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Australian Government  
Australian Taxation Office

# Excise guidelines for the fuel industry

June 2025



We acknowledge the Traditional Owners and Custodians of Country throughout Australia and their continuing connection to land, waters and community. We pay our respects to them, their cultures, and Elders past and present.

## OUR COMMITMENT TO YOU

The information in this publication is current at 27 June 2025.

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information in this Guide and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we must still apply the law correctly. If that means you owe us money, we must ask you to pay it but we will not charge you a penalty. Also, if you acted reasonably and in good faith, we will not charge you interest.

If you feel that this Guide does not fully cover your circumstances, or you are unsure how it applies to you, you can seek further assistance from us.

## About this Guide

This Guide is intended to be a reference tool for the fuel industry to assist its members to meet their excise obligations. It contains information about the excise system and how it applies to fuel products that are manufactured or produced (hereafter the reference to 'manufacture' or 'manufactured' is a reference to 'manufactured or produced', 'manufacture or produce' or 'manufacture or production' having regard to the relevant context unless otherwise specified) in Australia.

The Guide will provide you with a broad outline of excise law and your compliance obligations – it does not cover every aspect of how excise law applies to every situation.

Throughout this Guide, you will find important notes (look for the exclamation symbol ) that will help you with key information you should note.

You will also find 'more information' boxes (look for the right direction symbol ) that will show any further steps you may need to take or supplementary information you may need to refer to.

The 'danger' notes (look for the danger symbol ) give prominence to information that is critical to compliance. They suggest the highest level of urgency or facts you must comply with.

If this Guide does not fully cover your circumstances, seek help from us or a professional adviser. Contact us via:

- [ATO Online Services](#)
- phone **1300 137 290**, or
- write to us at  
Australian Taxation Office  
PO Box 3514  
ALBURY NSW 2640

We will ordinarily respond to electronic requests within 28 business days and finalise private rulings within 28 days of receiving all necessary information. If we cannot respond within 28 days, we will contact you within 14 days to obtain more information or negotiate an extended response date.

## TERMS WE USE

When we say 'you', we mean you as a member of the fuel industry who is either registered or wishes to register for excise.

Some technical terms used in this Guide may be new to you – some are defined in the legislation, others are not. These are indicated in quotation marks when first used and are explained at the end of that chapter.

The terms CEO, Collector, and Commissioner are all used in the legislation in reference to various officers. In most instances in this Guide we have not used these specific terms and simply refer to 'us' or 'we'.

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# 1 INTRODUCTION

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# 1 INTRODUCTION

## 1.1 PURPOSE

This Chapter deals with:

- what excise is
- an overview of excise legislation relevant to fuel
- who administers excise, and
- when you are involved in the excise system.

It provides a general introduction to excise as it relates to 'fuel products'.

## 1.2 WHAT EXCISE IS

The *Commonwealth of Australia Constitution Act* (Constitution) provides that only the Commonwealth can impose duties of excise.<sup>1</sup>

In *Ha v New South Wales*<sup>2</sup> (*Ha*), the High Court explained a duty of excise as follows<sup>3</sup>:

... duties of excise are taxes on the production, manufacture, sale or distribution of goods, whether of foreign or domestic origin. Duties of excise are inland taxes in contradistinction from duties of customs which are taxes on the importation of goods.

Excise imposed by the *Excise Tariff Act 1921* is imposed on goods dutiable under the Schedule to that Act (Schedule) and manufactured or produced in Australia. It can be seen that this clearly fits the definition of duty of excise as described by the High Court in the *Ha* case.

## 1.3 OVERVIEW OF EXCISE LEGISLATION

The principal legislative framework for the excise system, relating to fuel, is contained in the:

- *Excise Tariff Act 1921* (Excise Tariff Act)
- *Excise Act 1901* (Excise Act), and
- *Excise Regulation 2015* (Excise Regulation).

<sup>1</sup> Section 90 of the Commonwealth of Australia Constitution Act.

<sup>2</sup> *Ha v New South Wales* [1997] HCA 34.

<sup>3</sup> *Ha* [1997] HCA 34; 97 ATC 4674 at [4684], per Brennan CJ, McHugh, Gummow and Kirby JJ.

The Excise Tariff Act imposes excise on certain goods manufactured or produced in Australia<sup>4</sup> and the Excise Act sets out the administration of excise duties. The imposition of excise duties is in a separate Act to their administration because the Constitution provides that laws imposing taxation (such as excise) shall only deal with the imposition of tax.

To change the Excise Tariff Act, an amending Act must be passed through Parliament. However, there are parliamentary procedures which allow for changes to the excise tariff to apply immediately, pending amendment of the Act through Parliament. These procedures are known as tariff proposals.



For more information on tariff proposals, see [Section 1.3.1 Excise Tariff Act 1921](#)

### 1.3.1 Excise Tariff Act 1921

There are 3 key provisions in the Excise Tariff Act that operate to:

- impose excise duty
- identify excisable goods and the applicable duty rates (the Schedule), and
- index the duty rate.

#### Imposition of excise duty

Section 5 of the Excise Tariff Act imposes excise duty on goods that are listed in the Schedule and manufactured or produced in Australia. Excise duty is imposed at the time of manufacture or production of the relevant goods. The Schedule lists the various goods that are subject to excise and the rate of duty applicable. It is sometimes referred to as the excise tariff.

#### The Schedule of excisable goods and the duty rates

The Schedule is a table that lists the goods manufactured or produced in Australia that are subject to excise duty. These are called 'excisable goods'. The goods that are currently subject to excise fall within 3 broad groups:

- alcoholic beverages (other than wine) and spirits
- cigarettes and other tobacco products, and
- fuel and oils.

Within those 3 broad groups, the Schedule provides 8 different items and those items are (in most cases) further broken down into subitems. The table contains a description of the items and subitems and provides the rate of duty applicable to them.

The following is an extract from the fuel products section of the table.

<sup>4</sup> Section 5 of the Excise Tariff Act imposes excise duty on goods 'manufactured or produced'. In this Guide, the term manufactured means manufactured or produced unless otherwise specified.



Figure 1: Extract of the table in the Schedule to the Excise Tariff Act

Excise duties			
Item	Subitem	Description of goods	Rate of duty
10		Goods as follows:	
		...	
		(c) refined or semi-refined liquid products derived from petroleum, other than such products for use (other than in an internal combustion engine) in refining petroleum condensate or stabilised crude petroleum oil;	
		...	
		(f) biodiesel;	
		...	
	10.5	Gasoline (other than for use as fuel in aircraft)	\$0.508* per litre
	10.6	Gasoline for use as fuel in aircraft	\$0.03556* per litre
	10.10	Diesel (other than biodiesel)	\$0.508* per litre
	10.21	Biodiesel	\$0.508* per litre

\*Rate of duty as at 3 February 2025. For the current rates of duty, refer to [Excise duty rates](#) (referred to in this Guide as the Tariff working page or working tariff).

While we use the term ‘fuel’, the Schedule also includes goods that are not ultimately used as a fuel (in transport or for combustion), and as a result goods like paint thinners are classified to the Schedule even though they are not used as a fuel.

This Guide does not cover stabilised crude petroleum oil or condensate classified to items 20 and 21 respectively of the Schedule.

### Indexation of the duty rate

The rates of excise duty are set out in the Schedule. However, section 6A of the Excise Tariff Act provides that the rates of duty may increase every 6 months (generally 1 February and 1 August). The amount of any increase is calculated by reference to the All Groups Consumer Price Index published quarterly by the Australian Bureau of Statistics.

These increases are commonly referred to as indexation. We publish these in the Commonwealth Gazette and, for ease of reference, we provide a [working tariff](#) which shows an up-to-date rate taking account of the indexation increases.

Indexation increases also apply to rates set under a tariff proposal.

### **Tariff proposals**

Tariff proposals<sup>5</sup> are a means of changing the excise tariff so that the change is effective from the time it is proposed rather than after the enactment of an excise tariff amendment Act. Rates may be adjusted up or down or products may be added or removed under a tariff proposal.

Changes to the excise tariff can be notified in the Parliament or, if the Parliament is not sitting, by notice in the Gazette. We then apply the proposal as if it is law.

The tariff proposal is required to be validated by an Act within 12 months giving retrospective effect to the date of the proposal.<sup>6</sup>

You cannot commence proceedings against us for any action taken to collect the amount set by the tariff proposal during the periods specified in section 114 of the Excise Act unless it is sanctioned by a Supreme Court of a state or territory.<sup>7</sup>

Effectively this means you need to pay in line with a tariff proposal. Any increases in rates or introduction of new products through a tariff proposal must ultimately be levied by an amending Act, but we will protect the revenue by collecting amounts in line with the proposal.

If an amending Act validating the changes outlined within the tariff proposal is not passed within the prescribed periods, any additional amounts will be refunded to you.

### ***1.3.2 Excise Act 1901***

#### **All excisable goods are subject to our control**

Under section 61 of the Excise Act, all excisable goods are subject to the CEO's control until they are delivered for home consumption or exported to a place outside Australia. Excisable goods subject to the CEO's control are called 'underbond' goods.

The CEO is the Commissioner of Taxation.

Goods are delivered for home consumption when they are released into the Australian market in an authorised manner, whether through the lodgment and passing of an entry or under a periodic settlement permission.

<sup>5</sup> For an explanation of customs and excise tariff proposals, see [About Tariff Proposals](#).

<sup>6</sup> In the absence of a tariff amendment bill, tariff proposals then before the House may be affirmed towards the end of a period of sittings by means of a tariff validation bill.

<sup>7</sup> Section 115 of the Excise Act.

## Manufacture, storage and movement of excisable fuel products

Before you can legally manufacture '[excisable fuel products](#)' you need a manufacturer licence granted under the Excise Act.<sup>8</sup> Under this licence you are also permitted to store excisable goods of a kind specified in the licence upon which duty has not been paid including like products that you did not manufacture. It is an offence to manufacture excisable goods unless you have an excise manufacturer licence that specifies the goods you intend to manufacture.

If you are not a manufacturer, or you wish to store excisable goods upon which duty has not been paid and that are not of a kind specified in your manufacturer licence, you need a storage licence granted under the Excise Act that specifies the kind of excisable goods you wish to store.<sup>9</sup>

Before you can remove excisable fuel products from premises covered by a licence, on which duty has not been paid, you need permission (a movement permission) granted under the Excise Act.<sup>10</sup>

There are several types of movement permission that we can issue. These include:

- a 'one-off' permission to move goods specified in the permission to another place specified in the permission
- an ongoing permission to move goods of a kind specified in the permission to another place specified in the permission (and such a permission remains in place until revoked)
- an ongoing permission to move goods of a kind specified in the permission to any other place licensed to manufacture or store goods of that kind
- permission to deliver goods for export.

Generally, we will not grant permission to move excisable fuel products on which duty has not been paid to a place that is not covered by either a manufacturer licence or a storage licence or unless the place is a wharf or airport and the goods are for export.

 For more information about the excise licensing regime, refer to [Chapter 2](#) Licensing: Applications.

 For more information about movement permissions, refer to [Chapter 5](#) Movement permissions.

## Payment of duty on excisable fuel products

The Excise Tariff Act imposes duty when excisable fuel products are manufactured. The Excise Act specifies when the duty must be paid, how and what you must report to us, the relevant time to determine the rate of duty in force and provides a mechanism to require payment where duty has not been correctly accounted for on excisable fuel products.

<sup>8</sup> Section 25 of the Excise Act.

<sup>9</sup> Subsection 4(1) (definition of 'storage licence') and Part IV of the Excise Act.

<sup>10</sup> Section 61A of the Excise Act.

In general terms, duty must be paid on the goods before they are delivered from premises covered by a licence (other than being delivered to another premises covered by a licence). Permission may be granted to deliver the goods prior to paying the duty.



For more information about payment of duty, refer to [Chapter 6](#) Payment of duty.

### 1.3.3 Excise Regulation 2015

The Excise Regulation sets out provisions in relation to excisable goods such as:

- refunds and remissions, and
- drawbacks.



For more information about remissions, refunds and drawbacks, refer to [Chapter 7](#) Remissions, refunds, drawbacks and exemptions.

## 1.4 ADMINISTRATION OF EXCISE

The Commissioner of Taxation has the general administration of the Excise Act and the Excise Tariff Act.<sup>11</sup> This means you deal with the Australian Taxation Office (ATO) for Australian-manufactured fuel products.

Customs duty applies to imported fuel products. The Australian Border Force (ABF) is responsible for administration of the *Customs Act 1901* (Customs Act) and *Customs Tariff Act 1995* (Customs Tariff Act); however, the ATO has been delegated responsibility for administering imported fuel that is warehoused under the Customs Act.

However as most bulk imported fuel is blended in Australia with other fuel when transferred into storage tanks, the fuel is considered to be manufactured in Australia and as a result the duty liability transfers from the customs regime into the excise regime.



For more information about blending, refer to [Chapter 11](#) Blending.

Who you need to deal with is summarised in Table 1.

Table 1: Who you need to deal with

Type of fuel product	ABF	ATO
Australian-manufactured fuel products	No	Yes
Imported fuel products not for further manufacture in Australia	Yes	No

<sup>11</sup> Section 7 of the Excise Act and section 1A of the Excise Tariff Act.

Imported fuel products for further manufacture in Australia	Yes	Yes
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## 1.5 INVOLVEMENT IN THE EXCISE SYSTEM

You are involved in the excise system if you:

- manufacture fuel products (excisable goods)
- store or own fuel products on which duty has not been paid, or
- are seeking a refund, remission or drawback of excise duty.

## 1.6 MORE INFORMATION

If you need more information on excise, as it relates to fuel, contact us via:

- [ATO Online services](#)
- phone **1300 137 290**, or
- write to us at  
Australian Taxation Office  
PO Box 3514  
ALBURY NSW 2640

We will ordinarily respond to written information requests within 28 days. If we cannot respond within 28 days, we will contact you within 14 days to obtain more information or negotiate an extended response date.

Most of your business reporting and transactions can be done through [ATO Online services](#).

## 1.7 TERMS USED

### Excisable fuel products

Excisable goods are goods on which excise duty is imposed. Excise duty is imposed on goods that are listed in the Schedule and manufactured or produced in Australia.

As this Guide deals with fuel products, we have used the term excisable fuel products.

Excisable fuel products include:

- petrol
- diesel
- crude petroleum oil

- condensate
- heating oil
- kerosene
- liquid hydrocarbon solvents
- fuel ethanol
- biodiesel
- compressed natural gas (CNG)
- liquefied natural gas (LNG), and
- liquefied petroleum gas (LPG).

While oils and grease classified to item 15 of the Schedule are not technically fuel, we have included them in this generic term in this Guide.

This Guide does not cover stabilised crude petroleum oil or condensate classified to items 20 and 21 respectively of the Schedule.

## 1.8 LEGISLATION (quick reference guide)

In this Chapter, we have referred to the following legislation:

- *Excise Act 1901*
  - section 4 – definitions
  - section 7 – general administration of Act
  - section 25 – only licensed manufacturers to manufacture excisable goods
  - Part IV – manufacture, storage, producer and dealer licences
  - section 61A – permission to remove goods that are subject to CEO's control
  - section 114 – time for commencing action
- *Excise Tariff Act 1921*
  - section 1A – general administration of Act
  - section 5 – duties of excise
  - section 6A – indexation of rates of duty
  - The Schedule
- *Constitution*
  - section 90 – exclusive power over customs, excise, and bounties

## Amendment history

**27 June 2025**

Part	Comment
1.3.1	Updated to reflect the current duty rates.
Throughout	Updated in line with current ATO style and accessibility requirements.

## **2 LICENSING: Applications**

### **2.1 PURPOSE**

### **2.2 INTRODUCTION**

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2.2.2 LICENSING RULES

### **2.3 POLICY AND PRACTICE**

2.3.1 DIFFERENT LICENCE TYPES

2.3.2 RESPONSIBILITIES OF A LICENCE HOLDER

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2.4.4 MORE INFORMATION

### **2.5 PENALTIES THAT CAN APPLY IN RELATION TO LICENCES**

### **2.6 TERMS USED**

### **2.7 LEGISLATION (quick reference guide)**



## 2 LICENSING: Applications

### 2.1 PURPOSE

This Chapter deals with:

- why there is a licensing regime
- what a licence is
- different licence types
- what records need to be kept
- responsibilities of a licence holder
- how long a licence is valid for
- whether licences are transferable
- disclosure of your licensing information
- how to register for excise
- how to apply for a licence
- how to change your licence details, and
- penalties that can apply to offences in relation to licences.

### 2.2 INTRODUCTION

#### 2.2.1 WHY THERE IS A LICENSING REGIME

The excise duty attached to '[excisable fuel products](#)' forms a significant component of the overall value of the goods. A licensing regime helps the CEO maintain control of excisable goods and ensure the correct amount of duty is paid.

#### 2.2.2 LICENSING RULES

A licence enables you to manufacture or store excisable goods, or both. If you undertake these activities without a licence or contravene your licence conditions you are committing an offence and may be prosecuted.

A licence is issued to a specific entity and specifies the premises<sup>12</sup> where the activities may be undertaken. A licence may specify one or more premises and an entity may have multiple licences.

Licences can be issued to:

- individuals
- partnerships and companies in their own right, and
- individuals and companies in their capacity as trustees.

There may be different licensing processes depending on the type of entity applying for the licence.



A licence is not transferable between entities; see [Section 2.3.6](#) Transferring a licence.

## 2.3 POLICY AND PRACTICE

### 2.3.1 DIFFERENT LICENCE TYPES

There are 2 licence types:

- manufacturer, and
- storage.

A licence may specify one or more premises at which excisable goods may be manufactured or stored. A licence that only specifies one premises (single premises licence) also includes details of the kinds of goods allowed to be manufactured or stored and any conditions to which the licence is subject.

A licence issued to an entity in respect of multiple premises (entity level licence) will contain a schedule showing the address for each premises covered, goods allowed to be manufactured or stored in those premises and any conditions to which the licence is subject.

Broadly, if you have a manufacturer licence covering one premises and a separate storage licence covering another premises and you want to consolidate your licences, you will need an entity level manufacturer licence. This is because by limitation of the definition of the 2 licence types, an entity cannot undertake manufacture of excisable goods at premises that are not licensed for that manufacture.

If you have an entity level licence, you may also receive a general movement permission, which will allow you to move '[underbond](#)' goods of a kind specified in your permission from any premises covered by your licence to any other premises licensed to manufacture or store goods of that kind.

<sup>12</sup> Section 38 of the Excise Act.

## Manufacturer licence

You need a manufacturer licence to manufacture excisable goods.<sup>13</sup> The goods can only be manufactured at premises specified in your licence.<sup>14</sup>

'Manufacture' is defined in the Excise Act to include all processes in the manufacture of excisable goods.<sup>15</sup>

Guidance on how the courts would interpret the term 'manufacture' may be found in court decisions examining the meaning of 'manufacture' in the context of other legislation.

In summary, the courts have given the word 'manufacture' the meaning of either producing a thing which is different from its inputs or bringing a new article into existence by skill or knowledge.<sup>16</sup>

Processes that involved the application of knowledge, the application of skill, experience, services or labour which results in the conversion of materials into a saleable commodity may fall within the definition of 'manufacture'. The commodity must be different from the inputs which went into making it.

In an excise context, the conversion may result in a change in physical or chemical properties (or both) of goods, for example, in colour, shape, density, viscosity, distillation temperature, composition, texture, aroma or taste.



For more information on the ATO view on manufacture for the purposes of the Excise Act refer to Excise Ruling [ER 2012/1](#) *Excise: the meaning of the expression 'manufactured or produced' for the purposes of the Excise Acts*.

We consider that these common activities in relation to fuel are manufacture:

- certain crude oil and condensate production
- petroleum refining
- certain blending<sup>17</sup>
- recycling<sup>18</sup>
- biodiesel manufacture
- fuel ethanol manufacture
- production of LPG or LNG

<sup>13</sup> Section 4 of the Excise Act. The term 'licensed manufacturer' means 'a person or partnership who holds a manufacturer licence'.

<sup>14</sup> Division 1 of Part III of the Excise Act.

<sup>15</sup> Section 4 of the Excise Act.

<sup>16</sup> *Commissioner of Taxation v Jax Tyres Pty Ltd* [1984] FCA 466; *MP Metals Pty Ltd v Commissioner of Taxation (Cth)* [1968] HCA 89; *Commissioner of Taxation v Softex Industries Pty Ltd (formerly Cosco Holdings Pty Ltd)* [2001] FCA 397; *Re Searls Ltd* (1933) 33 SR (NSW) 7.

<sup>17</sup> Refer to ER 2012/1.

<sup>18</sup> Refer to ER 2012/1.

- production of CNG for transport use.

