

***FTR 2006/4A2 - Addendum - Fuel tax: fuel tax credits for taxable fuel acquired or manufactured in, or imported into Australia for use in carrying on an enterprise involving 'fishing operations' as defined in section 34 of the Energy Grants (Credit) Scheme Act 2003***

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## Addendum

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### Fuel Tax Ruling

Fuel tax: fuel tax credits for taxable fuel acquired or manufactured in, or imported into Australia for use in carrying on an enterprise involving 'fishing operations' as defined in section 34 of the *Energy Grants (Credit) Scheme Act 2003*

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Fuel Tax Ruling FTR 2006/4 to reflect:

- the amendments to the *Fuel Tax Act 2006* as a result of the *Tax Laws Amendment (2009 Measures No. 2) Act 2009*. That Act repealed Division 45 of the *Fuel Tax Act 2006*; and
- minor changes as a result of the *Excise Tariff Amendment (Taxation of Alternative Fuels) Act 2011*. That Act amended the commencement date on which certain gaseous fuels will enter the fuel tax credit system.

#### **FTR 2006/4 is amended as follows:**

##### **1. Paragraph 5**

Omit the second last dot point; substitute:

- during the period 1 July 2006 to 30 June 2009, if you claimed more than \$3 million each financial year in fuel tax credits you met the requirements of the Greenhouse Challenge Plus Programme or another programme determined, by legislative instrument, by the Environment Minister for the purposes of section 45-5 (as at 30 June 2009) of the FT Act<sup>4A</sup>; and

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<sup>4A</sup> For a full discussion on the Greenhouse Challenge Plus Programme and the entitlement to fuel tax credits, see paragraphs 14 to 14B of this Ruling.

## 2. Paragraph 14

Omit the paragraph; substitute:

14. During the period 1 July 2006 to 30 June 2009 your net fuel amounts for tax periods ending in a financial year were not to take into account more than \$3 million of fuel tax credits unless you were a member of the Greenhouse Challenge Plus Programme (GCPP) or another programme determined by the Minister for the Environment, Heritage and the Arts.<sup>10</sup> If you became a member of the GCPP within four years of the end of the financial year that you were unable to take such fuel tax credits into account, you could claim the entitlements as a decreasing fuel tax adjustment in the tax period you became a member of the GCPP.<sup>10A</sup>

14A. Division 45 of the FT Act has been repealed from 1 July 2009. Consequently, you are no longer required to be a member of the GCPP in order to take into account more than \$3 million in fuel tax credits in your net fuel amount for tax periods ending in a financial year.

14B. In addition, if you were not a member of the GCPP on 30 June 2009 then you are deemed to have been a member of the GCPP on that date.<sup>10B</sup> This means that you can take into account fuel tax credits in excess of \$3 million in your net fuel amount for any financial year between 1 July 2006 and 30 June 2009.<sup>10C</sup> These credits are claimed as a decreasing fuel tax adjustment. The decreasing fuel tax adjustment is attributable to the tax period ending 30 June 2009. You will have four years from the end of that tax period to claim the entitlement.<sup>10D</sup>

## 3. Paragraph 37

Omit '1 July 2011'; substitute '1 December 2011'

## 4. Footnote 21

Omit the footnote; substitute:

<sup>21</sup> Alternative fuels such as LPG, CNG and LNG begin to incur effective fuel tax from 1 December 2011.

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<sup>10</sup> Section 45-5 (repealed as of 1 July 2009).

<sup>10A</sup> Subsection 45-5(2) of the FT Act (as at 30 June 2009).

<sup>10B</sup> Subitems 16(4) and 16(5) of Part 3 of Schedule 7 to the *Tax Laws (2009 Measures No. 2) Act 2009*.

<sup>10C</sup> Subsection 65-5(5) of the FT Act (as at 30 June 2009).

<sup>10D</sup> Section 105-55 of Schedule 1 to the *Taxation Administration Act 1953* (TAA 1953).

**5. Footnote 22**

Omit the footnote; substitute:

<sup>22</sup> Alternative fuels such as LPG, CNG and LNG.

