Addendum

Fuel Tax Ruling

Fuel tax: the meaning of 'acquire', 'manufacture' and 'import' in the expression 'taxable fuel that you acquire or manufacture in, or import into, Australia to the extent that you do so for use in carrying on your enterprise' in the *Fuel Tax Act 2006*

This Addendum amends Fuel Tax Ruling FTR 2007/1 to clarify the role of GST concepts in interpreting the meaning of 'acquire' for the purpose of the *Fuel Tax Act 2006*.

Fuel Tax Ruling 2007/1 is amended as follows:

1. Paragraph 144

After the paragraph insert:

> ***The relevance of GST concepts in determining whether an entity has acquired fuel for the purposes of the FT Act***
>
> 144A. The specific reference to GST definitions for some terms used in the FT Act, similar attribution rules for fuel tax credits and the alignment in the manner in which a fuel tax credit is to be claimed on an activity statement has led to some suggestion that the GST treatment of a supply or composite supply is relevant in determining whether fuel has been acquired (or sold or otherwise disposed of) for the purposes of the FT Act.
>
> 144B. This approach does not follow the intention, as expressed in the Revised Explanatory Memorandum, which is merely to align, as far as possible, the accounting and reporting arrangements for the fuel tax credit system with GST arrangements.[58A] It effectively extends the application of GST concepts beyond the scope that is intended under the FT Act. That is, unless there is a specific reference to GST definitions and concepts to determine the meaning of a term for the purposes of the FT Act, the meaning must be decided according to the ordinary principles of statutory interpretation.

[58A] Revised Explanatory Memorandum to the Fuel Tax Bill 2006 and the Fuel Tax (Consequential and Transitional Provisions) Bill 2006 at paragraph 2.9.

144C. In this regard, the treatment of supplies in the GST Act serves the specific purpose of determining liabilities and input tax credit entitlements under the GST Act and cannot be directly applied to determine whether an entity has acquired fuel under a transaction for the purposes of the FT Act. This is because the FT Act is only considering the transaction in relation to the fuel to determine whether an entity has acquired or disposed of the fuel for the purposes of section 41-5. There is no specific reference to GST terms and concepts in this context in the FT Act in determining whether an entity has acquired or disposed of fuel.

144D. Based on the meaning of acquire as essentially the transfer of property, in this context, in fuel, there can be a composite supply for the purposes of the GST Act, being a supply that includes fuel, and an acquisition of fuel for the purposes of the FT Act. The Commissioner considers that there is no anomaly in having both a composite supply for GST purposes and an acquisition of fuel for the purposes of the FT Act. For example, in relation to the sale of a vehicle that contains an amount of fuel, from a GST point of view, the transaction may be treated as involving one supply, that is, the supply of the vehicle. There is no separate supply of the fuel in the vehicle. However, for the purposes of the FT Act the fuel has been disposed of by the vendor and acquired by the purchaser; as at the time of delivery of the vehicle, the fuel still exists and is capable of being used as fuel in the vehicle and property in the fuel has passed to the purchaser.

2. Paragraph 330

Insert:

The relevance of GST concepts in determining whether an entity has acquired fuel for the purposes of the FT Act	144A

This Addendum applies on and from 1 July 2006.

Commissioner of Taxation
3 December 2008

ATO references
NO: 2006/20258
ISSN: 1834-1470
ATOlaw topic: Fuel Tax