Excise manufacturer licences specify the manufacturing activity or activities permitted. For example, your licence may show approved activities such as:

- oil refining
- recycling
- biodiesel manufacture, etc.

You must have a manufacturer licence before starting to manufacture excisable fuel products. This means that you cannot test your manufacturing equipment or produce samples to market to potential buyers if you do not hold a licence.

### **Exemptions from excise duty**

The Excise Act and Excise Tariff Act specifically exclude certain activities from being excise manufacture. They also exempt certain goods from excise duty.

If you only undertake activities specifically excluded from being excise manufacture, or manufacture goods that are specifically exempt from excise duty, you do not need a manufacturer licence. However, a manufacturer licence is still required to lawfully manufacture goods which have a 'free' duty rate or are eligible for a full remission of duty.

LPG and LNG are exempt from excise duty when a licensed manufacturer uses the fuel at premises specified in a manufacturer licence in the process of manufacturing:

- petroleum condensate or stabilised crude petroleum oil, or
- LPG, LNG or other hydrocarbons.

This is provided the manufacture of the goods is done in accordance with a manufacturer licence.<sup>19</sup>

CNG is exempt from excise duty if compressed for use other than as a fuel in a motor vehicle. There are some instances when CNG is compressed for use in a motor vehicle and is also exempt, specifically where CNG is:

- compressed other than in the course of carrying on an enterprise, or
- compressed at residential premises in equipment that is not capable of compressing more than 10 kilograms per hour or an amount per hour specified in the regulations, and the CNG is not sold or otherwise supplied in the course of carrying on an enterprise.

CNG is also exempt if it is compressed for use in forklifts primarily off public roads, or motor vehicles of a kind prescribed in the regulations.<sup>20</sup>

<sup>19</sup> Section 77HB of the Excise Act.

<sup>20</sup> Section 77HA of the Excise Act.

Certain liquid fuels are also exempt from excise duty when used in refining of petroleum condensate or stabilised crude petroleum oil. This exemption applies as these goods are not classified to item 10 of the Schedule to the Excise Tariff Act. However, fuel for use in an internal combustion engine within a refinery is not exempt.

The blending of fuel is manufacture for the purposes of the Excise Act if it is of one or more of the following (with or without other substances)<sup>21</sup>:

- petroleum condensate or stabilised crude petroleum oil
- topped crude petroleum oil
- refined or semi-refined liquid petroleum products derived from petroleum
- liquid hydrocarbon products derived through recycling manufacturing or any other process
- denatured ethanol for use as fuel in an internal combustion engine
- biodiesel
- LPG
- LNG, or
- CNG.

However certain blending of those products is excluded from being manufacture.<sup>22</sup> This is where:

- the blending is of goods that have all had duty (customs or excise) paid, and apart from denatured ethanol for use as fuel in an internal combustion engine or biodiesel, the rate of each of those duties is the same<sup>23</sup>
- the product is covered by a determination made under subsection 95-5(1)<sup>24</sup> of the *Fuel Tax Act 2006* (Fuel Tax Act)<sup>25</sup>
- the product is covered by a determination under subsection 77H(4) of the Excise Act<sup>26</sup>, or
- blends of one type of gaseous fuel where excise or customs duty has been paid on all fuel components of the blend at different rates and no remission has applied to any of the fuel.



For more information on fuel blending, refer to [Chapter 11](#) Blending.

<sup>21</sup> Section 77G of the Excise Act.

<sup>22</sup> Section 77H of the Excise Act.

<sup>23</sup> Paragraph 77H(1)(a) of the Excise Act.

<sup>24</sup> Where it is unclear whether certain blends constitute a fuel that can be used as a fuel in an internal combustion engine, the Commissioner is able to make a determination under subsection 95-5(1) of the *Fuel Tax Act 2006* that blends of fuel and other products do not constitute a fuel.

<sup>25</sup> Paragraph 77H(1)(b) of the Excise Act.

<sup>26</sup> The CEO may, by legislative instrument, exclude certain blends from being covered by item 10(g) of the Schedule to the Excise Tariff Act. These blends would be determined not to cause a risk to the revenue or risk the integrity of other measures.

### **Using imported fuel products in the manufacture of excisable fuel products**

Imported fuel products are subject to customs duty at a rate that is equivalent to the duty on excisable fuel products (except for denatured ethanol for use as fuel in an internal combustion engine or biodiesel). If you intend to use imported fuel products in the manufacture of excisable products you will not need to pay the customs duty if you follow the provisions in the Customs Act.<sup>27</sup> If you have any questions regarding this you should contact the ABF.

In general, if your premises are specified in an excise manufacturer licence and also in a customs warehouse licence you can enter the imported fuel products for warehousing and then use the imported fuel products to manufacture excisable goods. The liability to pay the customs duty on the imported fuel products is extinguished (except for any *ad valorem* duty that is payable) upon the manufacture of excisable goods.<sup>28</sup> You will then be liable to pay excise duty on the excisable fuel products.

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#### **Example 2A**

*Michaels Renewable Fuels imports 10,000 litres of renewable diesel which it intends to blend with mineral diesel obtained underbond (duty not paid) from a local refiner to produce an R20 blend to be sold into the Australian marketplace.*

*Michaels Renewable Fuels has a customs warehouse licence for the facility where the imported renewable diesel will be stored. Michaels Renewable Fuels also has an excise manufacturer licence for the same facility.*

*The renewable diesel is entered for warehousing with the ABF at the time it is imported using a warehouse declaration entry form.*

*Michaels Renewable Fuels blends the 10,000 litres of renewable diesel with 40,000 litres of locally manufactured diesel and reports the 10,000 litres of renewable diesel used in the blend to the ABF by completing a Nature 30 form (N30).*

*Michaels Renewable Fuels delivers the 50,000 litres of R20 blend into the Australian domestic market in accordance with their [periodic settlement permission](#) and pays the applicable excise duty to the ATO.*

*Michaels Renewable Fuels is not required to pay customs duty on the imported renewable diesel product as it was entered for warehousing and used in the manufacture of excisable goods.*

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<sup>27</sup> This does not apply to denatured ethanol for use as fuel in an internal combustion engine or biodiesel where customs duty cannot be extinguished and is payable on blending.

<sup>28</sup> Section 105B of the Customs Act 1901.

You can only manufacture goods at the premises specified in your licence.<sup>29</sup> We may also give you written directions about what parts of your factory any manufacturing process may be undertaken in and where inputs used in manufacture, and excisable fuel products, respectively are to be kept.<sup>30</sup>

### Storage licence

If you have a manufacturer licence that covers only one premises and you wish to store excisable fuel products upon which duty has not been paid at a place that is not specified in your licence you will either require a separate storage licence for that premises or vary your existing licence to cover an additional premises. As fuel blending is considered to be manufacture for excise purposes, storage licences for fuel are generally only applicable where the only fuel products to be stored there are packaged goods that will not undertake any further blending or other forms of manufacture.

If you do not manufacture excisable goods at a particular premises but wish to store excisable goods upon which duty has not been paid, (whether owned by you or someone else), you will require a storage licence.

Regardless of who owns the goods, anyone who has, or has been entrusted with the possession, custody or control of excisable goods is responsible for the security of the goods and may be liable to pay an amount equivalent to the duty if excisable goods subject to the CEO's control are not kept safely or are not satisfactorily accounted for.<sup>31</sup>

A storage licence will specify the type of excisable fuel products and premises covered by the licence. It will also specify the activities, if any, you can undertake in relation to those goods (such as packaging in bottles, tins or drums), and whose excisable goods you can store.<sup>32</sup>



If you hold a valid manufacturer licence, you do not need a separate storage licence to store goods that you manufacture at those premises. The storage of your manufactured goods, whilst not manufacture in itself, is a normal part of the chain of events in manufacturing goods.

### 2.3.2 RESPONSIBILITIES OF A LICENCE HOLDER

You are responsible for the secure storage of all excisable fuel products held on your premises or under your control (or direction) and must store excisable fuel products only at premises that are covered by your licence.<sup>33</sup>

You must be able to account for the excisable goods in your possession, custody or control to our satisfaction when requested to do so.

<sup>29</sup> Section 27 of the Excise Act.

<sup>30</sup> Section 51 of the Excise Act.

<sup>31</sup> Section 60 of the Excise Act.

<sup>32</sup> Definition of 'storage licence' in subsection 4(1) of the Excise Act.

<sup>33</sup> Section 53 of the Excise Act.

You may be responsible for paying an amount equal to the excise duty that would have been payable on any stolen, missing or unaccounted for excisable fuel products.<sup>34</sup>

If we take stock of excisable fuel products manufactured, and the materials you use in the manufacturing process, and it appears to us that not all the duty that should have been paid has been paid, you must pay the difference between the amount paid and the amount that should have been paid unless you can account for the deficiency to our satisfaction.<sup>35</sup>



If you wish to destroy any excisable fuel products, you must first obtain permission from us to do so.

You must not move underbond excisable fuel products without our approval. This includes moving excisable fuel products from premises covered by your licence to any other location or for export.<sup>36</sup>



For more information about obtaining permission to move excisable fuel products, refer to [Chapter 5](#) Movement permissions.

You must comply with the Excise Act and all the conditions of your licence.<sup>37</sup>

You must keep, retain and produce records in accordance with a direction under '[section 50](#)' of the Excise Act.

You must ensure excisable fuel products are only delivered into '[home consumption](#)' with appropriate authority, such as in accordance with a periodic settlement permission or Delivery authority.<sup>38</sup>

You must pay the correct amount of excise duty if you are the owner or manufacturer and you deliver the goods into home consumption.<sup>39</sup>

You must provide all reasonable facilities to enable us to exercise our powers under the Excise Act.<sup>40</sup>

You must provide sufficient lights, correct weights and scales, and all labour necessary for:

- weighing material received into your factory
- weighing all excisable goods manufactured in your factory, and
- taking stock of all material and excisable goods contained in your factory.<sup>41</sup>

<sup>34</sup> Section 60 of the Excise Act.

<sup>35</sup> Section 62 of the Excise Act.

<sup>36</sup> Section 61A of the Excise Act.

<sup>37</sup> Section 26 of the Excise Act.

<sup>38</sup> Sections 58 and 61C of the Excise Act.

<sup>39</sup> Section 54 of the Excise Act.

<sup>40</sup> Section 49 of the Excise Act.

<sup>41</sup> Section 52 of the Excise Act.





For more information about duty liability and methods of payment, refer to [Chapter 6](#) Payment of duty.

### 2.3.3 WHAT ELSE WE CAN DO

#### Access

We have the right to enter premises covered by your licence at any time and can examine and take account of all the goods at the premises.<sup>42</sup> Note: we will usually only seek to enter your premises during normal business hours.

#### Stop vehicles

We can stop any vehicle leaving premises covered by your licence and check that there is proper documentation for excisable fuel products leaving the premises. We can question the driver about any goods in the vehicle. We can direct that the vehicle be unloaded and goods taken to particular parts of the premises for further examination. We must not detain a vehicle for longer than is necessary to do the checking.<sup>43</sup>

#### Search vehicles

We can stop and search any vehicle (not just vehicles leaving a premises covered by a licence) without a warrant if we have reasonable grounds for believing that the vehicle contains excisable fuel products and that the vehicle has been used, is being used or will be used in the commission of an offence under the Excise Act (and certain offences in the *Crimes Act 1914* (Crimes Act)<sup>44</sup> and Criminal Code<sup>45</sup> relating to accessory after the fact, attempt to commit an offence, aid and abet someone to commit an offence and conspiracy to commit an offence).<sup>46</sup>

#### Examine goods

We can open packages and examine, weigh, mark and seal any excisable fuel products that are subject to [‘excise control’](#) and, if you are a manufacturer, lock up, seal, mark or fasten any fuel products in or on your factory.<sup>47</sup>

We can also:

<sup>42</sup> Subsection 86(2) of the Excise Act.

<sup>43</sup> Section 87 of the Excise Act.

<sup>44</sup> Section 6 of the *Crimes Act 1914*.

<sup>45</sup> Sections 11.1, 11.2 and 11.5 of the Schedule to the *Criminal Code Act 1995*.

<sup>46</sup> Section 87AA of the Excise Act.

<sup>47</sup> Section 91 of the Excise Act.

- supervise the manufacture of excisable fuel products<sup>48</sup>, and
- take samples of materials, partly manufactured excisable fuel products and excisable fuel products subject to excise control, and fuel products that we have reasonable grounds for suspecting are excisable fuel products on which duty has not been paid.<sup>49</sup>

### 2.3.4 KEEPING RECORDS

The Excise Act provides that a licence holder shall<sup>50</sup>:

- (a) keep such records and furnish such returns as directed
- (b) keep these records for the period directed, and
- (c) on demand, produce those records to us.

Any such direction will be in writing and included with your licence. We can amend this direction at any time and will provide written notification of this to you.

We can inspect and take copies of any records kept as directed.

If you cease to hold an excise licence you must still keep all records of your previously licensed activities. Records must be kept for the period of time as directed.

### 2.3.5 LICENCE DURATION

Your licence does not have an expiry date. Your licence stays in force until it is cancelled either by the Collector<sup>51</sup> or at your request.<sup>52</sup>

### 2.3.6 TRANSFERRING A LICENCE

Generally you cannot transfer your licence to another individual, business entity or premises. The proposed new licence holder must apply for a new licence. You must also request cancellation of your current licence if you are no longer carrying out an excise activity. It is important that you advise us of any change before it takes effect.

The exception to the above rule arises when a licence holder dies. If this is the case, the licence is taken to be transferred to the person's legal personal representative. This allows for the finalisation of the

<sup>48</sup> Section 46 of the Excise Act.

<sup>49</sup> Section 106 of the Excise Act.

<sup>50</sup> Section 50 of the Excise Act.

<sup>51</sup> Subsection 4(1) of the Excise Act defines the Collector as the CEO or in relation to a section of an Excise Act for which a person is an authorised officer – that authorised officer.

<sup>52</sup> Section 39E of the Excise Act.

affairs and, unless cancelled earlier, the licence is taken to be automatically cancelled 3 months after the licence holder dies.<sup>53</sup>



For more information about cancelling licences, refer to [Chapter 4](#) Licensing: Suspension and cancellation.

### 2.3.7 DISCLOSING LICENSING INFORMATION

As well as the protection provided by the *Privacy Act 1988*, the tax laws have secrecy provisions about using and disclosing taxpayer information. We can only look at, record, discuss or disclose information about you when it is a necessary part of our work, or where the law specifies that we may.

Subdivision 355-B of Schedule 1 to the *Taxation Administration Act 1953* (TAA) allows us to record or disclose information about you in certain circumstances. For example, the Excise Act specifically allows us to disclose information about you to the ABF.

In relation to licensing information, the TAA specifically allows us to disclose information about:

- whether another person holds a current excise licence, and
- any conditions that apply to their licence.

The ATO is lawfully required to publish and maintain a public register on the ATO website, disclosing the name of the licence holders, their Australian Business Number (ABN) and the name of the Act under which the licence was granted.<sup>54</sup> This will assist business to identify entities that are licensed to manufacture and store excisable and excise equivalent goods<sup>55</sup>.

Information may be disclosed by us in the performance of our duties and would cover disclosing information:

- to a person dealing or proposing to deal with another person in relation to goods subject to excise control, and
- provided we are satisfied that disclosure is necessary for the purposes of ensuring the dealing or proposed dealing is in accordance with excise law.

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#### Example 2B

*Raul is licensed under the Excise Act to manufacture biodiesel. Tim also has a licence to manufacture issued under the Excise Act to allow him to blend biodiesel with diesel to produce biodiesel blends. Tim wants to buy 10,000 litres of biodiesel underbond from Raul. Raul contacts us to check that Tim's licence*

<sup>53</sup> Section 390 of the Excise Act.

<sup>54</sup> Section 40 of the Excise Act.

<sup>55</sup> Section 4(1) of the *Customs Act 1901* defines 'excise-equivalent goods' as those goods prescribed by the *Customs Regulation 2015*. They are generally imported goods which would attract an excise duty if manufactured in Australia.

*to manufacture is still current. We are permitted to divulge details of Tim's licence to Raul to allow Raul to fulfil his obligations under the Excise Act*

### Example 2C

*Janice manufactures fuel at her licensed premises. Janice's storage tanks are full and she needs to find additional storage space for her finished fuel products. Ryan offers to store her fuel underbond. Before delivering her fuel underbond to Ryan's premises, Janice needs to check that Ryan's premises are covered by a manufacturer licence to manufacture and store excisable fuel products, and so contacts the ATO.*

*If we decide that the disclosure is necessary, we must provide the information in writing to the person who requires it. If the matter is urgent, we may advise by phone. However, we must later confirm the information in writing.*

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Anyone who receives licensing information should use it only for the purpose for which it was given. Any other use may be unlawful.

Note: the TAA imposes certain obligations on you concerning the on-disclosure of information that affects another person.<sup>56</sup> The *Privacy Act 1988* imposes certain obligations on you concerning the privacy of information that you have received about an individual. Further information can be obtained from the [Office of the Australian Information Commissioner](#).

Our decision in relation to the disclosure of protected information is not a reviewable decision. However, you have the right to make a complaint to the Commonwealth Ombudsman about a range of administrative actions we take or the Australian Information Commissioner if you think we have breached the *Privacy Act 1988* in dealing with your personal information.



For information about your review rights, refer to [Chapter 8](#) Reviews and objections.

## 2.4 PROCEDURES

### 2.4.1 REGISTERING FOR EXCISE

You must register for excise before you can be issued with a licence to store or manufacture excisable fuel products.

While it is not compulsory to provide an ABN or tax file number (TFN) for registration, it will help us to process your application.

<sup>56</sup> Subdivision 355-C of Schedule 1 to the TAA.

If you need an ABN, phone **1300 657 162** for a registration pack. You can lodge your completed ABN registration form with your completed excise registration application.



To register for excise, complete an [Excise registration](#).

## 2.4.2 APPLYING FOR A LICENCE

If you would like to apply for a manufacturer or storage licence:

- contact us by phone on **1300 137 290**, and
- lodge an [Excise registration](#) together with all the required supporting documents (see below).<sup>57</sup>

Our staff will:

- discuss your particular circumstances with you
- give you advice about the appropriate licence or licences
- explain how to apply
- explain your ongoing obligations as a licence holder, and
- provide you with a licence application form.



There is no charge for an excise licence.

Before lodging your application form, make sure you have included the required supporting documents. Your application form contains information to help you work out which supporting documents you must provide. You may also need to complete other excise forms, depending upon your proposed activities.

Supporting documents include:

- an accurate plan of the premises that clearly indicates the area for manufacture or storage
- a [Fit and proper person declaration](#)
- an application for permission to move underbond, and
- if requested by us, a Consent to a national criminal history check – excise.



For more information about movement permissions, refer to [Chapter 5](#) Movement permissions.



To lodge your completed application form and supporting documents:

- lodge online using [ATO Online Services](#), or
- post them to  
Excise Licensing Group  
Australian Taxation Office

<sup>57</sup> Section 39 of the Excise Act.

PO Box 3514  
ALBURY NSW 2640



You must not manufacture or store excisable goods before your licence has been granted.<sup>58</sup>

We will ordinarily respond to written information requests within 28 days. If we cannot respond within 28 days, we will contact you within 14 days to obtain more information or negotiate an extended response date.

### Applying to vary a licence

Where you hold an existing manufacturer or storage licence, you can apply to vary your licence<sup>59</sup> to:

- add new premises to your existing manufacturer or storage licence
- remove one or more of the premises from your licence (as long as your licence will still cover at least one premises)
- consolidate your existing licences into one licence that covers multiple premises.

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### Example 2D

*Frank's Fuel Pty Ltd, operating under one ABN holds one storage and 3 manufacturer licences and wants to consolidate the licences into one licence. Frank's Fuel therefore apply to vary one of their existing manufacturer licences to cover the additional premises covered in the 3 other licences.*

*The ATO grants the variation with the existing nominated manufacturer licence covering all the premises and notifies in writing of the cancellation of the other 3 licences, as they no longer cover any premises.<sup>60</sup> As part of the new entity level licence, Frank's Fuel are issued a schedule which specifies the premises covered, the type of excisable goods that can be manufactured and stored, activities authorised to be undertaken at the premises and any special conditions imposed on the licence.*

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You must not manufacture or store excisable goods at new premises before your licence has been varied.<sup>61</sup>

We will ordinarily respond to written information requests within 28 days. If we cannot respond within 28 days, we will contact you within 14 days to obtain more information or negotiate an extended response date.

<sup>58</sup> Sections 25 and 117 of the Excise Act.

<sup>59</sup> Sections 39FA and 39LA of the Excise Act.

<sup>60</sup> Section 39FB of the Excise Act.

<sup>61</sup> Sections 25 and 117 of the Excise Act.

