

***FTD 2010/1A3 - Addendum - Fuel tax: is apportionment used when determining total fuel tax credits in calculating the net fuel amount under section 60-5 of the Fuel Tax Act 2006 ?***

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## Addendum

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### Fuel Tax Determination

Fuel tax: is apportionment used when determining total fuel tax credits in calculating the net fuel amount under section 60-5 of the *Fuel Tax Act 2006*?

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Fuel Tax Determination FTD 2010/1 to reflect the repeal of the *Energy Grants (Cleaner Fuels) Scheme Act 2004* made as part of the *Energy Grants and Other Legislation Amendment (Ethanol and Biodiesel) Act 2015*. It also removes references to Part 3 of Schedule 3 to the *Fuel Tax (Consequential and Transitional Provisions) Act 2006* which only applies to fuel tax credits arising between 1 July 2006 and 30 June 2012.

FTD 2010/1 is amended as follows:

**1. Title**

Omit the title; substitute 'Fuel tax: apportionment may apply when determining total fuel tax credits in calculating the net fuel amount under section 60-5 of the *Fuel Tax Act 2006*'.

**2. Paragraph 1**

Omit 'Yes.'.

**3. Paragraph 2**

- (a) Omit 'of the FT Act; subject to the operation of Items 10 and 11 of Schedule 3 to the *Fuel Tax Act (Consequential and Transitional Provisions) Act 2006* (Transitional Act)'.
- (b) Omit footnote 2.

**4. Paragraph 3**

Omit the wording of footnote 3; substitute 'This includes taking into account the operation of Division 41.'.

**5. Paragraph 4**

Omit 'a cleaner fuel grant or'.

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## 6. Paragraph 5

- (a) Omit the first dot point (including footnote 5); substitute:
- section 41-5 between a use that entitles you to a fuel tax credit and one that does not, and between uses that give rise to different rates of fuel tax credit, taking into account the operation of Division 41;
- (b) At the end of the third dot point, insert 'and'.
- (c) Omit the fourth dot point.

## 7. Paragraph 10

Omit the dot points (including footnotes 6 and 7); substitute:

- one or more type of taxable fuel for use in multiple activities that either attract no fuel tax credit, a full fuel tax credit or the amount of your fuel tax credit entitlement is reduced by the road user charge; or
- more than one type of taxable fuel for use in the same activity.

## 8. Paragraphs 12

Omit the paragraph; substitute:

*Whelan Enterprises Ltd, which is registered for GST, acquires diesel fuel in bulk for use in its business during October 2018. The diesel fuel is acquired for three uses: Use in a generator to generate electricity, use in a forklift to load goods onto the trucks in the warehouse, and use in trucks with a gross vehicle mass of more than 4.5 tonnes to deliver goods via public roads. The entity is entitled to a full fuel tax credit for the first two uses and a fuel tax credit reduced by the road user charge for the third use.*

## 9. Paragraph 13

Omit the paragraph; substitute:

*The activities attract different rates of fuel tax credits. To work out its entitlement to fuel tax credits, Whelan Enterprises Ltd should separately calculate the quantity of diesel fuel acquired for the first two uses and the third.*

## 10. Paragraph 14

In first sentence omit 'vehicle'; substitute 'vehicles'.

## 11. Paragraph 16

- (a) Omit 'full, half or partial fuel tax credit'; substitute 'full fuel tax credit or a credit reduced by the road user charge'.
- (b) Omit 'generator, forklifts'; substitute 'generator/forklifts'.

**12. Paragraph 18**

Omit the paragraph; substitute:

*Vimes Company operates a mine site and uses petrol and diesel in four-wheel drives (light vehicles) for the same activity in its operation. Some light vehicles are used off public roads and others are used on public roads. Vimes Company has no entitlement to fuel tax credits for fuel used in its light vehicles while travelling on public roads. Vimes Company has a full fuel tax credit entitlement for fuel used in its light vehicles other than when travelling on public roads.*

**13. Paragraph 19**

Omit the last sentence; substitute:

*For example, Vimes Company may establish that the light vehicles are used 90% off-public roads and 10% on public roads, and therefore may use these figures to apportion between diesel fuel and petrol acquired for use in the light vehicles.*

**14. Paragraph 21**

Omit the note after the paragraph.

**15. Paragraph 23**

- (a) In the first dot point, omit all occurrences of 'of the FT Act'.
- (b) In footnote 8 omit 'Section 110-5 of the FT Act'; substitute 'Section 110-5'.
- (c) Omit the second dot point (excluding footnote 10); substitute:
  - it is assumed that if you are entitled to a fuel tax credit, you meet the requirements that entitle you to the credit and are not disentitled by the disentanglement rules in the FT Act.

**16. Paragraph 24**

Omit 'a cleaner fuel grant or'; substitute 'the'.

**17. Paragraph 26**

Omit the paragraph.

**18. Paragraph 31**

Omit footnote 14.

**19. Paragraph 35**

Omit the first sentence; substitute 'An entitlement to a fuel tax credit arises under Division 41 or Division 42.'

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## 20. Paragraph 36

- (a) Omit 'subsections 43-10(1) and'; substitute 'subsection'.
- (b) Omit 'a cleaner fuel grant or'.

## 21. Paragraph 37

Omit 'and a quantity of taxable fuel'.

## 22. Paragraph 38

Omit the paragraph; substitute:

The Commissioner considers that the phrase 'to the extent that' in section 41-5 contemplates apportionment between uses that give rise to different rates of fuel tax credits. The amount of a fuel tax credit entitlement will be determined solely with reference to Division 43.

## 23. Paragraph 40

Omit the last sentence (including footnote 15); substitute:

In the context of the operation of Divisions 41, 42 and 43, 'total fuel tax credits' for a particular period may comprise different types of fuel tax credits.

## 24. Paragraph 41

Omit the dot points (including footnotes 16 and 17); substitute:

- one or more types of taxable fuel for use in multiple activities that either attract no fuel tax credit, a full fuel tax credit or the amount of your fuel tax credit entitlement is reduced by the road user charge; or
- more than one type of taxable fuel for use in the same activity.

This Addendum applies on and from date of publication.

ATO references

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