**6. Paragraph 42**

Omit '1 July 2011'; substitute '1 December 2011'

**7. Paragraph 77**

Omit the paragraph; substitute:

77. During the period 1 July 2006 to 30 June 2009 your net fuel amounts for tax periods ending in a financial year were not to take into account more than \$3 million of fuel tax credits unless you were a member of the Greenhouse Challenge Plus Programme (GCPP) or another programme determined by the Minister for the Environment, Heritage and the Arts.<sup>37</sup> If you became a member of the GCPP within four years of the end of the financial year that you were unable to take such fuel tax credits into account, you could claim the entitlements as a decreasing fuel tax adjustment in the tax period you became a member of the GCPP.<sup>37A</sup>

77A. Division 45 of the FT Act has been repealed from 1 July 2009. Consequently, you are no longer required to be a member of the GCPP in order to take into account more than \$3 million in fuel tax credits in your net fuel amount for tax periods ending in a financial year.

77B. In addition, if you were not a member of the GCPP on 30 June 2009 then you are deemed to have been a member of the GCPP on that date.<sup>37B</sup> This means that you can take into account fuel tax credits in excess of \$3 million in your net fuel amount for any financial year between 1 July 2006 and 30 June 2009.<sup>37C</sup> These credits are claimed as a decreasing fuel tax adjustment. The decreasing fuel tax adjustment is attributable to the tax period ending 30 June 2009. You will have four years from the end of that tax period to claim the entitlement.<sup>37D</sup>

**8. Paragraph 98**

Omit '1 July 2011'; substitute '1 December 2011'.

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<sup>37</sup> Section 45-5 (repealed as of 1 July 2009).

<sup>37A</sup> Subsection 45-5(2) of the FT Act (as at 30 June 2009).

<sup>37B</sup> Subitems 16(4) and 16(5) of Part 3 of Schedule 7 to the *Tax Laws (2009 Measures No. 2) Act 2009*.

<sup>37C</sup> Subsection 65-5(5) of the FT Act (as at 30 June 2009).

<sup>37D</sup> Section 105-55 of Schedule 1 to the TAA 1953.

## 9. Footnote 56

Omit the footnote; substitute:

<sup>56</sup> Alternative fuels such as LPG, CNG and LNG begin to incur effective fuel tax from 1 December 2011.

## 10. Footnote 57

Omit the footnote; substitute:

<sup>57</sup> Alternative fuels such as LPG, CNG and LNG.

## 11. Table to paragraph 174

(a) first row, fourth column

Omit '1 July 2011'; substitute '1 December 2011'.

(b) last row, fourth column

Omit:

Biodiesel, ethanol, liquefied petroleum gas, liquefied natural gas and compressed natural gas – full credit of the effective fuel tax paid on the fuel<sup>77</sup>

Substitute:

Liquefied petroleum gas, liquefied natural gas and compressed natural gas – full credit of the effective fuel tax paid on the fuel<sup>77</sup>

## 12. Table to paragraph 185

(a) last row, third column

Omit:

From 1 July 2011 to 30 June 2012 transitional provisions apply to allow a fuel tax credit for acquiring or manufacture in, or importing into, Australia alternative fuel for off-road business use. From 1 July 2012 a fuel tax credit is available under section 41-5 of the FT Act.

Substitute:

From 1 December 2011 to 30 June 2012 transitional provisions apply to allow a fuel tax credit for acquiring or manufacture in, or importing into, Australia alternative fuel<sup>87</sup> for off-road business use. From 1 July 2012 a fuel tax credit is available under section 41-5 of the FT Act.

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<sup>77</sup> LPG, CNG and LNG begin to incur effective fuel tax from 1 December 2011.

<sup>87</sup> Alternative fuels such as LPG, CNG and LNG.

**13. Legislative references**

Insert:

- FTA 2006 45-5(2)
- FTA 2006 65-5(5)
- TAA 1953 Sch 1 105-55
- Tax Laws Amendment (2009 Measures No. 2) Act 2009 Sch 7 16(4)
- Tax Laws Amendment (2009 Measures No. 2) Act 2009 Sch 7 16(5)

This Addendum applies on and from 1 July 2009.

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**Commissioner of Taxation**

16 November 2011

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ATO references

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