### 2.4.3 CHANGING LICENCE DETAILS

We can amend your licence for changes that do not involve a change of entity or physical location. This includes a change of:

- business name (that is your trading name)
- postal address, or
- street name or property address made by a relevant authority.

A change in composition of a partnership does not affect the continuity of the partnership's licence. Any one or more of the partners may act on behalf of the partnership in notifying changes.<sup>62</sup>

You must advise us of any of these changes within 30 days. We will then provide you with an amended licence.

### 2.4.4 MORE INFORMATION

If you need more information on licensing matters, contact us via:

- phone **1300 137 290**
- [ATO Online Services](#), or
- write to us at  
Australian Taxation Office  
PO Box 3514  
ALBURY NSW 2640

## 2.5 PENALTIES THAT CAN APPLY IN RELATION TO LICENCES

The following are the penalties that may apply after conviction for an offence.

### Manufacture

If you manufacture excisable fuel products without a manufacturer licence, the penalty is a maximum of 2 years in prison or the greater of 500 '[penalty units](#)' and 5 times the amount of duty on the excisable fuel products.<sup>63</sup>

If you manufacture excisable fuel products contrary to the Excise Act or any conditions specified in your licence, the penalty is a maximum of 2 years in prison or 500 penalty units.<sup>64</sup>

<sup>62</sup> Section 6A of the Excise Act.

<sup>63</sup> Section 25 of the Excise Act.

<sup>64</sup> Section 26 of the Excise Act.

If you manufacture excisable fuel products at premises that are not specified as manufacturing premises in your licence, the penalty is a maximum of 2 years in prison or the greater of 500 penalty units and 5 times the amount of duty on the excisable fuel products.<sup>65</sup>

### **Keeping or storing excisable goods without permission**

If you possess or have custody or control of excisable fuel products without permission, the penalty is a maximum of 2 years in prison or the greater of 500 penalty units and 5 times the amount of duty on the excisable fuel products.<sup>66</sup>

### **False or misleading statements**

If you make a statement to us that is false or misleading, or make an omission from a statement that makes it false or misleading, the penalty is a maximum of 50 penalty units.

However, if that false or misleading statement is in respect of duty payable on particular goods, the penalty is a maximum of 50 penalty units and twice the amount of duty payable on those goods.<sup>67</sup>

### **Records**

If you do not keep, retain and produce records as directed, the penalty is a maximum of 30 penalty units.<sup>68</sup>

### **Directions**

If you do not comply with a direction in regard to what parts of the factory can be used for various matters, the penalty is 10 penalty units.<sup>69</sup>

### **Facilities etc. of a licensed manufacturer**

If you, a licensed manufacturer, do not provide all reasonable facilities for enabling us to exercise our powers under the Excise Act, the penalty is a maximum of 10 penalty units.<sup>70</sup>

If you do not provide sufficient lights, correct weights and scales, and all labour necessary for weighing material received into, and all excisable fuel products manufactured in, your factory and for taking stock

<sup>65</sup> Section 27 of the Excise Act.

<sup>66</sup> Section 117 of the Excise Act.

<sup>67</sup> Section 120 of the Excise Act.

<sup>68</sup> Section 50 of the Excise Act.

<sup>69</sup> Section 51 of the Excise Act.

<sup>70</sup> Section 49 of the Excise Act.



of all material and excisable fuel products contained in your factory, the maximum penalty is 10 penalty units.<sup>71</sup>

### **Marks and seals**

If we mark or seal excisable fuel products or fasten, lock or seal any plant in your factory and you alter, open, break or erase the mark, seal, fastening or lock, the maximum penalty is 50 penalty units.<sup>72</sup>

## **2.6 TERMS USED**

### **Excisable fuel products**

Excisable goods are goods on which excise duty is imposed. Excise duty is imposed on goods that are manufactured or produced in Australia and listed in the Schedule to the Excise Tariff Act.

As this Guide deals with fuel products, we have used the term excisable fuel products.

Excisable fuel products include:

- petrol
- diesel
- renewable diesel
- crude petroleum oil
- condensate
- heating oil
- kerosene
- fuel ethanol, and
- biodiesel
- compressed natural gas (CNG)
- liquefied natural gas (LNG)
- liquefied petroleum gas (CNG).

### **Excise control**

Goods are subject to excise control from the point of manufacture until they have been delivered into 'home consumption' or for export.

<sup>71</sup> Section 52 of the Excise Act.

<sup>72</sup> Section 92 of the Excise Act.

Goods subject to excise control cannot be moved, altered or interfered with except as authorised by the Excise Act.

### **Delivery for home consumption**

'Home consumption'<sup>73</sup> is the term used in the Excise Act and this Guide.

Most commonly, excisable goods will be delivered for home consumption when they are physically removed from premises covered by a licence. However, excisable goods may also be delivered for home consumption through their use within those premises (for example, using fuel to run equipment in premises covered by your licence).

Excisable goods will NOT be delivered for home consumption if they are delivered for export or moved underbond (see definition below) to another site covered by a licence.

The term 'home consumption' is not defined in the Excise Act and there is no definitive case law that looks at the issue in question. However there are several cases where issues closely related to it are considered.<sup>74</sup>

The conclusion drawn from those cases is that 'home consumption' refers to the destination of goods as being within Australia as opposed to exporting them.

### **Penalty units**

The value of a penalty unit is contained in section 4AA of the *Crimes Act 1914*, and is indexed regularly. The dollar amount of a penalty unit is available at [Penalties](#).

### **Periodic settlement permission**

A periodic settlement permission is a permission granted by us for you to deliver excisable goods from a place covered by a licence for home consumption prior to providing an excise return for the goods and paying the duty. At the end of the period (usually 7 days) you need to give us an excise return specifying all of the excisable goods delivered for the period and you also need to pay the relevant duty.

### **Section 50 direction**

This is a written instruction issued under section 50 of the Excise Act to a licensed manufacturer, or proprietor of premises covered by a licence, to keep specified records, furnish specified returns, retain records for a specified period and produce those records on demand by us.

<sup>73</sup> Note the legislation uses the term 'delivered for home consumption' (see, for example, sections 61 and 61C of the Excise Act).

<sup>74</sup> See *R v Lyon* [1906] HCA 17; *Collector of Customs (NSW) v Southern Shipping Co Ltd* [1962] HCA 20; *Carmody v F C Lovelock Pty Ltd* [1970] HCA 35; *Caltex Australia Petroleum Pty Ltd v Commissioner of Taxation* [2008] FCA 1951 and *Moama Refinery Pty Ltd v Chief Executive Officer of Customs* [2001] FCA 1287.

## Underbond

This is an expression not found in excise legislation, but it is widely used to describe goods that are subject to excise control. Excisable goods that are subject to excise control are commonly referred to as 'underbond goods' or as being 'underbond'. This includes goods that have not yet been delivered into home consumption and goods moving between premises under a movement permission.

## 2.7 LEGISLATION (quick reference guide)

In this Chapter, we have referred to the following legislation:

- *Excise Act 1901*
  - section 4 – definitions
  - section 6A – how this Act applies to partnerships
  - section 24 – excisable goods and goods liable to duties of Customs may be used in manufacturing excisable goods
  - Part III Division 1 – manufacturers
  - section 25 – only licensed manufacturers to manufacture excisable goods
  - section 26 – licensed manufacturers to manufacture in accordance with Act and licence
  - section 27 – licensed manufacturers to manufacture only at premises covered by a licence
  - section 39 – applications for licences
  - section 39E – duration of licences
  - section 39FA – application for variation
  - section 39FB – variation of licence
  - section 39O – death of licence holder
  - section 46 – supervision by officers
  - section 49 – facilities to officers
  - section 50 – record keeping
  - section 51 – Collector may give directions
  - section 52 – weights and scales
  - section 53 – responsibility of manufacturers
  - section 54 – liability to pay duty
  - section 58 – entry for home consumption etc.
  - section 60 – persons to keep excisable goods safely etc.
  - section 61A – permission to remove goods that are subject to CEO's control

- section 61C – permission to deliver certain goods for home consumption without entry
- section 62 – deficiency in duty
- section 77HB – liquefied petroleum gas and liquefied natural gas that is exempt from excise duty
- section 86 – officers to have access to factories and approved places
- section 87 – power to stop conveyances about to leave an excise place
- section 87AA – searches of conveyances without warrant
- section 91 – examine all goods
- section 92 – seals etc. not to be broken
- section 106 – samples
- section 117 – unlawful possession of excisable goods
- section 120 – offences
- section 159 – protection of confidentiality of information
- *Excise Tariff Act 1921*
  - The Schedule
- *Taxation of Alternative Fuels Legislation Amendment Act 2011*
  - item 1 to 4
- *Customs Act 1901*
  - section 105B – extinguishment of duty on excise-equivalent goods
- *Crimes Act 1914*
  - section 4AA – penalty units
  - section 6 – accessory after the fact
- *Criminal Code Act 1995*
  - section 11.1 – attempt
  - section 11.2 – complicity and common purpose
  - section 11.5 – conspiracy

## Amendment history

27 June 2025

Part	Comment
Throughout	<p>This chapter was updated to take into account the law changes as a result of the <a href="#">Excise and Customs Legislation Amendment (Streamlining Administration) Act 2024</a>. This includes:</p> <ul style="list-style-type: none"><li>• new applications for entity level licenses</li><li>• variation of licences</li><li>• duration of licences</li><li>• lawful requirement for the ATO to publish and maintain a public register of licences on the ATO website.</li></ul>
Throughout	Updated in line with current ATO style and accessibility requirements.

## **3 LICENSING: Assessing applications**

### **3.1 PURPOSE**

### **3.2 INTRODUCTION**

### **3.3 POLICY AND PRACTICE**

#### **3.3.1 LICENSING CRITERIA**

#### **3.3.2 LICENCE CONDITIONS**

#### **3.3.3 SECURITIES**

### **3.4 PROCEDURES**

#### **3.4.1 IF A LICENCE IS NOT GRANTED**

#### **3.4.2 IF A LICENCE IS GRANTED**

#### **3.4.3 MORE INFORMATION**

### **3.5 PENALTIES THAT CAN APPLY IN RELATION TO APPLICATIONS**

### **3.6 TERMS USED**

### **3.7 LEGISLATION (quick reference guide)**

## 3 LICENSING: Assessing applications

### 3.1 PURPOSE

This Chapter deals with:

- licensing criteria
- licence conditions
- securities
- what happens if your licence is not granted
- what will happen if your licence is granted, and
- penalties that can apply to offences in relation to making an application.

### 3.2 INTRODUCTION

We have the discretion whether to grant or refuse a licence. We base our decision on the information you supply.

Subsection 39A(2) of the Excise Act provides that if we consider certain criteria exist, they can be the basis for refusal.

Those criteria include:

- you, or a director, officer, shareholder or associate, are not 'fit and proper'
- you do not have, or do not have available to you, the skills and experience required to carry out the activity that would be authorised by the licence
- the physical security of the premises is not adequate
- the plant and equipment to be used at the premises is not suitable
- you will not have a market for the goods
- you would not be able to keep proper books of account for audit purposes
- the grant of a storage licence would delay liability for duty, or
- it is necessary to refuse to grant the licence to protect the revenue.

These criteria are explained in more detail below.

How any of these criteria affects a particular licence application depends on the facts in each particular case. There are, however, some criteria that are critical, for instance:

- whether you are 'fit and proper'
- the existence of a market, and
- protection of the revenue.

## 3.3 POLICY AND PRACTICE

### 3.3.1 LICENSING CRITERIA

#### (1) 'Fit And proper' person or company

The nature of the entity applying for the licence will affect who is assessed as being fit and proper<sup>75</sup>:

- if it is an individual, the individual is assessed
- if it is a partnership, each partner is assessed, and
- if it is a company, the company is assessed.

Persons other than the applicant can also be assessed as to whether they are fit and proper. These persons are:

- another person who would participate in the management or control of the premises that is the subject of the licence application
- if the applicant is a company, any director, officer, or shareholder of the company that would participate in the management or control of the company, and
- certain associates of the applicant (associates can be people or companies).

#### What does fit and proper mean?

The term 'fit and proper' is not defined in the Excise Act or Excise Regulation. Fit and proper is dependent on the purpose of the legislation and the proposed activities of the person concerned. In general, qualities of diligence, honesty and the likelihood of observance of the law are pivotal characteristics to be taken into account in considering fitness and propriety. In an Excise Act context, we are assessing the suitability of the people who will have access to and control over '[excisable fuel products](#)' if a licence is granted.

The Excise Act provides a definitive list of factors that we will take into account in determining whether a person or company is fit and proper. These factors generally relate to:

- any prosecution history
- solvency
- the honesty of information provided by the applicant
- compliance with tax obligations, and
- licensing history if applicable.

<sup>75</sup> Sections 39B and 39C of the Excise Act.



In assessing these factors, we will consider whether your circumstances demonstrate that you are diligent, honest, and likely to observe excise laws.

A single factor will not necessarily be determinative of whether a person or company is 'fit and proper'. It will depend on the facts and circumstances of each case.

The weight afforded to each factor in reaching a decision about whether a person or company is 'fit and proper' is a matter for us to decide after considering all relevant information.

Some factors apply to both individuals and companies; others are specific to individuals or to companies.

- individual or company:
  - whether, within a year of lodging the application, the person or company has been charged with
    - an offence under the excise legislation, or
    - an offence under Commonwealth, state or territory law punishable by imprisonment for one year or longer (for an individual), or by a fine of 50 '[penalty units](#)' or more
  - whether, within 10 years of lodging the application, the person or company has been convicted of
    - an offence under the excise legislation, or
    - an offence under Commonwealth, state or territory law punishable by imprisonment for one year or longer (for an individual), or by a fine of 50 penalty units or more
  - the extent of the person's or company's compliance, within 4 years of lodging the application, with any law administered by us (for example, income tax, goods and services tax (GST))
  - whether the person has held an excise licence which has been cancelled or varied to no longer cover one or more premises, or
  - the person's or company's financial resources.
- individual only
  - whether the person has participated in the management or control of a company that has had an excise licence cancelled or varied to no longer cover one or more premises
  - whether the person is an undischarged bankrupt
  - any misleading statement made in the application by the person, or
  - where any false statement was made in the application – whether the person knew it was false.



For more information about movement permissions, refer to [Chapter 5](#) Movement permissions.



False and misleading statements are discussed below in [Where a person makes false or misleading statements in their application](#).

- company only
  - whether a receiver has been appointed over the property, or part of the property, of the company
  - whether the company is under administration under the *Corporations Act 2001* (Corporations Act)
  - whether there is a current deed of company arrangement in place under Part 5.3A of the Corporations Act
  - whether the company is restructuring, or
  - whether the company is being wound up.

### **Where a person makes false or misleading statements in their application**

It is important that you provide information that is accurate and complete. If your application (that is, your completed application form, any supporting documentation and any oral statements made), contains false or misleading statements we will take this into account.<sup>76</sup>

#### *Misleading statements*

The term 'mislead' is not defined in the Excise Act. *The Australian Oxford Dictionary*<sup>77</sup> defines 'mislead' as follows:

1. cause (a person) to go wrong, in conduct, belief, etc.
2. lead astray or in the wrong direction.

A misleading statement does not have to successfully mislead us, but it can be taken into account if it was reasonably foreseeable that we could have been misled when assessing the application.

Misleading may be by omission as well as what has been said.

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### **Example 3A**

*You advise us that you have installed a state-of-the-art security system at your premises. You failed to advise us that a design fault has resulted in repeated false alarms to the point where you have switched off the security system and have no intention of re-engaging it. The design fault cannot be remedied. The only security in operation at the premises is a rusty padlock.*

<sup>76</sup> Paragraphs 39B(e) and (f) of the Excise Act.

<sup>77</sup> Moore, B (2004) *The Australian Oxford Dictionary*, 2<sup>nd</sup> edn, Oxford University Press, Melbourne.

*The information you provided, whilst not false, could lead us to believe that your premises are secure. This is misleading, and may be taken into account in determining whether you are 'fit and proper'.*

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### **False statements**

If you make a false statement, we will consider whether you knew the statement was false.<sup>78</sup>

In essence, a statement is false if it is not true. A false statement may be made expressly, such as stating you have no criminal convictions when in fact you have been convicted. A false statement may also be made by omission, such as leaving a blank response to the question on your application form in relation to criminal convictions when in fact you have been convicted.

### **Associates that can be assessed under the fit and proper person test**

To avoid situations where people with a high risk of non-compliance can exercise control over licence holders or excisable goods, certain associates<sup>79</sup> can be assessed under the fit and proper person test.

The word associate effectively takes its meaning from the *Income Tax Assessment Act 1936* and is summarised below.

An associate of a natural person (other than in the capacity of trustee) includes:

- a relative<sup>80</sup> of the individual, for example, their spouse, parent, sibling, uncle or aunt
- a partner of the individual or a partnership in which the individual is a partner
- if a partner of the individual is a natural person otherwise than in the capacity of trustee, the spouse or child of the partner
- a trustee of a trust under which the individual or their associate benefits, or
- a company under the control of the individual or their associate.<sup>81</sup>

Although an associate includes a spouse, a legally married spouse of a person who lives separately and apart on a permanent basis is not an associate.<sup>82</sup>

An associate of a company includes<sup>83</sup>:

- a partner of the company or a partnership in which the company is a partner

<sup>78</sup> Paragraph 39B(f) of the Excise Act.

<sup>79</sup> Paragraph 39A(2)(f) of the Excise Act; section 995-1 of the *Income Tax Assessment Act 1997*; subsection 318(1) of the *Income Tax Assessment Act 1936*.

<sup>80</sup> See section 995-1 of the *Income Tax Assessment Act 1997* for the definition of 'relative' for this purpose.

<sup>81</sup> Subsection 318(1) of the *Income Tax Assessment Act 1936*.

<sup>82</sup> Subsection 318(7) of the *Income Tax Assessment Act 1936*.

<sup>83</sup> Subsection 318(2) of the *Income Tax Assessment Act 1936*.

- if a partner of the company is an individual, the spouse or child of the partner
- a trustee of a trust under which the company or their associate benefits
- another entity (a company, partnership, trustee or an individual), or its associate (or associates) who controls the company, or another company which is under the control of the company, or the company's associate.

The control of a company looks to whether another entity (including individuals):

- has sufficient influence over the company, or
- holds a majority voting interest in the company.

An associate of a trustee includes an entity or an associate of the entity that benefits or is capable of benefiting either directly or indirectly under the trust.<sup>84</sup>

For a partnership, an associate includes each partner of the partnership or associate of the partner.<sup>85</sup>

## **(2) Skills and experience**

The next criterion for licensing relates to skills and experience.<sup>86</sup>

Skills and experience are not defined in the Excise Act or Excise Regulation. There is no case law regarding skills and experience in an excise context.

In forming an opinion as to whether you have the required skills and experience, we will consider your ability to:

- carry out the activity requiring a licence
- conduct a business, and
- comply with excise obligations.

It is important to note that you, as the applicant, do not necessarily need to possess the skills and experience yourself provided that you can demonstrate that you will use another person's skills and experience, for example, by hiring them or using a consultant. Should that be the case, we will assess the other person's skills or experience.

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### **Example 3B**

*Mr X, as a Director of Z Transport and Logistics Pty Ltd, applies for a storage licence.*

<sup>84</sup> Subsection 318(3) of the *Income Tax Assessment Act 1936*.

<sup>85</sup> Subsection 318(4) of the *Income Tax Assessment Act 1936*.

<sup>86</sup> Paragraph 39A(2)(fa) of the Excise Act.

*Neither Mr X nor any of his staff have the skills and experience to comply with the company's excise obligations. This poses a risk that excisable fuel products may be sold without adequate record keeping and may adversely affect revenue and compliance.*

*Therefore, when assessing this element of subsection 39A(2) of the Excise Act in isolation, Z Transport and Logistics Pty Ltd would fail the requirements of skills and experience. However, a decision on granting a licence is made based on an assessment of all elements of subsection 39A(2).*

*Z Transport and Logistics Pty Ltd may choose to address the deficiency in skills and experience by such measures as appointing a manager who has the relevant skills and experience.*

### **(3) Physical security of the premises**

Physical security of the premises<sup>87</sup> relates to measures that prevent unauthorised access to excisable fuel products and thus protects against theft or loss of goods and excise revenue.

In forming an opinion about the physical security at the premises, we will consider the:

- nature of the site
- kinds and quantities of goods to be kept, and
- procedures and methods adopted to ensure the security of goods.

Consideration of the nature of the site can include:

- construction (for example, floor, walls, ceiling, windows and doors) and whether material is difficult to penetrate or remove
- barriers (for example, fences or wire) to a standard that would prevent unauthorised access
- locks and bars
- alarms, security lighting, security guard patrols or closed-circuit TV cameras
- physical security of all warehouse facilities within the site, and
- fire alarms, smoke detectors, sprinklers etc.

