or interest, taxpayers will have to pay the correct amount of tax provided the time limits under the law allow it.

1. What this practice statement is about

This practice statement sets out what will be considered a fair and reasonable apportionment of the taxable fuel used to power the auxiliary equipment of a vehicle and therefore not subject to the road user charge.

2. Legislative context

Subsection 43-10(3) of the *Fuel Tax Act 2006* provides that, essentially, to the extent that taxable fuel is used in a vehicle (with a gross vehicle mass of more than 4.5 tonnes),¹ for travelling on a public road, the amount of the fuel tax credit for the fuel is reduced by the amount of the road user charge for the fuel.

The phrase, 'to the extent' indicates that it is only the taxable fuel used in the vehicle 'for travelling' that is subject to the road user charge.²

But in some heavy vehicles, fuel may be used not only for travelling, but also for powering auxiliary equipment of the vehicle, such as a concrete mixing barrel, or a loader crane.³ So, to apply the road user charge only to the fuel used for travelling, an apportionment of the fuel between the different uses will be required.

3. Fair and reasonable apportionment

The Auxiliary Equipment Apportionment Table sets out what we will accept as a fair and reasonable apportionment of the taxable fuel used to power the auxiliary equipment of the relevant vehicle and therefore not subject to the road user charge.

The use of the percentages in the table is not mandatory. The entity may choose to use a percentage they have determined by an apportionment methodology that is fair and reasonable in their circumstances.⁴

Changes to the apportionment methodology, or the use of an alternate fair and reasonable methodology, may be applied retrospectively, so long as this is done within the time limits for making claims for fuel tax credits.⁵

Note: normal substantiation requirements will still apply.

Auxiliary Equipment Apportionment Table

Item	Vehicle	%	Comment
1	Concrete transit vehicle	30	Includes the mixing barrel and all mechanism used in loading, unloading and transporting the concrete.
2	Commercial bus or coaches	5	Air conditioning for passenger comfort. All taxable fuel types.
3	Refrigerated vehicle	10	Refers to refrigeration unit of a vehicle transporting temperature sensitive goods. Includes fuel sourced from a separate or the same fuel tank as that which fuels the main engine.

¹ Section 41-20 operates to deny a fuel tax credit for taxable fuel acquired for use in a vehicle with a gross vehicle mass of 4.5 tonnes or less.

² See paragraph 23B of FTR 2008/1 for an explanation of when fuel is used for travelling.

³ See section 11 of PS LA 2010/3 for more information on what comprises auxiliary equipment.

⁴ See PS LA 2010/3.

⁵ The period of review is stipulated in section 155-35 of Schedule 1 to the *Taxation Administration Act 1953* (TAA). For fuel tax credit entitlements that arose before 1 July 2012, the entity is required to make the request for fuel tax credit entitlements, in relation to the alternate apportionment, within four years after the end of the tax period in which the original claim was made under section 105-55 of Schedule 1 to the TAA.

Item	Vehicle	%	Comment
4	Waste management collection	15	Equipment of a vehicle used to lift the bin to deposit contents into the vehicle's hopper and to compact the contents of the tray. Includes all configurations of bin lifting equipment. Does not include pumping in relation to waste management, this equipment relates to item 5.
5	All other vehicles with auxiliary equipment	5	For example, elevated work platforms, truck mounted loader cranes and pumping and tipping equipment for loading and unloading.

4. Example – taxable fuel used in auxiliary equipment

Billboard Advertising erects and maintains advertising billboards. The billboards are placed in prominent positions either near a public road or on the street front of large buildings. Billboard Advertising operates heavy vehicles with auxiliary equipment in this activity. The auxiliary equipment includes a truck mounted drill, a mounted mobile crane and an elevated work platform.

The vehicles travel on public roads to the place where the billboards are to be erected. The auxiliary equipment of the vehicle is utilised in erecting the billboard.

Fuel is used in the vehicle for travelling on the public road. The auxiliary equipment is powered through a power take off unit which draws power from the engine while the vehicle is idling and as such fuel is used in the vehicle to operate the auxiliary equipment.

Billboard Advertising apportions the fuel between the use in a heavy vehicle for travelling on a public road and for use in the auxiliary equipment by reference to item 5 in the Auxiliary Equipment Apportionment Table. Thus they deduct the road user charge from the fuel tax credit for 95% of the fuel used in the vehicle.

5. Auxiliary equipment used in vehicles maintaining public roads

A vehicle is considered not travelling when engaged in the construction, repair or maintenance of a public road.⁶ Therefore, the fuel tax credit for the taxable fuel used in powering the vehicle in this activity is not reduced by the amount of the road user charge.

This means that even where the vehicle has auxiliary equipment which is used in the road maintenance activity, for example the brushing and vacuuming mechanism of a street sweeper, apportionment between the taxable fuel used to power the vehicle and to power the auxiliary equipment is not required.

6. More information

For more information see:

- Fuel Tax Determination [FTD 2010/1](#) *Fuel tax: is apportionment used when determining the total fuel tax credits in calculating the net fuel amount under section 60-5 of the Fuel Tax Act 2006?*
- Fuel Tax Ruling [FTR 2008/1](#) *Fuel tax: vehicle's travel on a public road that is incidental to the vehicle's main use and the road user charge.*
- Law Administration Practice Statement [PS LA 2010/3](#) *Apportioning fuel for tax credits*

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⁶ Refer to paragraphs 21 to 23 of FTR 2008/1.