Consideration of the kind and quantity of goods to be kept at the site can include the:

- ease with which goods can be handled, for example, bottles of spirits are easier to move than fuel in a large refinery tank
- rate of excise duty applicable to the goods (goods that attract a greater rate of excise duty represent a greater revenue risk), and
- greater the quantity of excisable goods to be dealt with, the higher the level of physical security that would be required.

<sup>87</sup> Paragraph 39A(2)(g) of the Excise Act.

Consideration of the security procedures and methods can include:

- gate security system that would identify all people entering and leaving the site, and confirm their right to do so
- gate security system that would identify the type and quantity of all goods entering and leaving the site
- surveillance system
- procedures to handle and retain information from surveillance system (if there is one)
- access control, for example, by limited distribution of keys and access swipe cards or codes
- security responses when breaches are detected, for example, back-to-base system, and
- an independent security audit function to oversee all of the above.

#### **(4) Suitability of plant and equipment**

Plant and equipment are considered suitable<sup>88</sup> if they are capable of performing the intended tasks and will allow you to properly account for excisable fuel products and calculate the correct amount of excise duty.

Plant and equipment that are used in relation to goods at premises covered by a licence include:

- temperature measuring equipment
- storage tanks
- weighing equipment, for example, scales and weighbridges, and
- volume measuring equipment.

#### **(5) Market for the goods**

In this criterion, we are primarily concerned with the presence of an available market within Australia.<sup>89</sup> That market must be legal. Licensing is concerned with minimising the risk of excisable fuel products entering an illicit market in Australia and the resultant loss of revenue.

You must provide sufficient information to identify your proposed market.

You may be able to demonstrate that you have a market by, for example, supplying:

- evidence of contracts (including 'in principle' contracts) you have negotiated, or
- a business plan which outlines the market you have identified.

<sup>88</sup> Subparagraph 39A(2)(i) of the Excise Act.

<sup>89</sup> Subparagraph 39A(2)(ia) of the Excise Act.

A legitimate market may exist overseas for locally manufactured excisable fuel products. Applications relating to overseas markets may be subject to additional scrutiny and you may be required to provide additional information or documentation as evidence of the legitimacy of your overseas market.

Therefore, market should be taken to mean that there exists a proven or demonstrated demand for a commodity, or an opportunity for (legally) buying or selling (trading in) a specified commodity. In such cases a market can be either in Australia or overseas.

If you intend to manufacture excisable goods and use them within the operation of your business, or entirely for personal (non-commercial)<sup>90</sup> use, you do not need to meet the market test.

Examples of this situation are:

- a farmer who produces biodiesel to use in his farm equipment
- a person who produces biodiesel for their personal non-commercial use.

However, the farmer or person in these 2 examples would still need to obtain a licence and pay duty on the biodiesel they produce.

#### **(6) Ability to keep proper books of account**

This criterion is whether you can keep 'proper books of accounts and records'<sup>91</sup> that enable us to audit those records.

You may be asked to demonstrate:

- the recording systems you intend to use, whether they are manual or electronic
- where an electronic record-keeping system is used, systems documentation showing details such as screens, reports available and security controls, and
- the internal documentation supporting the recording systems, ensuring that the recording systems will record sufficient detail.

#### **(7) Delay liability for duty (storage licence only)**

This criterion only relates to an application for a storage licence where the granting of the licence would delay liability for duty.<sup>92</sup>

The liability for excise is imposed on goods at the time of manufacture.<sup>93</sup> However, it is not actually paid until a later point.

<sup>90</sup> Note this does not indicate that a licence would be granted to produce or manufacture for personal use as other factors may result in refusal to grant a licence.

<sup>91</sup> Paragraph 39(2)(j) of the Excise Act.

<sup>92</sup> Paragraph 39A(2)(k) of the Excise Act.

<sup>93</sup> Section 5 of the Excise Tariff Act.

The wording in paragraph 39A(2)(k) of the Excise Act ‘... delay the liability for duty’ suggests that one is able to delay the point in time in which the liability arises. However, this is not possible as the imposition of excise, and therefore the time at which the liability arises, is not dependent on any further dealings or processes on those goods. It is only the payment of the liability, the duty, which can be delayed depending on how the goods are dealt with.

We consider that the only possible interpretation of paragraph 39A(2)(k) of the Excise Act is that it operates to delay the time the liability must be paid. A storage licence allows for the storage of excisable goods on which duty has not been paid. It effectively allows a manufacturer to defer the payment or transfer the liability to a storage licence holder. The question then arises as to how far down the distribution chain payment of an excise liability may be deferred.

It is our view that we may refuse to grant a storage licence where the grant of the licence would delay payment of duty beyond the point of storage occurring in the normal wholesale distribution of the goods. Using a different perspective, we may refuse to grant a storage licence when refusal is necessary to ensure that excise duty is paid before goods reach the retail level in the distribution chain.

In forming an opinion as to whether the granting of an excise storage licence would delay liability for duty, we will consider:

- the purpose for which the goods are to be stored, and
- whether the premises in question are for storage occurring in the normal wholesale distribution of the goods, or for storage beyond the normal wholesale distribution of the goods (for example, storage for a retail premises).

## **(8) Protect the revenue**

The term ‘necessary to protect the revenue’<sup>94</sup> is not defined in the Excise Act.

The meaning of ‘protect the revenue’ was considered by Deputy President Forge in *Martino and Australian Taxation Office*.<sup>95</sup> She said, at [50–52]:

... The expression “protect the revenue” is not defined in the Act and I am not aware of any authorities that have considered it. The word “*revenue*” has been considered in *Stephens v Abrahams* (1902) 27 VLR 753 by Hodges J. ... Hodges J took:

“... the ‘revenue’ to be moneys which belong to the Crown, or moneys to which the Crown has a right, or moneys which are due to the Crown

...

The ordinary meanings of the word “*protect*” include “*keep safe, take care of*” ... and they would seem to be the senses in which the word is used in the expression “*protect the revenue*”. Mr

<sup>94</sup> Paragraph 39A(2)(l) of the Excise Act.

<sup>95</sup> *Martino and Australian Taxation Office* [2002] AATA 1242.



Martino's licence may only be cancelled if it is necessary to take care of the money belonging to the Crown in right of the Commonwealth. That has the aspect of ensuring that the Commonwealth receives all that it should in the form of any excise that is ultimately payable in respect of tobacco originally grown on Mr Martino's farm and keeps all that it receives. It also has the aspect of not spending more of the Commonwealth's money than need be spent in carrying out its supervisory duties and responsibilities under the Act and in ensuring that the tobacco is not marketed illegally in Australia, and so avoid the payment of excise duty, if it cannot be marketed legally.

What is meant by the word "*necessary*"? I have taken the view that the meaning adopted by Allen J in *State Drug Crime Commission of NSW v Chapman* (1987) 12 NSWLR 447:

"As to the word 'necessary' it does not have, in my judgment, the meaning of 'essential'. The word is to be subjected to the touchstone of reasonableness. The concept is one as to what reasonably is necessary in a commonsense way.

While this case was in relation to tobacco, the finding is equally applicable to fuel. 'Protect the revenue' therefore means ensuring that the Commonwealth receives the full amount of excise duty that is ultimately payable, and we do not spend more Commonwealth funds than necessary to carry out our responsibilities.

### 3.3.2 LICENCE CONDITIONS

Licence conditions form part of your licence. If you fail to comply with a condition, we may suspend or cancel your licence.<sup>96</sup>



For information about when we can suspend or cancel your licence, refer to [Chapter 4](#) Licensing: Suspension and cancellation.

All excise licences are subject to certain conditions imposed by:

- the Excise Act, and
- us (special conditions).

We are able to add, vary or revoke conditions even after the licence has been granted.<sup>97</sup> We will notify you in writing if we do so and provide you with an amended licence that includes the amended conditions.

<sup>96</sup> Paragraph 39G(1)(k) of the Excise Act.

<sup>97</sup> Subsection 39D(4) and section 39DA of the Excise Act.

### Conditions imposed under the Excise Act

You must advise us in writing within 30 days if<sup>98</sup>:

- you become bankrupt
- a person not listed in the licence application starts to participate in the management or control of premises covered by the licence or of the company, as the case may be
- there is a change in the membership of a partnership that holds a licence
- a company that holds a licence comes under receivership, administration or begins to be wound up
- there is a change that substantially affects the physical security of premises covered by the licence or plant and equipment used in relation to excisable goods at the premises
- you hold a manufacturer licence and you cease to manufacture excisable goods at premises covered by the licence
- you hold a storage licence and you cease to keep and store goods at premises covered by the licence, or
- you or any person participating in the management or control of a licensed company or premises is charged with or convicted of
  - an offence against a provision of the Excise Act, or
  - an offence against a law of the Commonwealth, a state or a territory that is punishable by imprisonment for a period of one year or longer or by a fine of 50 penalty units or more.

### Special conditions

We can also impose special conditions on your licence if we find it necessary to protect the revenue or ensure compliance with the Excise Act.<sup>99</sup> Examples of conditions that have been imposed under this provision are:

- the trustee for a trust to notify the Collector of the appointment of a new trustee in writing and prior to the appointment of the new trustee
- restriction of the storage of excisable goods (by a storage licence holder) to ship's stores and aircraft's stores, or
- restriction of the quantity of excisable goods that a licensed manufacturer may manufacture.

The examples of special conditions given above are only for illustrative purposes. The decision to impose special conditions is considered on a case-by-case basis.

<sup>98</sup> Subsection 39D(1) of the Excise Act.

<sup>99</sup> Subsection 39D(3) of the Excise Act.

You can apply to have these special conditions varied, revoked or added. We will consider and advise you of our decision.

If you are not satisfied with our decision, you can ask for a review by lodging an objection within 60 days of the day we notify you.<sup>100</sup>



For more information about your review rights, refer to [Chapter 8](#) Reviews and objections.

### 3.3.3 SECURITIES

We can use conditions as a mechanism to increase the level of protection of the revenue or to ensure compliance with the Excise Act. However, prior to granting the licence, we may also require you to provide a security to achieve the same result. Even if we don't require a security prior to the granting of the licence, we may ask for a security at a later time. We can also ask you to increase the value of any security you may already have given.<sup>101</sup>

A security can be a bond, guarantee, cash deposit or similar financial product for an amount of money which may be forfeited if there is a failure to comply with the Excise Act. It is not necessary for a liability to arise as a result of the failure to comply, for the security to be forfeited. There is no statutory limit to the amount of a security but the amount is generally set by reference to the level of revenue at risk.

We cannot apply these securities against other tax debts.

We review securities every 3 years, at which time they may be extended, revised or cancelled.

You cannot object to a decision to require a security. However, there may be other avenues for review, for example, you may seek an informal review of our decision.



For information about your review rights, refer to [Chapter 8](#) Reviews and objections.

## 3.4 PROCEDURES

### 3.4.1 IF A LICENCE IS NOT GRANTED

If we do not grant a licence, (or we grant you a licence that does not cover all the premises applied for) we will notify you of the decision and provide you with reasons.

If you are not satisfied with our decision, you can ask for a review by lodging an objection within 60 days of the day we notify you.<sup>102</sup>

<sup>100</sup> Section 39Q of the Excise Act.

<sup>101</sup> Sections 16 to 22 of the Excise Act.

<sup>102</sup> Section 39Q of the Excise Act.



For information about your review rights, refer to [Chapter 8](#) Reviews and objections.

### 3.4.2 IF A LICENCE IS GRANTED

If we grant you a licence, we will post it to you. We will also provide you with an establishment number or numbers for the premises specified on your licence. This will be needed in some of your dealings with us.

You may receive a visit or phone call from us to ensure you understand your obligations and check whether you need further assistance.

### 3.4.3 MORE INFORMATION

If you need more information on licensing matters, contact us via:

- phone **1300 137 290**
- [ATO Online Services](#), or
- write to us at  
Australian Taxation Office  
PO Box 3514  
ALBURY NSW 2640

We will ordinarily respond to written information requests within 28 days. If we cannot respond within 28 days, we will contact you within 14 days to obtain more information or negotiate an extended response date.

## 3.5 PENALTIES THAT CAN APPLY IN RELATION TO APPLICATIONS

You commit an offence punishable upon conviction if you<sup>103</sup>:

- intentionally make a statement to an officer, reckless as to the fact that the statement is false or misleading in a material particular, or
- intentionally omit from a statement made to an officer any matter or thing, reckless as to the fact that without the matter or thing the statement is misleading in a material particular.

The maximum penalty is 50 penalty units.<sup>104</sup>

<sup>103</sup> Paragraph 120(1)(iv) of the Excise Act.

<sup>104</sup> Paragraph 120(2)(d) of the Excise Act.

## 3.6 TERMS USED

### Excisable fuel products

Excisable goods are goods on which excise duty is imposed. Excise duty is imposed on goods that are manufactured or produced in Australia and listed in the Schedule to the Excise Tariff Act.

As this Guide deals with fuel products, we have used the term excisable fuel products.

Excisable fuel products include:

- petrol
- diesel
- renewable diesel
- crude petroleum oil
- condensate
- heating oil
- kerosene
- fuel ethanol
- biodiesel
- compressed natural gas (CNG)
- liquefied natural gas (LNG), and
- liquefied petroleum gas (LPG).

### Penalty units

The value of a penalty unit is contained in section 4AA of the *Crimes Act 1914*, and is indexed regularly. The dollar amount of a penalty unit is available at [Penalties](#).

## 3.7 LEGISLATION (quick reference guide)

In this Chapter, we have referred to the following legislation:

- *Excise Act 1901*
  - section 16 – right to require security
  - section 17 – form of security
  - section 18 – general security may be given
  - section 19 – cancellation of bonds
  - section 20 – new sureties
  - section 21 – form of security
  - section 22 – effect of security

- section 39 – applications for licences
- section 39A – it is in the Collector's discretion whether to grant licence
- section 39B – determining whether a natural person is fit and proper
- section 39C – determining whether a company is fit and proper
- section 39D – conditions of licence
- section 39DA – changing licence conditions on own initiative
- section 39G – when the Collector may suspend a licence
- section 39Q – review of decisions
- section 120 – offences
- *Excise Tariff Act 1921*
  - section 5 – duties of excise
  - The Schedule
- *Income Tax Assessment Act 1997*
  - section 995-1 – definitions
- *Income Tax Assessment Act 1936*
  - section 318 – associates
- *Corporations Act 2001*
  - section 9 – dictionary
  - Part 5.3A – administration of a company's affairs with a view to executing a deed of company arrangement
- *Crimes Act 1914*
  - section 4AA – penalty units

## Amendment history

27 June 2025

Part	Comment
Throughout	This chapter was updated to take into account the law changes as a result of the <a href="#">Excise and Customs Legislation Amendment (Streamlining Administration) Act 2024</a> .
Throughout	Updated in line with current ATO style and accessibility requirements.

## **4 LICENSING: Suspension and cancellation**

### **4.1 PURPOSE**

### **4.2 INTRODUCTION**

### **4.3 POLICY AND PRACTICE**

#### **4.3.1 IF YOU CEASE YOUR EXCISE BUSINESS**

#### **4.3.2 SUSPENSION OR CANCELLATION OF A LICENCE**

### **4.4 PROCEDURES**

#### **4.4.1 SERVICE OF NOTICES**

#### **4.4.2 MORE INFORMATION**

### **4.5 PENALTIES THAT CAN APPLY IN RELATION TO SUSPENSIONS AND CANCELLATIONS**

### **4.6 TERMS USED**

### **4.7 LEGISLATION (quick reference guide)**

## 4 LICENSING: Suspension and cancellation

### 4.1 PURPOSE

This Chapter deals with:

- what happens when you cease your business
- when your licence can be suspended or cancelled
- service of notices, and
- penalties that can apply to offences in relation to suspensions and cancellations.

### 4.2 INTRODUCTION

Your licence remains in force until it is cancelled. However, activities approved under your licence may be restricted if we suspend your licence. Suspension may be a temporary measure or may lead to the cancellation of your licence.

Where your licence covers more than one premises, we can also vary your licence to no longer cover particular premises if we:

- have reasonable grounds to [suspend](#) your licence in relation to those premises
- receive written notice from the licence holder requesting the variation.

We can cancel your licence if:

- you ask us to do so (for example, where you intend to cease business)
- we make a decision to do so because one or more of the following criteria are present
  - you or an associate are not 'fit and proper' as an individual or company
  - a director, officer or shareholder who participates in the management or control of the company is not a 'fit and proper' person
  - a person who participates in the management or control of the premises is not a 'fit and proper' person
  - you do not have, or have available to you, the skills and experience required to carry out the activity authorised by the licence
  - the physical security of the premises is inadequate
  - the plant and equipment used at the premises are such that there is inadequate protection of the revenue in relation to the goods at the premises
  - you have no market for the goods covered by the licence
  - you are not keeping proper books of account for audit purposes
  - you have breached a condition of your licence



- you have made a false or misleading statement to us<sup>105</sup>
- suspension is necessary for the protection of the revenue
- if you are the holder of a manufacturer licence or storage licence, suspension is necessary to ensure you comply with excise law, or
- you have not, for a period of at least 3 years, conducted any activities authorised by the licence at any premises covered by the licence.

## 4.3 POLICY AND PRACTICE

### 4.3.1 IF YOU CEASE YOUR EXCISE BUSINESS

Your licence conditions require you to notify us within 30 days if you permanently cease activities that require an excise licence. To finalise your excise obligations you must request in writing a cancellation of your licence.

Before we can cancel your licence, we must be satisfied that you no longer have any '[excisable fuel products](#)'. To be satisfied of this we may:

- arrange a final audit of goods at premises covered by the licence, and
- work out if you are liable to pay any excise duty.

Although your licence conditions require you to notify us within 30 days of cessation of activities, you are encouraged to notify us at the earliest opportunity. This will enable us to assist you to check your records and any stock on hand prior to closure of the site for excise purposes.

If you want to sell your business with the stock included, we can coordinate your licence cancellation with the licence approval for the new owner. (This does not mean that the new owner will automatically be granted a licence). This will ensure the premises and goods are covered by a licence at all times.

If you do not intend to sell the goods with your business, you can<sup>106</sup>:

- pay any outstanding excise duty on goods held at the premises covered by the licence and then dispose of them as you wish, or
- move the goods to another licence holder's premises, provided you have permission from us to move goods to those premises.

We will cancel your licence by giving you written notice.<sup>107</sup>

<sup>105</sup> Note that this is different to the consideration for granting a licence. In granting a licence we can take into account any misleading statement, or if you knowingly made a false statement, in your application. For suspension or cancellation we can consider any statement you make to us in relation to excise matters.

<sup>106</sup> Subsection 39L(4) of the Excise Act.

<sup>107</sup> Subsection 39L(3) of the Excise Act.

### 4.3.2 SUSPENSION OR CANCELLATION OF A LICENCE

#### The difference between suspension and cancellation

Suspension of a licence is a temporary measure we may take that limits the activities you can undertake during the period of suspension. It could be followed by cancellation of the licence or revocation of the suspension. Cancellation is a permanent measure which has the effect of prohibiting you from undertaking the activities for which you were previously licensed.

Where your licence covers more than one premises, we may also suspend your licence in relation to particular premises limiting the activities you can undertake during the period of suspension at those premises. It could be followed by variation of your licence to remove particular premises prohibiting you from undertaking the activities for which you were previously licensed at those premises.

#### When your licence can be suspended or cancelled

We can suspend or cancel your licence if we have reasonable grounds for believing<sup>108</sup>:

- you are not 'fit and proper' as an individual or company\*
- a director, officer or shareholder who participates in the management or control of the company is not a 'fit and proper' person\*
- a person who participates in the management or control of the premises is not a 'fit and proper' person\*
- you are an associate of a person or a company that is not 'fit and proper'\*
- you do not have, or have available to you, the skills and experience required to carry out the activity authorised by the licence\*
- the physical security of the premises is inadequate\*
- the plant and equipment used at the premises are such that there is inadequate protection of the revenue in relation to the goods at the premises\*
- you have no market for the goods covered by the licence\*
- you are not keeping proper books of account for audit purposes
- you have breached a condition of your licence
- you have made a false or misleading statement to us
- suspension is necessary for the protection of the revenue\*
- if you are the holder of a manufacturer licence or storage licence, suspension is necessary to ensure that you comply with excise law, or
- you have not for a period of at least 3 years, conducted any activities authorised by the licence at any premises covered by the licence.

<sup>108</sup> Subsections 39G(1) and 39L(1) of the Excise Act.

\* For an explanation of these criteria, refer to [Section 3.3.1](#) Licensing criteria.

The criteria which have not been the subject of previous considerations are covered below:

- You are not keeping proper books of account for audit purposes. For this criterion, we are assessing your actual record-keeping practices during the licence period and whether they are in an adequate state for an audit.
- You have breached a condition of your licence. A breach means you have not complied with a condition. In deciding whether or not to suspend we will take into account the following
  - the severity of the breach
  - the circumstances surrounding the breach, and
  - what the condition is (that is, the risk it is addressing).
- You have made a false or misleading statement to us. In considering your initial application, the false or misleading statements we take into account are in your application. Once you have been granted a licence, we can take into account any statements (including, for example, in a return, letter or response to a question) you have made in relation to your excise activities.
- Suspension is necessary to ensure you comply with excise law. Where we consider that you are not complying with your obligations under the Excise Act, for example, if you have been manufacturing excisable fuel products in contravention of your manufacturer licence.<sup>109</sup>
- You have not for a period of at least 3 years, conducted any activities authorised by the licence at any premises covered by the licence. We will consider suspending the licence where, for example, you have not manufactured or stored excisable fuel for the previous 3 years at any premises covered by the licence and it is unlikely you will do so in the near future.

### **If your licence is suspended**

If we believe your conduct warrants consideration of suspension of your licence or particular premises covered by your licence, we will generally advise you of our concerns prior to proceeding with suspension and provide you with an opportunity to rectify the issues identified.

If we decide to proceed with the suspension, this will be done by serving a Notice of suspension. The notice may be served on you or given to a person who appears to participate in the management or control of any of the premises covered by the licence.

A Notice of suspension will state that, if you want to stop the cancellation of your licence (or variation of your licence to no longer cover particular premises), you must provide us with a written statement,

<sup>109</sup> Sections 26 and 39K of the Excise Act.

within 7 days of the notice being served, giving reasons why your licence should not be cancelled (or varied). We will include our reasons for deciding to suspend your licence or particular premises covered by your licence with the Notice of suspension.

The notice will also state when the suspension takes effect, which could be immediately.

When your licence is suspended, unless you have written permission from us, it is against the law to<sup>110</sup>:

- manufacture excisable fuel products if you are the holder of a manufacturer licence, or
- keep or store excisable fuel products at premises covered by your licence if you are the holder of a storage licence.

During the period of suspension we may give you written permission to<sup>111</sup>:

- keep or store goods at premises covered by your licence
- carry out a process at your premises, or
- move goods from your premises to another place.

As a result of a suspension, we may:

- require the owner (you or a third party) of excisable fuel products to move the goods from your premises to another place
- require payment of any costs incurred by us as a result of the suspension
- carry out a stocktake so that the total excise liability is known, and
- take control of premises covered by your licence and any excisable fuel products stored at these premises.

If we suspend your licence, we have 28 days to cancel your licence. During this period we can revoke the suspension if you satisfactorily address the issues which led to the suspension. If we revoke a licence suspension we will do so in writing. We may impose additional conditions or allow you to resume your excise activities under the existing conditions.

Where your licence covers more than one premises, the aforementioned suspension processes can be applied in the same manner to particular premises covered by the licence.

All decisions relating to the suspension of a licence or to particular premises covered by the licence are reviewable by lodging an objection.



For more information about your review rights, refer to [Chapter 8](#) Reviews and objections.

<sup>110</sup> Section 39K of the Excise Act.

<sup>111</sup> Subsection 39K(6) of the Excise Act.

### If your licence is cancelled

We can cancel your licence or vary your licence to remove particular premises for the same reasons we can suspend your licence.



We can cancel your licence without suspending your licence first. This may occur where we consider the issues require immediate action – for example, repeated delivery of excisable fuel products without payment of required duty.

If we cancel your licence, we will serve you with a Notice of cancellation. If we cancel your licence, you are not permitted to manufacture or store excisable fuel products. You are also not permitted to move excisable fuel products without our permission.

The notice may be served on you or given to a person who appears to participate in the management or control of premises covered by the licence. We will include our reasons for deciding to cancel your licence with the Notice of cancellation.

At the same time, we will serve on the owner of the excisable fuel products (whether that is you or someone else) a notice in writing to either:

- pay the duty on the goods, or
- move the goods to another place in accordance with our permission.



This notice is served in the same manner as the Notice of cancellation.

If the owner does not comply with the notice to pay duty or move the goods, we may remove them from the owner's control. We may sell or dispose of the excisable fuel products if, after 6 months, the owner has not<sup>112</sup>:

- lodged a written claim for the goods, or
- paid the duty and other movement and storage related expenses.



If we cancel your licence, you must retain all records that you have been directed to keep, for the period you have been directed.

Where your licence covers more than one premises, the aforementioned cancellation processes can be applied to particular premises in the same manner by variation of the licence to remove those particular premises.<sup>113</sup>

<sup>112</sup> Subsection 39N(2) of the Excise Act.

<sup>113</sup> Section 39LA of the Excise Act.

If you are not satisfied with our decision to cancel your licence, vary your licence to remove particular premises or dispose of your excisable goods, you can request a review of our decision by lodging an objection.<sup>114</sup>



For more information about your review rights, refer to [Chapter 8](#) Reviews and objections.

### Applying for another licence after a licence cancellation

You can apply for another licence after you have had a licence cancelled. However, we will take the reasons for the cancellation into account when considering any new application.

## 4.4 PROCEDURES

### 4.4.1 SERVICE OF NOTICES

Notices of suspension, variation or cancellation and directions to deal with excisable fuel products will be served either<sup>115</sup>:

- personally or by post<sup>116</sup> on you, or
- personally on a person who, at the time the notice is served, appears to participate in the management or control of premises covered by the licence.

### 4.4.2 MORE INFORMATION

If you need more information on suspension or cancellation of a licence, contact us via:

- phone **1300 137 290**
- [ATO Online Services](#), or
- write to us at  
Australian Taxation Office  
PO Box 3514  
ALBURY NSW 2640

We will ordinarily respond to written information requests within 28 days. If we cannot respond within 28 days, we will contact you within 14 days to obtain more information or negotiate an extended response date.

<sup>114</sup> Section 39Q of the Excise Act.

<sup>115</sup> Subsections 39J(2) and 39L(5) of the Excise Act.

<sup>116</sup> Section 39P of the Excise Act.

## 4.5 PENALTIES THAT CAN APPLY IN RELATION TO SUSPENSIONS AND CANCELLATIONS

The following are the penalties that may apply after conviction for an offence.

### Manufacture

If you manufacture excisable fuel products when your manufacturer licence is suspended, the penalty is a maximum of 2 years in prison or the greater of 500 [‘penalty units’](#) and 5 times the amount of duty on the excisable fuel products.<sup>117</sup>

### Keep or store

If you store excisable fuel products when your storage licence is suspended, the penalty is a maximum of 2 years in prison or the greater of 500 penalty units and 5 times the amount of duty on the excisable fuel products.<sup>118</sup>

### Where your licence covers more than one premises

Where your licence covers more than one premises, the aforementioned penalties of 500 penalty units and 5 times the amount of duty on the excisable fuel products apply if you manufacture or store excisable fuel products at particular premises in relation to which the licence is suspended.<sup>119</sup>

### Remove

If your licence has been cancelled or varied to remove premises you must not, without our permission, remove excisable fuel products on which duty has not been paid. The penalty is a maximum of 2 years in prison or the greater of 500 penalty units and 5 times the amount of duty on the excisable fuel products.<sup>120</sup>

## 4.6 TERMS USED

### Excisable fuel products

Excisable goods are goods on which excise duty is imposed. Excise duty is imposed on goods that are manufactured or produced in Australia and listed in the Schedule to the Excise Tariff Act.

<sup>117</sup> Paragraph 39K(1)(a) of the Excise Act.

<sup>118</sup> Paragraph 39K(1)(b) of the Excise Act.

<sup>119</sup> Subsection 39K(1A) of the Excise Act.

<sup>120</sup> Subsection 39M(1) of the Excise Act.

As this Guide deals with fuel products, we have used the term excisable fuel products.

Excisable fuel products include:

- petrol
- diesel
- renewable diesel
- crude petroleum oil
- condensate
- heating oil
- kerosene
- fuel ethanol
- biodiesel
- compressed natural gas (CNG)
- liquefied natural gas (LNG), and
- liquefied petroleum gas (LPG).

### Penalty units

The value of a penalty unit is contained in section 4AA of the *Crimes Act 1914*, and is indexed regularly. The dollar amount of a penalty unit is available at [Penalties](#).

## 4.7 LEGISLATION (quick reference guide)

In this Chapter, we have referred to the following legislation:

- *Excise Act 1901*
  - section 26 – licensed manufacturers to manufacture in accordance with Act and licence
  - section 39G – when the Collector may suspend a licence
  - section 39J – method of suspension
  - section 39K – activities that are prohibited during suspension
  - section 39L – cancellation of licences
  - section 39LA – variation of certain licences to remove premises
  - section 39M – removal of goods on cancellation etc. of licence
  - section 39N – removal of goods by Collector on cancellation etc. of licence.
  - section 39P – service of notices
  - section 39Q – review of decisions
- *Excise Tariff Act 1921*



- The Schedule
- *Crimes Act 1914*
  - section 4AA – penalty units

## Amendment history

27 June 2025

Part	Comment
Throughout	<p>This chapter was updated to take into account the law changes as a result of the <a href="#">Excise and Customs Legislation Amendment (Streamlining Administration) Act 2024</a>. This includes:</p> <ul style="list-style-type: none"> <li>• a new ground for the suspension and cancellation of a licence where you have not, for a period of at least 3 years, conducted any activities authorised by the licence at any premises covered by the licence s applications for entity level licences</li> <li>• suspension of particular premises where a licence covers more than one premises</li> <li>• cancellation of particular premises by variation of the licence where a licence covers more than one premises.</li> </ul>
Throughout	Updated in line with current ATO style and accessibility requirements.

## **5 MOVEMENT PERMISSIONS**

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### **5.3 POLICY AND PRACTICE**

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### **5.6 TERMS USED**

### **5.7 LEGISLATION (quick reference guide)**

## 5 MOVEMENT PERMISSIONS

### 5.1 PURPOSE

This Chapter deals with:

- why you need a movement permission
- different movement permission types
- whether you can get a movement permission
- what is included in a movement permission
- whether the receiving premises have to be covered by a licence
- whether you will need to pay a security
- what happens when your movement permission is granted
- your responsibilities
- what happens if your application for a movement permission is not approved
- when and how a movement permission can be revoked or cancelled
- how to apply for a movement permission
- how to amend a continuing movement permission, and
- penalties that can apply to offences in relation to movement permissions.

### 5.2 INTRODUCTION

Under the excise system, control of goods from the time of creation to the point of authorised delivery of the goods into home consumption, or export, lies with the Commissioner. To maintain this control, the Excise Act requires that excisable goods are not to be moved without permission.<sup>121</sup>

We refer to this form of permission as a movement permission. It is a permission we provide in writing that authorises you to move specified goods from a specified place to another specified place without excise duty being payable.<sup>122</sup> This permission may be subject to conditions.

The permission holder retains responsibility for any excise liability arising on the '[excisable fuel products](#)' until they are taken up into the stock of the new premises.

<sup>121</sup> This does not mean movements within the bounds of premises covered by your licence, rather movements from premises covered by a licence to another place.

<sup>122</sup> Section 61A of the Excise Act.

## 5.3 POLICY AND PRACTICE

### 5.3.1 PERMISSION TYPES

Depending on your circumstances, you may apply for a permission to move excisable fuel products once (single permission) or on a continuing basis (continuing permission). Continuing permissions are used where you have a need to move excisable fuel products in a regular pattern (for example, a delivery each week to the same premises). A single permission is used when movements are not on a continuing or regular pattern to the same premises.

There are 5 types of movement permission:

- single movement permission (non-export) – a permission to move excisable fuel products from one specified place to another specified place (effective for one movement)
- continuing movement permission (non-export) – a permission to move excisable fuel products of a kind specified from one specified place to another specified place on a continuing basis
- general movement permission – a permission to move excisable fuel products of a kind from any premises covered by your licence to any other premises covered by a licence which are authorised to keep those goods, on a continuing basis
- single movement permission (export) – a permission to move excisable fuel products to a place of export (effective for one movement), or
- continuing movement permission (export) – a permission to move excisable fuel products of a kind specified to a place of export on a continuing basis.



An export movement permission is **not** an authority to export. You must obtain this separately from Department of Home Affairs.

### 5.3.2 OBTAINING A MOVEMENT PERMISSION

You can be granted a movement permission if you are the licence holder of:

- the place covered by a licence from where the goods are despatched, or
- the place covered by a licence where the goods are received.

You can also be granted a movement permission if you are the owner of the goods even if you do not hold an excise licence.

A general movement permission can only be granted to the holder of an excise licence to despatch excisable fuel products from premises covered by that licence. If you are granted a licence that covers more than one premises, you may also receive a general movement permission by default.

### 5.3.3 WHAT IS INCLUDED IN A MOVEMENT PERMISSION

Each movement permission we approve contains 3 parts:

#### 1. The permission

This specifies the:

- permission holder, and
- goods by tariff item or general description that can be moved under the permission.

The type of goods may be expressed generally (for example, 'excisable goods', or 'excisable fuel products') or specifically, by tariff item number or description.

A single movement permission will specify the kind and quantity of the goods that can be moved, for example, 100,000 litres of diesel classified to excise tariff subitem 10.10.

#### 2. The conditions

Movement permissions can be subject to conditions that are necessary to protect the revenue or ensure compliance with the Excise Act. In general, the conditions listed below are considered necessary to do that.

As a standard condition, you must provide to both the despatching and receiving premises a consecutively numbered document with each movement of goods that specifies:

- the despatching premises and destination
- the date of despatch
- the number and type of packages
- a description of the goods
- a statement that the goods are '[underbond](#)', and
- any other information necessary to permit the goods to be dealt with at the destination.

A condition can also have a restriction limiting the volume of goods that can be moved within a specific period of time, or at any one time.

#### 3. The schedule

This specifies:

- the premises from which the goods can be removed
- the premises to which the goods can be moved, and
- for single movement permissions, the period or dates in which the goods may be moved.

\* Note that general movement permissions will not contain a schedule, as the permission allows the permission holder to move excisable fuel products of a kind from any premises covered by their licence to any other premises covered by a licence that are authorised to keep those kinds of goods.

### 5.3.4 RECEIVING PREMISES AND LICENCES

Generally, the receiving premises should be covered by a licence. However, we may authorise underbond movement of goods to a 'specified place' not covered by a licence, for example, a waste destruction facility.

For a general movement permission, the receiving premises must be covered by a licence and be authorised to keep those kinds of goods.

### 5.3.5 PAYING A SECURITY

Prior to granting a movement permission, we may also require you to provide a security to protect the revenue or ensure compliance with the Excise Act. Even if we don't require a security prior to the granting of the movement permission, we may ask for a security at a later time. We can also ask you to increase the value of any security you may already have given.<sup>123</sup>

A security can be a bond, guarantee, cash deposit or similar financial product for an amount of money which may be forfeited if there is a failure to comply with the Excise Act. It is not necessary for a liability to arise as a result of the failure to comply, for the security to be forfeited. There is no statutory limit to the amount of a security but the amount is generally set by reference to the level of revenue at risk.

As part of assessing your application for a movement permission, we will decide whether you must provide a security. We will take into account:

- whether you currently hold an excise licence
- whether the despatching and receiving premises are covered by a licence
- the type of goods involved
- the amount of the liability on the goods
- the tax compliance record of
  - the applicant for the permission
  - the owner of the despatching premises
  - the owner of the receiving premises, and
- the susceptibility of the goods to be lost or diverted into home consumption without the payment of duty.

We review securities linked to continuous movement permissions every 3 years, at which time they may be extended, revised or cancelled. Compliance with a single movement permission is assessed on completion of the movement of the excisable goods covered by the permission.

The decision to require a security is not a reviewable decision under the objection process. However, there may be other avenues for review, for example, you may seek an informal review of our decision.

<sup>123</sup> Sections 16 to 22 of the Excise Act.



For more information about your review rights, refer to [Chapter 8](#) Reviews and objections.

### 5.3.6 ONCE A MOVEMENT PERMISSION IS GRANTED

When your movement permission is granted, it will be sent to you. You can then move your goods in accordance with the schedule. You will need to keep appropriate records to track the movement of your goods.

### 5.3.7 YOUR RESPONSIBILITIES

Where you have had possession, custody or control of goods we may request you (the permission holder) to account for the goods. If you are able to demonstrate that the goods have been lawfully moved under a movement permission, this will be considered a satisfactory accounting. It is important that you keep good records of any movement of goods both to and from your premises.

If you cannot satisfactorily account for the goods or you have failed to keep them safe, we may demand an amount equal to the duty that would have been payable on the goods.<sup>124</sup>

The permission holder is accountable for the goods:

- from the time they are removed from the despatching premises, and
- until they are delivered to the receiving premises and taken up into stock.

Accountability then transfers to the receiving premises. If the permission holder is the owner of the receiving premises, transfer of accountability occurs when the goods leave the despatching premises. If the permission holder owns the goods but is not licensed, they would generally be accountable for the goods from the time they are removed from the despatching premises until they are delivered to the receiving premises and taken up into stock.

If there is a discrepancy between the quantity shown in the delivery documentation and the physical quantity received you should contact us.



In the exceptional case where the goods are moved to premises not covered by a licence, accountability for the goods remains with you, as the permission holder.

### 5.3.8 IF AN APPLICATION IS NOT APPROVED

If we do not approve your application for a movement permission, or to amend your existing movement permission, we will notify you in writing. If you are not satisfied with our decision, you can ask us to review it. You will not be able to move the goods to the place nominated in the application without first paying the excise duty.

<sup>124</sup> Section 60 of the Excise Act.



For more information about your review rights, refer to [Chapter 8](#) Reviews and objections.

### 5.3.9 REVOCATION OR CANCELLATION OF A MOVEMENT PERMISSION

A continuing movement permission remains in effect until it is revoked or cancelled.<sup>125</sup>

We can cancel your movement permission if:

- you ask us to do so
- we consider that there is a risk to the revenue, or
- we have cancelled the licence of the receiving or despatching premises and this is the only premises listed on the permission.

If we decide to cancel your movement permission, we will notify you in writing. The cancellation will take effect from the time:

- you are served with the cancellation notice, or
- specified on the cancellation notice.



A decision to revoke or cancel a movement permission is not a reviewable decision.



For more information about your review rights, refer to [Chapter 8](#) Reviews and objections.

## 5.4 PROCEDURES

### 5.4.1 APPLYING FOR A MOVEMENT PERMISSION

Relevant forms to apply for a movement permission are available at [Permissions to move excisable fuel and petroleum products](#).

If you do not have control of the proposed receiving premises (either covered or not covered by a licence), we require you to obtain a letter from the operator of these premises stating that they will accept responsibility for the underbond goods when received. The application forms contain details of the statement required from the operator of the receiving premises.



If you need to deliver goods to new premises within specified periods, ensure that you allow sufficient time for your application to be determined. Generally, we will make a decision on your application within 28 days unless we need further information.

<sup>125</sup> While there is no specific provision in the Excise Act which allows permissions to be cancelled (unlike licences), in accordance with subsection 33(3) of the *Acts Interpretations Act 1901* the power to grant the permission provides the power to cancel or revoke the permission.



If you are granted a licence that covers more than one premises, or your existing licence is varied to cover more than one premises you may also receive a general movement permission by default with your licence.

#### **5.4.2 AMENDING A CONTINUING MOVEMENT PERMISSION**

If you wish to amend your existing continuing movement permission (for example, change the schedule of receiving premises), you must send us either:

- a new application form with the amending details, or
- a letter including the permission number and necessary changes.

If you wish to add new receiving premises to your existing permission, you must also provide us with a letter from the operator of the receiving premises accepting responsibility for the underbond goods when received. The application form contains details of the statement required from an operator of the receiving premises.

We will consider your request and send you a new or amended permission if approved. In the meantime you cannot move goods outside your current permission.

#### **5.4.3 MORE INFORMATION**

If you need more information on movement permissions contact us as follows:

- phone **1300 137 290**
- [ATO Online Services](#), or
- write to us at  
Australian Taxation Office  
PO Box 3514  
ALBURY NSW 2640

We will ordinarily respond to written information requests within 28 days. If we cannot respond within 28 days, we will contact you within 14 days to obtain more information or negotiate an extended response date.

### **5.5 PENALTIES THAT CAN APPLY IN RELATION TO MOVEMENT PERMISSIONS**

The following are the penalties that may apply after conviction for an offence.

## Move

If you move excisable fuel products without a movement permission<sup>126</sup>, or contrary to your movement permission<sup>127</sup>, the penalty is a maximum of 2 years in prison or the greater of 500 '[penalty units](#)' and 5 times the amount of duty on the excisable fuel products.

## 5.6 TERMS USED

### Excisable fuel products

Excisable goods are goods on which excise duty is imposed. Excise duty is imposed on goods that are manufactured or produced in Australia and listed in the Schedule to the Excise Tariff Act.

As this Guide deals with fuel products, we have used the term excisable fuel products.

Excisable fuel products include:

- petrol
- diesel
- renewable diesel
- crude petroleum oil
- condensate
- heating oil
- kerosene
- fuel ethanol
- biodiesel
- compressed natural gas (CNG)
- liquefied natural gas (LNG), and
- liquefied petroleum gas (LPG).

### Home consumption

'Home consumption'<sup>128</sup> is the term used in the Excise Act and this Guide to describe when excisable fuel products are released into the Australian market for consumption. The term used in the legislation is 'deliver for home consumption'.

<sup>126</sup> Section 117A of the Excise Act.

<sup>127</sup> Section 61A of the Excise Act.

<sup>128</sup> Note the legislation uses the term 'delivered for home consumption' (see, for example, sections 61 and 61C of the Excise Act).

Normally, this will be by delivering the goods away from premises covered by a licence but includes using those goods within those premises (for example, using fuel to run equipment in premises covered by your licence). It does not include goods delivered for export or the movement of goods underbond (see definition below) to another site covered by a licence.

The term 'home consumption' is not defined in the Excise Act and there is no definitive case law that looks at the issue in question. However there are several cases where issues closely related to it are considered.<sup>129</sup>

The conclusion drawn from those cases is that 'home consumption' refers to the destination of goods as being within Australia as opposed to exporting them.

### Penalty units

The value of a penalty unit is contained in section 4AA of the *Crimes Act 1914*, and is indexed regularly. The dollar amount of a penalty unit is available at [Penalties](#).

### Underbond

This is an expression not found in excise legislation but it is widely used to describe goods that are subject to excise control. Excisable goods that are subject to excise control are commonly referred to as 'underbond goods' or as being 'underbond'. This includes goods that have not yet been delivered into home consumption and goods moving between premises under a movement permission.

## 5.7 LEGISLATION (quick reference guide)

In this Chapter, we have referred to the following legislation:

- *Excise Act 1901*
  - section 16 – right to require security
  - section 17 – form of security
  - section 18 – general security may be given
  - section 19 – cancellation of bonds
  - section 20 – new sureties
  - section 21 – form of security
  - section 22 – effect of security
  - section 60 – persons to keep excisable goods safely

<sup>129</sup> See *R v Lyon* [1906] HCA 17; *Collector of Customs (NSW) v Southern Shipping Co Ltd* [1962] HCA 20; *Carmody v F C Lovelock Pty Ltd* [1970] HCA 35. *Caltex Australia Petroleum Pty Ltd v Commissioner of Taxation* [2008] FCA 1951 and *Moama Refinery Pty Ltd v Chief Executive Officer of Customs* [2001] FCA 1287.

- section 61A – permission to remove goods that are subject to the CEO's control
- section 117A – unlawfully moving excisable goods
- *Excise Tariff Act 1921*
  - The Schedule
- *Crimes Act 1914*
  - section 4AA – penalty units
- *Acts Interpretation Act 1901*
  - section 33 – exercise of powers and duties

## Amendment history

**27 June 2025**

Part	Comment
Throughout	<p>This chapter was updated to take into account the law changes as a result of the <a href="#">Excise and Customs Legislation Amendment (Streamlining Administration) Act 2024</a>. This includes:</p> <ul style="list-style-type: none"> <li>• a new general movement permission to move excisable fuel products of a kind from any premises covered by your licence to any other premises covered by a licence which are authorised to keep those goods, on a continuing basis</li> <li>• general movement permission may be granted by default if you are granted a licence that covers more than one premises, or your existing licence is varied to cover more than one premises.</li> </ul>
Throughout	Updated in line with current ATO style and accessibility requirements.

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## 6 PAYMENT OF DUTY

### 6.1 PURPOSE

This Chapter deals with:

- when duty is payable
- when duty is payable under periodic settlement
- when duty is payable under prepayment of excise duty
- when duty is not payable
- how to work out the amount of duty you're liable to pay, including tariff proposals and quotas
- what to do if you have a dispute as to the duty
- whether you have to account for excisable fuel products
- how to get a periodic settlement permission (PSP)
- what your PSP will include
- what to do to deliver fuel products into '[home consumption](#)'
- how to lodge '[excise returns](#)' and pay excise duty
- what to do if you have made an error on your excise return, and
- penalties that can apply to offences in relation to payment of duty.

### 6.2 INTRODUCTION

Excise duty is imposed at the time of manufacture of '[excisable fuel products](#)'.<sup>130</sup> However, the duty is not required to be paid at the time of manufacture.

This Chapter focuses on the payment of duty and the factors that influence when and how much duty is payable.

<sup>130</sup> Subsection 5(1) of the Excise Tariff Act.

To ensure the duty is ultimately acquitted, excisable fuel products remain subject to our control until they are delivered<sup>131</sup>:

- into home consumption, or
- for export to a place outside Australia.

The liability for duty, imposed at the time of manufacture, can be acquitted by:

- payment of the duty
- export of the goods
- [‘remission’](#), or
- use of the goods in the manufacture of other excisable goods.

Alternatively, the liability can be transferred with the goods if they are sold while [‘underbond’](#).

## 6.3 POLICY AND PRACTICE

### 6.3.1 WHEN DUTY IS PAYABLE

When the liability for duty becomes payable depends on how authority is given to deliver the excisable fuel products into home consumption. If goods are delivered for home consumption in accordance with a continuing permission issued under section 61C of the Excise Act, duty is payable at the same time the return for the relevant period is due for lodgment.<sup>132</sup> If goods are entered on an ad hoc basis, you will have to pay duty in order for the entry to be passed.<sup>133</sup>

### 6.3.2 WHEN DUTY IS PAYABLE UNDER A PERIODIC SETTLEMENT PERMISSION

Under a PSP, the duty is paid *after* the excisable fuel products are delivered into home consumption.

A PSP allows you to deliver goods for home consumption and then, for each period, report those deliveries and pay duty at the rates applicable at the time of each delivery.<sup>134</sup> Periodic settlement is the most common arrangement for the delivery of goods into home consumption.

<sup>131</sup> Section 61 of the Excise Act.

<sup>132</sup> Section 61C of the Excise Act.

<sup>133</sup> Paragraph 58(1)(a) of the Excise Act.

<sup>134</sup> Section 61C of the Excise Act.

PSPs may be granted on a weekly, monthly or quarterly basis.

Weekly PSPs: You may apply for a PSP that covers any recurring 7-day reporting period.<sup>135</sup> You may specify in your application the 7-day period you wish to use, for example, Wednesday to Tuesday.<sup>136</sup> The application must be made on the approved form.<sup>137</sup>

Monthly PSPs: You may apply for a monthly<sup>138</sup> PSP if you are either:

- a small business entity or eligible business entity<sup>139</sup>, or
- included in a particular class of business or you deliver goods that are of a particular kind as prescribed by the Excise Regulation.<sup>140</sup>

You may only apply for a quarterly PSP if you are an eligible business entity.

A 'small business entity'<sup>141</sup> is an entity with an aggregated turnover for the previous year of less than \$10 million or one that is likely to have an aggregated turnover for the current year of less than \$10 million. Aggregated turnover includes the turnover of any entities connected with you and any of your affiliates. However, exclude any turnover from dealings between you, and any entities connected with you or your affiliates.

An 'eligible business entity'<sup>142</sup> is an entity that would be a small business entity if the turnover thresholds were \$50 million rather than \$10 million.

Stabilised crude oil and condensate are currently prescribed in the Excise Regulation as being goods for which a person may apply for a PSP in respect of a calendar month. If a person is granted a PSP in respect of a calendar month, they will be required to give the Collector a return, in an approved form, on the day of each month specified in the PSP. The return must contain details of goods that have been delivered into home consumption under the PSP in the preceding month.<sup>143</sup>

<sup>135</sup> Paragraph 61C(1)(a) of the Excise Act.

<sup>136</sup> Subsection 61C(1A) of the Excise Act.

<sup>137</sup> Subsection 61C(1B) of the Excise Act.

<sup>138</sup> Paragraph 61C(1)(b) of the Excise Act.

<sup>139</sup> Subparagraph 61C(1)(b)(ia) of the Excise Act.

<sup>140</sup> Subparagraphs 61C(1)(b)(i) and (ii) of the Excise Act.

<sup>141</sup> As defined by section 328-110 (other than subsection 328-110(4)) of the *Income Tax Assessment Act 1997*.

<sup>142</sup> Defined in subsection 4(1) of the Excise Act by reference to subparagraph 61C(1)(b)(ia) and subsection 61C(1AA) of the Excise Act.

<sup>143</sup> Subsection 61C(3) of the Excise Act.



A PSP is given in writing and includes<sup>144</sup>:

- your name as the holder of the PSP
- the kind of goods to which the PSP applies
- the place from which the goods may be delivered
- the start date of the PSP and whether it is for a 7-day, monthly or quarterly period
- the 7-day period specified (if applicable), and
- any special requirements of the periodic settlement.

In considering your application for a PSP, we will take into account various issues including compliance with the law and the protection of the excise revenue. We will also consider whether you have complied with the requirements of any previous permission you have been given. If we refuse to give you a PSP, we will issue you a notice in writing setting out the reasons for the refusal.<sup>145</sup>

A decision we make in relation to the period of a PSP or any condition for a PSP is a reviewable decision.<sup>146</sup>



For information about your review rights, refer to [Chapter 8](#) Reviews and objections.

If you have a 7-day PSP for a fuel that is other than CNG, LNG or LPG<sup>147</sup>:

- You must lodge an excise return on the first business day following the end of the 7-day period specified in your PSP. The excise return details the goods you have delivered into home consumption during the settlement period.
- You must, at the time you lodge your return, pay any duty at the rate applicable when the goods were delivered into home consumption.



A 'business day' is a day that is not a Saturday or Sunday or a public holiday in the place where you lodge your return.

If you have a 7-day PSP for CNG, LPG or LNP the same requirements apply, however you must give us a return and pay any excise duty on or before the 6th business day following the end of the 7-day period.<sup>148</sup>

If you have a monthly PSP, the same requirements apply, however you must give your return and pay any excise duty on or before the 21st day of month following the end of the monthly period.<sup>149</sup>

<sup>144</sup> Subsections 61C(1C), (1D) and (1E) and subsections 61C(5) to (7) of the Excise Act.

<sup>145</sup> Paragraph 61C(1C)(b) of the Excise Act.

<sup>146</sup> Paragraphs 162C(1)(d), (e) or (f) of the Excise Act.

<sup>147</sup> Paragraph 61C(3)(a) of the Excise Act; paragraph 1.21 of the Explanatory Memorandum to the Excise Amendment (Reducing business Compliance Burden) Bill 2011.

<sup>148</sup> Paragraph 61C(3)(b) of the Excise Act.

<sup>149</sup> Paragraphs 61C(3)(c) and (d) of the Excise Act.

If you have a monthly permission because you are in a class of persons prescribed in the regulations of the Excise Act or because you deliver goods into home consumption of a kind prescribed, the regulations of the Excise Act can impose alternative conditions.

If you have a quarterly PSP, you must give your return and pay any excise duty:

- for a quarter ending on 31 March, 30 June or 30 September, the 28th day after the end of the quarter
- for a quarter ending on 31 December, the 28th day of February after the end of the quarter.

We may also determine a different PSP period if:

- you do not have any excise duty to pay<sup>150</sup>
- you are an eligible business entity and have a PSP for a monthly period and have advised us in writing that the business has ceased to be an eligible business entity<sup>151</sup>
- you are included in a particular class of business and have a PSP for a monthly period and have advised us in writing that your business has ceased to be included in the class.<sup>152</sup>

If we change your PSP period, we will advise you in writing that your PSP is revoked from the date specified in the notice. We will give you another PSP for a 7-day period.<sup>153</sup>

If you are no longer eligible for a monthly or quarterly settlement period, it is a condition of your licence that you notify us in writing and we will revoke your permission from a specified day and give you another PSP for a 7-day period.<sup>154</sup> If you advise us in writing that you wish to change the period relating to your 7-day period, we may, in writing, revoke your current PSP and give you a new permission for the preferred period. We will notify you of the day the change comes into effect.<sup>155</sup>



You do not need to have an excise licence to have a PSP.

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## Example 6A

*Buy Me Pty Ltd (Buy Me) does not hold an excise licence and does not qualify as a small business entity or eligible business entity. A licensed manufacturer manufactures excisable fuel products for Buy Me*

<sup>150</sup> Paragraph 61C(3A)(a) of the Excise Act.

<sup>151</sup> Paragraphs 61C(8)(a), (b) and (c) of the Excise Act.

<sup>152</sup> Paragraph 61C(8)(c) of the Excise Act.

<sup>153</sup> Paragraphs 61C(8)(d) and (e) of the Excise Act.

<sup>154</sup> Paragraph 61C(3)(e) of the Excise Act.

<sup>155</sup> Subsection 61C(9) of the Excise Act.

*under contract. The fuel products are not of a particular class of goods prescribed in the Excise Regulation. Buy Me is also not included in a class of persons prescribed in the Excise Regulation.*

*Under the terms of the contract, Buy Me has title to the goods from the time of manufacture and will pay the excise duty.*

*Buy Me applied for, and was granted, a 7-day PSP for the period Tuesday to Monday.*

*Buy Me is able to arrange delivery of the excisable fuel products into home consumption and defer payment of excise duty, on those goods, until after the end of the 7-day period. On the first working day after the end of the period (that is, Tuesday, unless it is a public holiday in which case it will be due on Wednesday) Buy Me must lodge an excise return for any excisable fuel products delivered during the prior Tuesday to Monday and pay the excise duty owing on those goods.*

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### 6.3.3 WHEN DUTY IS PAYABLE UNDER PREPAYMENT OF EXCISE DUTY

Under prepayment, the duty is paid *before* the excisable fuel products are delivered into home consumption.

If you do not hold a PSP, you must receive a Delivery authority from us before you are allowed to deliver the excisable fuel products into home consumption. We require you to pay any applicable duty before we give you a Delivery authority. To request a Delivery authority you need to lodge an excise return.



That is, you must<sup>156</sup>:

- lodge an excise return
- pay the relevant duty, and
- receive a Delivery authority from us.



You must not deliver excisable fuel products into home consumption before receiving the Delivery authority.

### 6.3.4 WHEN DUTY IS NOT PAYABLE

There are circumstances in which no duty will be payable. These include where:

- goods are classified to an item or subitem with a free rate of duty
- goods are exported
- an exemption circumstance applies
- a remission circumstance applies, or

<sup>156</sup> Section 58 of the Excise Act.

- excisable fuel products that are subject to our control are used in the manufacture of other excisable fuel products.

### 6.3.5 WORKING OUT THE AMOUNT OF DUTY

To work out how much duty you need to pay you will need to:

- check whether your fuel products are excisable fuel products according to the Schedule to the Excise Tariff Act<sup>157</sup> and identify the correct duty rate
- work out the quantity of fuel products subject to duty, in each tariff subitem, that you deliver into home consumption
- multiply the quantity of fuel products by the rate of duty on the excisable fuel products, and
- add up the total for each subitem to work out total duty to be paid.

#### (i) Classifying excisable fuel products

The Schedule to the Excise Tariff Act lists those goods that, if manufactured or produced in Australia, are subject to excise. The Schedule also contains the rate of duty applicable to the goods. For excisable fuel products, the relevant part of the Schedule is as follows:

<sup>157</sup> For the current rates of duty, refer to our tariff working page Excise duty rates for fuel and petroleum products.

Figure 2: Extract of the table in the Schedule to the Excise Tariff Act with current rates of duty

Item	Subitem	Description of goods	Rate of duty
10		<p><b>Goods as follows:</b></p> <p>(a) petroleum condensate and stabilised crude petroleum oil for use otherwise than:</p> <p>(i) in the recovery, production, pipeline transportation or refining of petroleum condensate or stabilised crude petroleum oil; or</p> <p>(ii) as feedstock at a factory covered by a licence granted under Part IV of the <i>Excise Act 1901</i>;</p> <p>(b) topped crude petroleum oil;</p> <p>(c) refined or semi-refined liquid products derived from petroleum, other than such products for use (other than in an internal combustion engine) in refining petroleum condensate or stabilised crude petroleum oil;</p> <p>(d) liquid hydrocarbon products derived through a recycling, manufacturing or other process;</p> <p>(da) liquefied petroleum gas;</p> <p>(db) liquefied natural gas;</p> <p>(dc) compressed natural gas;</p> <p>(e) denatured ethanol for use as fuel in an internal combustion engine;</p> <p>(f) biodiesel;</p> <p>(g) blends of 1 or more of the above goods (with or without other substances), other than blends covered by subsection 77H(1), (2A), (2B) or (3) of the <i>Excise Act 1901</i>;</p> <p><b>but not including the following:</b></p> <p>(h) goods classified to item 15;</p> <p>(i) waxes and bitumen</p> <p>(j) goods covered by section 77HA or 77HB of the <i>Excise Act 1901</i></p>	

10.1	Petroleum condensate	*\$0.508 per litre
10.2	Stabilised crude petroleum oil	\$0.508 per litre
10.3	Topped crude petroleum oil	\$0.508 per litre
10.5	Gasoline (other than for use as fuel in aircraft)	\$0.508 per litre
10.6	Gasoline for use as fuel in aircraft	\$0.03556 per litre
10.7	Blends of gasoline and ethanol	The amount of duty worked out under section 6G
10.10	Diesel	\$0.508 per litre
10.12	Blends of diesel and either biodiesel or ethanol, or both	The amount of duty worked out under section 6G
10.15	Heating oil	\$0.386 per litre
10.16	Kerosene (other than for use as fuel in aircraft)	\$0.386 per litre
10.17	Kerosene for use as fuel in aircraft	\$0.03556 per litre
10.18	Fuel oil	\$0.508 per litre
10.19A	Liquefied petroleum gas, other than liquefied petroleum gas exempted from excise duty by section 77HB of the <i>Excise Act 1901</i>	\$0.166 per litre
10.19B	Liquefied natural gas, other than liquefied natural gas exempted from excise duty by section 77HB of the <i>Excise Act 1901</i>	\$0.348 per kilogram
10.19C	Compressed natural gas, other than compressed natural gas exempted from excise duty by section 77HA of the <i>Excise Act 1901</i>	\$0.348 per kilogram
10.20	Denatured ethanol for use as fuel in an internal combustion engine	\$0.166 per litre
10.21	Biodiesel	\$0.152 per litre
10.25	Liquid aromatic hydrocarbons consisting principally of benzene, toluene or xylene or mixtures of them (other than goods covered by section 77J of the <i>Excise Act 1901</i> )	\$0.508 per litre

10.26	Mineral turpentine (other than goods covered by section 77J of the <i>Excise Act 1901</i> )	\$0.508 per litre
10.27	White spirit (other than goods covered by section 77J of the <i>Excise Act 1901</i> )	\$0.508 per litre
10.28	Petroleum products (other than blends) not elsewhere included (other than goods covered by section 77J of the <i>Excise Act 1901</i> )	\$0.508 per litre
10.30	Blends of 1 or more of the above goods (with or without other substances) not elsewhere included that can be used as fuel in an internal combustion engine (other than goods covered by section 77J of the <i>Excise Act 1901</i> )	The amount of duty worked out under section 6G
<b>15</b>	<b>Goods as follows, other than:</b> <b>(a) diesel; and</b> <b>(b) blends of diesel and any other goods; and</b> <b>(c) goods for use as a fuel; and</b> <b>(d) goods ordinarily used as a fuel; and</b> <b>(e) exempt oils and hydraulic fluids; and</b> <b>(f) any other goods prescribed for the purposes of this paragraph</b>	
15.1	Either: (a) petroleum-based oils that are lubricant/fluid/oil products; or (b) the synthetic equivalents of such oils; but not greases	\$0.142 per litre
15.2	Either: (a) petroleum-based oils that are lubricant/fluid/oil products or greases; or (b) synthetic equivalents of such oils; recycled for use as oils that are lubricant/fluid/oil products but not recycled for use as greases	\$0.142 per litre

15.3	Petroleum-based greases and their synthetic equivalents	\$0.142 per kilogram
15.4	Either: (a) petroleum-based oils that are lubricant/fluid/oil products or greases; or (b) synthetic equivalents of such oils; recycled for use as greases	\$0.142 per kilogram

\*Rate of duty as at 3 February 2025. The law indexes the excise duty rates for fuel and petroleum products (other than aviation fuels and certain petroleum-based products) twice a year, based on the upward movement of the consumer price index (CPI). The Australian Bureau of Statistics is responsible for determining and publishing the CPI which provides the basis for indexation. Generally, indexation occurs on 1 February and 1 August.

In addition, there has been a legislated phasing in of the rates of excise duty on biodiesel applied annually on 1 July. The final phased increase will occur on 1 July 2030.

For the current rates of duty, refer to our tariff working page [Excise duty rates for fuel and petroleum products](#).

## (ii) Working out quantities of excisable fuel products

We measure fuel quantity in litres or, in some cases, kilograms. However, the volume of fuel varies with temperature.

To work out your fuel quantity for excise duty purposes, volume is generally used and must be measured at a temperature of 15 degrees Celsius, which is an industry standard, and the quantity rounded to the nearest whole litre.

The method used to calculate the litres figure is the standard conversion of a weight measurement, which is to take the weight and divide it by the density corrected to 15 degrees Celsius.



For more information on measuring the volume of liquid fuels, refer to [Excise \(Volume of Liquid Fuels - Temperature Correction\) Determination 2016 \(No. 2\)](#).

If you are dealing with LPG, there are other factors to be considered when determining volume. These factors can include the density and vapour pressure.



For more information on measuring the volume of LPG, refer to [Excise \(Volume of LPG – Temperature and Pressure Correction\) Determination 2016 \(No. 2\)](#).

The fuel quantity of CNG is measured in kilograms for excise purposes. If you are dealing with CNG which is measured via a different method (either volume or energy value), there are factors to be considered when determining the mass.



For more information on determining the mass of CNG, refer to [Excise \(Mass of CNG\) Determination 2016 \(No. 2\) 2016](#).



You may have instances when product is invoiced in kilograms and you then need to convert the quantity to litres to:

- record it in your stock records, and
- include on an excise return, when delivered into home consumption.

The method used to calculate the litres figure is the standard conversion of a weight measurement to a liquid measurement, which is to take the weight and divide it by the density corrected to 15 degrees Celsius.

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### Example 6B

*100 kilograms of fuel oil having a density of 0.94 at 15 degrees Celsius converts to 106 litres:*

$$100 \div 0.94 = 106.38 \text{ rounded to 106 litres}$$


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### (iii) Calculating duty payable on each excisable fuel product

The rates of duty are set out in the Schedule to the Excise Tariff Act.

The rate of duty you use is the rate contained in the working tariff for the subitem. It will also depend on whether you have a PSP. If you do, it is the rate applicable at the time you deliver the excisable fuel products into home consumption. If you do not have a PSP, it is the rate applicable at the time you make the pre-payment.<sup>158</sup>



The excise duty rates used in this Guide are current at the time of publication.

For the current rates of duty, refer to our tariff working page [Excise duty rates for fuel and petroleum products](#).

When goods are delivered into home consumption under a PSP, the rate of duty that applies is the rate in force at the time the goods are delivered.

<sup>158</sup> Section 59 of the Excise Act.

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**Example 6C**

*On 13 August 2024, a manufacturer delivers lubricating oil under its PSP.*

*The lubricating oil is classified to subitem 15.1 of the excise tariff.*

*The rate of duty that applies is the rate in force on 13 August 2024 – \$0.142 per litre.*

**Example 6D**

*When goods are entered on an ad hoc basis prior to being delivered into home consumption, the rate that applies is the rate in force at the time payment is made.*

*On 29 June 2023, a manufacturer that does not hold a PSP lodges an ad hoc entry and prepays duty for a quantity of lubricating oil that is on hand but has not yet been delivered into home consumption. The lubricating oil is delivered on 10 July 2023.*

*The lubricating oil is classified to subitem 15.1 of the excise tariff.*

*The rate of duty that applies is the rate in force on 29 June 2023 – \$0.085 per litre.*



The amount of duty payable is then calculated by multiplying the quantity of excisable fuel products by the applicable rate of duty.

Lubricating oil is not subject to bi-annual indexation. Any change to the rate of duty for lubricating oil is made by a change to the law.

On 1 July 2023, there was an increase in the rate from \$0.085 per litre to \$0.142 cents per litre.

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**Example 6E**

*10,000 litres of diesel are delivered into home consumption on 10 February 2025.*

*The diesel is classified to subitem 10.10 of the excise tariff and has a duty rate of \$0.508 per litre.*

*Therefore, the duty payable is 10,000 litres × \$0.508 = \$5,080.00.*

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**(iv) Calculating total duty payable**

Duty payments are notified to us by including details on your excise return. Excisable fuel products classified to different items or subitems of the excise tariff must be shown separately on your excise return on what are referred to as lines.

**Example 6F**

*My Fuel Sales needs to report deliveries of fuel and grease for the period ended 10 November 2024.*

*On their excise return, My Fuel Sales reports their deliveries and duty liability as:*

Table 2: Deliveries and duty liability reported by My Fuel Sales

Line	Tariff item	Quantity	Units	Duty rate
1	10.5	100,000	L	\$0.508
2	15.3	15,000	Kg	\$0.142

*The total excise amount was \$52,390.*

**If the rate changes during the settlement period**

If the rates of duty change within your settlement period, you may lodge 2 excise returns or, alternatively, include separate lines for the same product on one return – that is:

- one return or line for goods delivered under the old rates, and
- one return or line for goods delivered under the new rates.

The applicable rate of excise duty can also be affected by:

- changes to the Excise Tariff Act (including tariff proposals), or
- quotas.

***Changes to the Excise Tariff Act***

Where the government decides to change the rate of excise applying to excisable goods, or to apply excise to new goods or stop applying excise to certain goods, it notifies its intention to do this with a tariff proposal.

***Tariff proposals***

Tariff proposals are a means of changing the excise tariff.

Changes to the excise tariff can be notified in the parliament or, if the parliament is not sitting, by notice in the Gazette.

The tariff proposal is required to be validated by an Act within 12 months of the date of notification, with the Act giving retrospective effect to the date of the proposal.

You cannot commence proceedings against us for any action taken to collect the amount set by the tariff proposal during the periods specified in section 114 of the Excise Act.<sup>159</sup>

Effectively, this means you need to pay in line with a tariff proposal. Any increases in rates or introduction of new products through a tariff proposal technically does not impose excise until the amending Act receives royal assent, but we will protect the revenue by collecting amounts in line with the proposal.

If an amending Act validating the changes outlined within the tariff proposal is not passed within the prescribed periods, any additional amounts will be refunded.

### *Quotas*

Quotas are a means of ensuring that people cannot gain an advantage by anticipating rises in excise rates and then delivering more excisable fuel products than they would normally. Effectively, quotas restrict the quantity of excisable fuel products you can deliver into home consumption at the existing excise rate. If you exceed your quota for the period you will need to pay the duty at the new rate.

Where we believe that persons are anticipating an increase in the rate of duty, and as a result clearances of excisable fuel products in a particular period are likely to be greater than usual, we will publish a notice in the Gazette. This notice will state that a particular period is a 'declared period'.<sup>160</sup>

The 'declared period' is the period during which quotas will operate. To establish what your quota is we will consider the amounts of your past deliveries.<sup>161</sup>

Once we have established your quota, we will give you a written quota order that specifies the maximum level (which can be nil)<sup>162</sup> of excisable fuel products that you can deliver into home consumption at the applicable excise rate in force during the declared period.

If, at any time during the declared period you exceed your quota, you are required to pay the duty on the excess goods at the existing rate, and in addition we may require you to pay a security, by cash deposit, equal to the duty on the excess goods.<sup>163</sup>

<sup>159</sup> For an explanation of customs and excise tariff proposals, see [About Tariff Proposals](#).

<sup>160</sup> Subsections 59A(1) and (2) of the Excise Act.

<sup>161</sup> Subsection 59A(5) of the Excise Act.

<sup>162</sup> This allocation considers your normal delivery activity over a period of time. This period will take into account any aberrations and will be long enough to allow a representative average to be calculated.

<sup>163</sup> Subsection 59A(8) of the Excise Act.

At the end of the declared period we will reconcile your deliveries with your quota. If you delivered into home consumption more than your quota allowed, the duty for the amount in excess of the quota is calculated at the rate in force the day after the declared period ends. Therefore, if the rate has gone up, you will pay the higher rate of duty on the amount in excess of your quota.

We can vary or revoke a quota order any time before the end of the declared period or 60 days after the making of the quota order, whichever occurs last.



For more information about our role in determining and applying quotas refer to Law Administration Practice Statement [PS LA 2012/3](#) *Determining and applying quotas under the Excise Act 1901*.

### 6.3.6 DISPUTES AS TO THE DUTY

You may deposit with us the amount of duty demanded if you dispute<sup>164</sup>:

- the amount of duty
- the rate of duty, or
- the liability of goods to duty (for example, whether the goods are excisable).

The deposit of this duty is to be made on an excise return. The excise return should be accompanied by a letter which sets out the details of the dispute. Upon receipt of the amount deposited we will authorise delivery of the goods. You have 6 months after making the deposit to commence court action. If that action is decided in your favour, we are obliged to refund you the deposit along with interest of 5% per annum, unless we are of the opinion that any evasion under the Excise Act has been committed or attempted. If the action is not commenced within 6 months or the court does not find in your favour, the amount deposited is taken to be the correct amount of duty.

However, if you have received a private ruling and subsequently lodge an objection that relates to the amount or rate of duty, or the liability of goods to duty, you cannot commence court action to recover your deposit on grounds that are, or could have been, in your objection.<sup>165</sup>

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#### Example: 6G

*A licensed manufacturer anticipates manufacturing a new type of excisable good. They seek a private ruling as to the rate of duty that would be payable on the good. They do not accept the rate of duty advised by us in the private ruling and they lodge an objection. Subsequently, they commence manufacture of the excisable goods. They pay the amount of duty at the rate that we claimed was payable in the private ruling and commence an action against us under section 154 of the Excise Act.*

<sup>164</sup> Section 154 of the Excise Act.

<sup>165</sup> Section 155 of the Excise Act and section 359-60 of Schedule 1 to the TAA.

*Their ability to commence an action under section 154 is limited to matters that are not covered and could not have been covered under the objection to the private ruling.*



For more information on private rulings, see [Section 8.5](#) Private rulings



These disputes do **not** apply to changes brought about by a tariff proposal.



For more information on tariff proposals, see [Section 6.3.5](#) Working out the amount of duty.

We consider that section 154 of the Excise Act, because it permits you to deliver goods provided you pay the amount of duty determined by the Collector, has no application where you are delivering goods under a PSP. Under a PSP, goods are delivered prior to the lodgment of returns or payment of duty. If you wish to avail yourself of your options under section 154, you can lodge an ad hoc entry for the goods rather than delivering them under your permission. Alternatively, you can deliver the goods under your PSP, pay the duty determined by the Collector and then apply for a refund of the amount you believe has been overpaid (subject to time limits).

### 6.3.7 ACCOUNTING FOR EXCISABLE FUEL PRODUCTS

If you have or had, or have been entrusted with, possession, custody or control of any excisable fuel products<sup>166</sup> (subject to '[excise control](#)'), you have to be able to satisfactorily account for them.

If we ask you to account for excisable fuel products, and you cannot satisfactorily do so, we may demand payment of an amount equal to the duty. Our demand will be given in writing. The amount you are required to pay is calculated using the rate of duty in force on the day the demand is made.

When requested to account for excisable fuel products, you must be able to show that:

- the goods are still at your premises
- duty has been paid
- duty was not payable (for example, where a remission applied), or
- the goods have otherwise been dealt with in accordance with the excise law (for example, moved under a movement permission or included on an excise return at a concessional rate).

Excisable fuel products will not have been accounted for satisfactorily just because they were:

- given away for promotional purposes<sup>167</sup>

<sup>166</sup> Section 60 of the Excise Act.

<sup>167</sup> ATO Interpretative Decision ATO ID 2004/61 *Excise: goods given away without payment of excise duty* but see [Delivering samples without payment of duty](#) in Section 7.3.5.

- stolen from premises covered by a licence<sup>168</sup>, or
- delivered into home consumption under the mistaken belief that they were not excisable.

We may also demand payment from you if you have failed to keep excisable fuel products safely (for example, if you have a break-in and a theft occurs, you will be required to pay an amount equal to the duty that would have applied to the excisable fuel products that have been stolen).

Our decision to demand payment is a reviewable decision.<sup>169</sup>



For information about your review rights, refer to [Chapter 8](#) Reviews and objections.

In determining whether you have accounted for the excisable fuel products, we may allow you to offset any stock shortages and surpluses.

### Example 6G

*My Petroleum Wholesalers is asked to account for their excisable fuel products. They carry out a stocktake and find there is a surplus of 100,000 litres of unleaded petrol and a shortage of 200,000 litres of diesel.*

*We will allow them to offset the surplus and shortage. Therefore, there are 100,000 litres of diesel that have not been accounted for.*

*A demand will be issued for an amount equal to the excise duty payable on the 100,000 litres.*

*My Petroleum Wholesalers corrects its book stock to take up the surplus stock of 100,000 litres of unleaded petrol and, when the demand is paid, write off the shortage of 200,000 litres of diesel.*

### Example 6H

*Continuing from Example 6G, a couple of months later, My Petroleum Wholesalers decides to conduct another stocktake. They find a surplus of 250,000 litres of heating oil and a shortage of 200,000 litres of fuel oil. Both products are subject to duty at the same rate.*

*They decide to offset the surplus and shortage. Therefore, there are no litres that have not been accounted for but there is a surplus of 50,000 litres.*

*My Petroleum Wholesalers corrects its book stock to take up the surplus stock of 250,000 litres of heating oil and write off the shortage of 200,000 litres of fuel oil. They do not need to notify us as there*

<sup>168</sup> ATO Interpretative Decision ATO ID 2001/595 *Excise: Liability to pay an amount equal to the excise duty on excisable goods stolen from the premises of a licensed excise manufacturer or a licensed storage place.*

<sup>169</sup> Section 162C of the Excise Act.

*has been no shortage in the payment of the duty. If a shortfall had occurred, they would need to contact us before the offsetting could occur.*

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### **Out-of-period adjustment arrangements**

There are circumstances in which you may make 'out-of-period' adjustments to your excise liability on your excise return without our prior approval.

For example, a PSP holder who is eligible for refunds or drawbacks or has underpaid duty in a previous settlement period may be able to use the out-of-period adjustment arrangement to account for the variations within the current settlement period.

Adjustments covered include refund claims, drawback claims and underpayments of duty. An out-of-period adjustment report must be lodged with the relevant excise return.

Before you can use the out-of-period adjustment system, you must obtain approval from us.



For more information about the out of period adjustment system, refer to Law Administration Practice Statement [PS LA 2003/1](#) *Petroleum excise duty – reporting for adjustments outside the current reporting period*.

### **Returning fuel products to underbond stock**

Fuel products that have been delivered into home consumption but returned before the end of the settlement period are not required to be included on the excise return for that period. The product can be returned to underbond stock and treated as though they have never left excise control. Fuel that has been returned to a place covered by a licence after the settlement period in which the fuel was delivered, can be included in the out-of-period adjustment as described above.

## **6.4 PROCEDURES**

### **6.4.1 OBTAINING A PERIODIC SETTLEMENT PERMISSION**

If you apply for a manufacturer or storage licence, you can use your application form to indicate whether you intend to apply for a periodic settlement permission or pay excise duty on an ad hoc basis prior to delivery. We will contact you to discuss your requested payment option.

If you do not have a licence, or you originally chose not to pay excise duty periodically, contact us to get a PSP.

If we approve your PSP, we will notify you in writing within 28 days of receiving your request.



A PSP is not transferable to another person and remains in force until revoked.



We may also:

- refuse to grant a PSP
- impose conditions on a PSP, or
- revoke a PSP.

Failure to comply with a condition may result in the revocation of the PSP.<sup>170</sup> In such an instance, we would take into account a variety of factors, including your payment history.

A decision to refuse, impose conditions on, or to revoke a PSP is a reviewable decision.<sup>171</sup>



For information about your review rights, refer to [Chapter 8](#) Reviews and objections.



For more information about PSPs, contact us by phoning **1300 137 290**.

## 6.4.2 WHAT A PERIODIC SETTLEMENT PERMISSION INCLUDES

Your PSP in relation to excisable fuel products will include:

- permission to deliver excisable fuel products into home consumption
- conditions, such as
  - your settlement period – the period during which goods can be delivered before a return must be lodged
  - the type of goods that may be delivered from each premises
  - quantity limits (if any)
  - when and how to lodge your excise return
  - when you must pay the duty
  - how you must pay – permitted methods (for example, electronic funds transfer, cheque, at a post office)
  - record-keeping requirements
- a schedule listing one or more premises from which deliveries may be made.

Even if you do not deliver into home consumption any excisable product in the period prescribed in your PSP, you must still lodge a return for that prescribed period and indicate that the lodgment is a 'nil return'.

<sup>170</sup> Subsection 61C(7) of the Excise Act.

<sup>171</sup> Paragraphs 162C(1)(d), (e) and (f) of the Excise Act.

**Example 6I**

*A PSP specifies a settlement period starting on Saturday and ending on Friday. It states that excise returns must be lodged by 4:00 pm on the first business day after the end of the settlement period. It also says that the duty on deliveries made during the settlement period must be paid at the same time as the excise return is required to be lodged.*

*An excise return must be lodged and the duty paid by 4:00 pm on Monday for all goods delivered during the settlement period.*

*When a public holiday falls on a Monday, the excise return is due for lodgment and duty is to be paid by 4:00 pm on Tuesday, the next business day.*

*Where you have deliveries in different states of Australia, there may be different public holidays in those states. If your returns are prepared by an office in a state different from that in which the delivery into the Australian domestic market occurs, lodgment is due on the next business day in the state where the return is prepared.<sup>172</sup>*

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### **6.4.3 DELIVERING FUEL PRODUCTS INTO HOME CONSUMPTION**

#### **Delivery under periodic settlement permission**

If we provide you with a PSP, you must take the following steps to deliver excisable fuel products into home consumption:

- deliver the fuel products into home consumption (where delivered in accordance with the permission the products are now no longer subject to excise control)
- complete and submit your excise return in accordance with the timeframes in the permission, and
- pay the duty to us in accordance with the timeframes in the permission.

#### **Delivery after prepaying the excise duty**

If you do not have a PSP, you must take the following steps to enter excisable fuel products into home consumption:

- complete and submit your excise return

<sup>172</sup> ATO Interpretative Decision ATO ID 2004/114 *Payment of excise duty: lodgment of periodic settlement permissions - public holidays* (now withdrawn); paragraph 1.21 of the Explanatory Memorandum to the Excise Amendment (Reducing Business Compliance Burden) Bill 2011.

- pay the duty to us
- obtain a Delivery authority from us, and
- deliver the fuel products into home consumption.


#### 6.4.4 LODGING EXCISE RETURNS AND PAYING EXCISE DUTY

Lodge your excise return via:

- [ATO Online Services](#), or
- post it to  
Australian Taxation Office  
PO Box 3007  
PENRITH NSW 2740.

You can pay excise duties by:


- electronic funds transfer, including direct credit and BPAY
- credit or debit card
- in person at a post office, or
- mail (cheque or money order). The payment must be received by the day and time stated in your PSP.

 If you are required to pay your other tax debts electronically, you must also make your payment for excise duty by electronic funds transfer.

If you pay the excise duty at a post office, you must use a payment advice. To obtain a payment advice booklet, phone us on **13 72 26** or **1800 815 886** and supply us with your Australian Business Number (or Excise Identification Number) and client account number.

Lodgment of an excise return and payment of any duty must be made by the day and time stated on your PSP.

Failure to pay on time may result in the revocation of your PSP.

-  To obtain an excise return:
- see [Excise return](#), or
  - phone **1300 137 290**.

Instructions to help you complete your excise return can be found at [Excise return](#).

#### 6.4.5 MAKING AN ERROR ON AN EXCISE RETURN

You may correct errors in your excise return or add new lines by lodging an amending excise return and referencing the number of your original return. This can be done by using [ATO Online Services](#) or by filling out and lodging a PDF form.

If your amendment results in a shortfall in excise duty paid, you must pay the additional duty when you lodge the amending return.

If your amendment results in an overpayment of excise duty, you may apply for a refund or treat the amount as a credit and offset it against the duty you are liable to pay in your next excise return. In this situation, time limits may apply in which to lodge your amended return.



Time limits apply for making an application for a refund of excise duty. In most cases an application must be submitted within 4 years of the date on which the excise duty was paid.

An amending return can only be used to change product details.

If you wish to change other information in your original excise return (for example, your individual details or the settlement period) you must lodge a new excise return as the amending excise return does not cater for changes to these sections. The new return must contain the amended details and refer to the original return. You should also request cancellation of the original return.



To obtain an Amending excise return:

- see [Excise amendment](#), or
- phone **1300 137 290**.

Help to complete the form is available at [Excise amendment](#).

#### 6.4.6 MORE INFORMATION

If you need more information on payment of duty, contact us via:

- phone **1300 137 290**
- [ATO Online Services](#), or
- write to us at  
Australian Taxation Office  
PO Box 3514  
ALBURY NSW 2640

We will ordinarily respond to written information requests within 28 days. If we cannot respond within 28 days, we will contact you within 14 days to obtain more information or negotiate an extended response date.

## 6.5 PENALTIES THAT CAN APPLY IN RELATION TO PAYMENT OF DUTY

The following are the penalties that may apply after conviction for an offence.

**Move, alter or interfere**

If you move, alter or interfere with excisable fuel products that are subject to excise control, without permission, the penalty is a maximum of 2 years in prison or the greater of 500 '[penalty units](#)' and 5 times the amount of duty on the excisable fuel products.<sup>173</sup>

**Deliver**

If you deliver excisable fuel products into the Australian domestic market contrary to your permission, the penalty is a maximum of 2 years in prison or the greater of 500 penalty units and 5 times the amount of duty on the excisable fuel products.<sup>174</sup>

**Evade**

If you evade payment of any duty which is payable, the maximum penalty is 5 times the amount of duty on the excisable fuel products, or where a court cannot determine the amount of that duty the penalty is a maximum of 500 penalty units.<sup>175</sup>

**False or misleading statements**

If you make a false or misleading statement, or an omission from a statement in respect of duty payable on particular goods, to us, a penalty not exceeding the sum of 50 penalty units and twice the amount of duty payable on those goods.<sup>176</sup>

## 6.6 TERMS USED

**Excisable fuel products**

Excisable goods are goods on which excise duty is imposed. Excise duty is imposed on goods that are manufactured or produced in Australia and listed in the Schedule to the Excise Tariff Act.

As this Guide deals with fuel products, we have used the term excisable fuel products.

Excisable fuel products include:

- petrol
- diesel
- renewable diesel

<sup>173</sup> Section 61 of the Excise Act.

<sup>174</sup> Section 61C of the Excise Act.

<sup>175</sup> Paragraphs 120(1)(iv) and 120(2)(b) of the Excise Act.

<sup>176</sup> Section 120 of the Excise Act.

- crude petroleum oil
- condensate
- heating oil
- kerosene
- fuel ethanol
- biodiesel
- compressed natural gas (CNG)
- liquefied natural gas (LNG), and
- liquefied petroleum gas (LPG).

### **Excise control**

Goods are subject to excise control from the point of manufacture until they have been delivered into home consumption or for export.

Goods subject to excise control cannot be moved, altered or interfered with except as authorised by the Excise Act.

### **Excise return**

An excise return<sup>177</sup> is the document that you use to advise us the volume or mass of excisable fuel products that you have:

- delivered into home consumption during the period designated on your PSP, or
- wish to deliver into home consumption following approval.

### **Home consumption**

'Home consumption'<sup>178</sup> is the term used in the Excise Act and this Guide to describe when excisable fuel products are released into the Australian domestic market for consumption. The term used in the legislation is 'deliver for home consumption'.

Normally, this will be by delivering the goods away from premises covered by a licence but includes using those goods within those premises (for example, using fuel to run equipment in premises covered by your licence). It does not include goods delivered for export or the movement of goods underbond (see definition below) to another site covered by a licence.

<sup>177</sup> The term used in section 58 of the Excise Act is 'entry for home consumption'.

<sup>178</sup> Note the legislation uses the term 'delivered for home consumption' (see, for example, sections 61 and 61C of the Excise Act).

The term 'home consumption' is not defined in the Excise Act and there is no definitive case law that looks at the issue in question. However there are several cases where issues closely related to it are considered.<sup>179</sup>


The conclusion drawn from those cases is that 'home consumption' refers to the destination of goods as being within Australia as opposed to exporting them.

### Penalty units

The value of a penalty unit is contained in section 4AA of the *Crimes Act 1914*, and is indexed regularly. The dollar amount of a penalty unit is available at [Penalties](#).

### Remission

A remission of excise duty extinguishes the liability for duty that was created at the point of manufacture, in prescribed circumstances.

 For more information about remissions, see [Chapter 7](#) Remissions, refunds, drawbacks and exemptions.

### Underbond

This is an expression not found in excise legislation but it is widely used to describe goods that are subject to excise control. Excisable goods that are subject to excise control are commonly referred to as 'underbond goods' or as being 'underbond'. This includes goods that have not yet been delivered into home consumption and goods moving between premises under a movement permission.

## 6.7 LEGISLATION (quick reference guide)

In this Chapter, we have referred to the following legislation:

- *Excise Act 1901*
  - section 24 – excisable goods and goods liable to duties of Customs may be used in manufacturing excisable goods
  - section 58 – entry for home consumption etc.
  - section 59 – payment of duty
  - section 59A – declared period quotas – effect on rates of excise duty

<sup>179</sup> See *R v Lyon* [1906] HCA 17; *Collector of Customs (NSW) v Southern Shipping Co Ltd* [1962] HCA 20; *Carmody v F C Lovelock Pty Ltd* [1970] HCA 35; *Caltex Australia Petroleum Pty Ltd v Commissioner of Taxation* [2008] FCA 1951 and *Moama Refinery Pty Ltd v Chief Executive Officer of Customs* [2001] FCA 1287.

- section 60 – persons to keep excisable goods safely etc.
- section 61 – control of excisable goods
- section 61C – permission to deliver certain goods for home consumption without entry
- section 114 – time for commencing action
- section 120 – offences
- section 154 – deposit of duty
- section 155 – limited dispute rights because of objection against private ruling
- section 162C – review of decisions
- *Excise Tariff Act 1921*
  - section 5 – duties of excise
  - The Schedule
- *Crimes Act 1914*
  - section 4AA – penalty units
- *Income Tax Assessment Act 1997*
  - section 328-110 – meaning of small business entity
- *Taxation Administration Act 1953*
  - section 359-60 – objections, review and appeals relating to private rulings

## Amendment history

### 27 June 2025

Part	Comment
Section 6.3.5	Updated to reflect the current duty rates.
Throughout	This chapter was updated to take into account the law changes as a result of the <a href="#">Treasury Laws Amendment (Refining and Improving Our Tax System) Act 2023</a> and <a href="#">Excise and Customs Legislation Amendment (Streamlining Administration) Act 2024</a> . This includes permissions to lodge excise returns and pay the applicable excise duty on a quarterly basis.
Throughout	Updated in line with current ATO style and accessibility requirements.



## **7 REMISSIONS, REFUNDS, DRAWBACKS AND EXEMPTIONS**

### **7.1 PURPOSE**

### **7.2 INTRODUCTION**

### **7.3 POLICY AND PRACTICE**

7.3.1 APPLYING FOR A REMISSION OF EXCISE DUTY

7.3.2 APPLYING FOR A REFUND OF EXCISE DUTY

7.3.3 APPLYING FOR A DRAWBACK OF EXCISE DUTY

7.3.4 IF YOU ARE OVERPAID A REFUND OR DRAWBACK

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### **7.4 PROCEDURES**

7.4.1 APPLYING FOR A REMISSION OR REFUND

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7.4.3 MORE INFORMATION

### **7.5 PENALTIES THAT CAN APPLY IN RELATION TO REMISSIONS, REFUNDS, DRAWBACKS AND EXEMPTIONS**

### **7.6 TERMS USED**

### **7.7 LEGISLATION (quick reference guide)**

# 7 REMISSIONS, REFUNDS, DRAWBACKS AND EXEMPTIONS

## 7.1 PURPOSE

This Chapter deals with:

- when you can apply for a remission, refund or drawback
- what happens if you are overpaid a refund or drawback
- when fuel products are exempt from excise duty
- how to apply for a remission, refund or drawback, and
- penalties that can apply to offences in relation to remissions, refunds, drawbacks and exemptions.

## 7.2 INTRODUCTION

A remission of excise duty extinguishes the liability for duty that was imposed at the point of manufacture. In other words, no excise duty will ever be paid on goods subject to remission.

A refund is the return of excise duty that you have already paid.

A drawback is a refund that applies where duty-paid goods are exported.

In some circumstances the duty you pay on goods may be subject to a complete or partial refund or drawback.<sup>180</sup>

<sup>180</sup> Section 78 of the Excise Act.

## 7.3 POLICY AND PRACTICE

### 7.3.1 APPLYING FOR A REMISSION OF EXCISE DUTY

You can apply for a remission of excise duty payable on your '[excisable fuel products](#)' if the following circumstances apply while the goods are subject to '[excise control](#)':

- where the fuel products have deteriorated or been damaged, pillaged, lost or destroyed.<sup>181</sup>



'Pillage' means 'to strip of money or goods by open violence, as in war; plunder'.<sup>182</sup> This does not cover simple cases of theft.



'Lost' in this context does not simply mean cannot be found. For example, a tank may spring a leak and it is known that the fuel has drained away. The fuel has been lost and cannot be used by anyone as a fuel.



For more information about payment of duty, see [Chapter 6](#) Payment of duty.

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#### Example 7A

*Fuel which is underbond is accidentally destroyed by fire. The owner applies for a remission of duty on the destroyed fuel. If approved, this would extinguish the duty liability.*

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- where goods are not worth the amount of excise duty that would be payable on the goods if delivered into '[home consumption](#)'.<sup>183</sup>
  - this is unlikely to apply to petroleum products as they are likely to be used in the manufacture of other excisable goods (for example, by blending or re-refining the product) which is permitted by section 24 of the Excise Act or because they are likely to be used as a burner fuel within the premises covered by the licence in which case duty would be payable at the fuel rate
- recycled hydraulic oil, brake fluid, transmission oil, transformer oil or heat transfer oil (classified to ETA 15.2), delivered in accordance with your PSP, for which no benefit is

<sup>181</sup> Table item 1 of clause 1 of Schedule 1 to the Excise Regulation.

<sup>182</sup> Pan Macmillan Australia (2025) *The Macquarie Dictionary* online, [www.macquariedictionary.com.au](http://www.macquariedictionary.com.au), accessed 12 June 2025.

<sup>183</sup> Table item 2 of clause 1 of Schedule 1 to the Excise Regulation.

- payable under the *Product Stewardship (Oil) Regulations 2000* and that has been used for the same purpose for which it was used before being recycled<sup>184</sup>
- the fuel is used in the manufacture of goods that are not excisable and is chemically transformed (other than by combustion) in that manufacture<sup>185</sup>
  - this circumstance applies where a fuel product is transformed through a chemical reaction (other than combustion) to produce an entirely different substance that is no longer an excisable product, as in some large-scale petrochemical manufacturing processes
  - the remission does not apply where fuel is merely mixed with other substances to make products such as solvents, cleaning agents or paint.

### **When excisable fuel products are subject to remission without application**

Excisable fuel products, to which items 10 and 15 of the excise tariff apply, may be subject to remission without application (effectively meaning they are exempt from duty) when the fuel products are for official use but not for trade by<sup>186</sup>:

- the Governor-General or any member of the Governor-General's family and state Governors or any member of a state Governor's family<sup>187</sup>
- the Australian American Foundation and the ANZAC Agency for the Pacific Region of the Commonwealth War Graves Commission<sup>188</sup>
- the Government of another country, under an agreement between that Government and the Australian Government<sup>189</sup>
- a foreign country under a Status of Forces agreement with the Australian Government<sup>190</sup>, or
- a diplomatic or consular mission and the goods are delivered under your PSP. The fuel in this circumstance can also be for personal use.<sup>191</sup>

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### **Example 7B**

<sup>184</sup> Table item 18 of clause 1 of Schedule 1 to the Excise Regulation.

<sup>185</sup> Subsection 78(3) of the Excise Act.

<sup>186</sup> Clause 2 of Schedule 1 to the Excise Regulation.

<sup>187</sup> Table item 2 of clause 2 of Schedule 1 to the Excise Regulation.

<sup>188</sup> Table item 3 of clause 2 of Schedule 1 to the Excise Regulation.

<sup>189</sup> Table item 4 of clause 2 of Schedule 1 to the Excise Regulation.

<sup>190</sup> Table item 5 of clause 2 of Schedule 1 to the Excise Regulation.

<sup>191</sup> Table item 8 of clause 2 of Schedule 1 to the Excise Regulation.

*A manufacturer receives an order from a diplomatic mission for fuel, for official use. The manufacturer delivers the fuel into home consumption (to the diplomatic mission), under the terms of their PSP. (The conditions listed on the PSP may require the manufacturer to submit an Excise remission to us, after delivery of the fuel.)*



If you are uncertain whether a circumstance falls into one of these categories, you should contact us on **1300 137 290**.

To supply fuel products under these circumstances, you must first ensure the receiver meets the relevant criteria. For example, you should only accept orders, stating that the goods are for official use, on the official stationery, or official order, of eligible people or organisations. You must keep a copy of this documentation.



You do not have to apply for a remission and you do not have to include these products on your [‘excise return’](#).

## **Remission of excise duty on LPG and LNG**

### **The fuel products are LPG or LNG that are not for use in an internal combustion engine**

An automatic remission of duty is available without application where you are a licensed person or a holder of a PSP (or both) and deliver LPG or LNG into home consumption (this includes own use) that is not for use, or intended for use, in an internal combustion engine in either a motor vehicle or vessel.<sup>192</sup>

A remission cannot apply if:

- the LPG or LNG is delivered for mixed use (both non-transport and transport) and is delivered into the same tank, or
- you do not know the end use of the LPG or LNG.

The remission applies at the time the LPG or LNG is delivered.



For more information about periodic settlement permissions, refer to [Chapter 6](#) Payment of duty.

<sup>192</sup> Table item 9 of clause 2 of Schedule 1 to the Excise Regulation.

**Example 7C: LPG delivered under settlement permission**

*Elizabeth's business is licensed for excise purposes. It supplies LPG to Kathleen's business for the purposes of heating during the 2014–15 financial year. As Kathleen will not be using the LPG for transport purposes, the remission applies and Elizabeth will not need to pay duty on the LPG.*

**Example 7D: LPG delivered for mixed use**

*Aaron manufactures LPG. Aaron delivers the LPG to Christopher in a bulk tank for transport and non-transport use. The LPG is excisable. As Aaron supplies the LPG to Christopher for mixed use, he cannot apply a remission to the LPG.*

*This means that Aaron must pay excise duty at the transport rate in relation to all the LPG supplied to Christopher. Christopher may be entitled to a fuel tax credit depending on his use of the fuel.*

**Example 7E: LPG delivered for transport use by a distributor**

*Huey's business is licensed for excise purposes and supplies LPG to a site specified in a manufacturers licence held by Daisy's Distributors. Daisy holds a movement permission that allows the LPG to move from the site covered by Huey's licence without duty being paid. Daisy's business distributes the LPG to both transport and non-transport customers. Where Daisy distributes the LPG to service stations and trucking companies for transport purposes, Daisy will be required to pay duty on the fuel and no remission will be available.*



For more information about movement permissions, refer to [Chapter 5](#) Movement permissions.

**Notice requirements for LPG delivered under remission**

If you hold a manufacturer or storage licence and you supply or sell LPG to which a remission applies at the time of supply or sale, you must give a notice to your customer.<sup>193</sup>

If you on-sell or on-supply LPG on which a remission applied, and at the time of the on-sale or on-supply a remission continues to apply, you must give a notice to your customer that a remission applied to the LPG.<sup>194</sup>

<sup>193</sup> Subsection 77L(1) of the Excise Act.

<sup>194</sup> Subsection 77L(2) of the Excise Act.



The notice must include the words: 'Not to be used, or supplied, for transport use. Penalties apply'.<sup>195</sup>

You are not required to give notice for LPG you supply:

- in, or into, a 210 kilogram container, or
- to a residential premises and some or all of the LPG is not supplied for the purpose of carrying on an enterprise.<sup>196</sup>

### **Penalty or offence relating to LPG delivered under remission**

You may be subject to a penalty of one '[penalty unit](#)' if you do not give the notice when required.<sup>197</sup>

#### *Penalty for using LPG subject to remission for an excisable LPG use*

You may be subject to a demand for payment from us if:

- LPG is sold or supplied to you
- you use the LPG for an excisable LPG use, and
- an LPG remission applied to the LPG at the time of the use.<sup>198</sup>

The amount demanded will be equal to 2 times the amount of excise duty that would be payable on the LPG if it had been entered for home consumption on the day the demand is issued.<sup>199</sup>



The phrase 'excisable LPG use' means to use LPG in a system for supplying fuel to an internal combustion engine of either a motor vehicle or a vessel, either directly or by filling another tank connected to such an engine.



The phrase 'excisable LPG use' does not include the use of LPG for a vehicle that is designed to move goods with a forklift and is for use primarily off public roads.

#### *Penalty for unlawfully selling LPG subject to remission that is used for an excisable LPG use*

You commit an offence if:

- you intentionally sell LPG
- you know that, or are reckless as to whether, the LPG will be used for an excisable LPG use

<sup>195</sup> Section 22 of the Excise Regulation.

<sup>196</sup> Section 23 of the Excise Regulation. A residential premises has the same meaning as given in the *Fuel Tax Act 2006*. The meaning of 'carrying on an enterprise' has the same meaning as given in the *A New Tax System (Goods and Services Tax) Act 1999*.

<sup>197</sup> Subsection 77L(5) of the Excise Act.

<sup>198</sup> Subsection 77M(1) of the Excise Act.

<sup>199</sup> Subsection 77M(2) of the Excise Act.

- the LPG is used for an excisable LPG use, and
- you did not pay excise duty on the LPG as a remission applied to the LPG at the time of the use.<sup>200</sup>

The penalty is 2 years imprisonment or the greater of:

- 500 penalty units, and
- 5 times the amount of duty that would be payable on the LPG at the rate of duty payable on the penalty day.<sup>201</sup>



For more information about offences and penalties, refer to [Chapter 9](#) Offences.

### Remission of excise duty on the supply of bunker fuel to certain vessels

An automatic excise remission can be applied to bunker fuel supplied directly from an excise-licensed site directly to the vessel where<sup>202</sup>:

- excise duty is payable on goods that are classified to item 10 (other than aviation fuels) of the Schedule to the Excise Tariff Act
- the goods are stores for the use of passengers or crew of the ship, or for the service of the ship
- the goods are supplied from premises covered by a licence granted under section 39A of the Excise Act to the ship
- the goods are supplied to a person for the purpose of carrying on an enterprise (within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999*)
- the ship has a gross tonnage (within the meaning of the *Shipping Reform (Tax Incentives) Act 2012*) of at least 400
- the ship is not an overseas ship within the meaning of the Excise Act.

### 7.3.2 APPLYING FOR A REFUND OF EXCISE DUTY

You can apply for a refund of excise duty paid on excisable fuel products if the following circumstances apply.

<sup>200</sup> Section 117BA of the Excise Act.

<sup>201</sup> Section 117BA of the Excise Act.

<sup>202</sup> Table item 11 of clause 2 of Schedule 1 to the Excise Regulation.



**Duty has been paid on fuel that was lost or destroyed**

You can apply for a refund of duty paid on excisable fuel products if it is later found that, while the goods were subject to excise control (that is, while they were at the site covered by a licence), they deteriorated or had been damaged, pillaged, lost or destroyed.<sup>203</sup>

**Duty-paid fuel products, while the goods are subject to excise control, are not worth the amount of excise duty paid**

You can apply for a refund of duty paid on excisable fuel products, if, while the goods are subject to excise control, are not worth the amount of excise duty paid.<sup>204</sup> This circumstance is unlikely to arise in respect of petroleum products. The goods are likely to be used in the manufacture of other goods (through blending or re-refining) or are likely to be used as a burner fuel. The circumstance has more relevance to excisable alcoholic beverages. However the following example is included for illustrative purposes.

**Example 7F**

*A holder of a manufacturer licence who does not have a PSP pays the excise duty on fuel products, being 50 litre drums of solvent, in accordance with a pre-payment return. They receive a delivery authority. Before the fuel products are removed from premises covered by a licence, they become unsaleable, due to changed packaging requirements resulting from legislative changes made by the state Government relating to the labelling of hazardous goods, and the fuel cannot be sold as it is uneconomical to repackage.*

*As the fuel products were still subject to excise control when they became not worth the amount of duty paid on the goods, the licence holder can apply for a refund of duty on the fuel products (and provide supporting documentary evidence). However the licence holder would remain accountable for the goods. They could either use the goods in the manufacture of other excisable goods (by re-refining or blending) pursuant to section 24 of the Excise Act or they can seek our permission to destroy the goods (and we can either attend the destruction or otherwise advise them as to what evidence of the destruction would satisfy us). Once the goods have been destroyed with our permission a remission of duty would be available without application.*

<sup>203</sup> Table item 1 of clause 1 of Schedule 1 to the Excise Regulation.

<sup>204</sup> Table item 2 of clause 1 of Schedule 1 to the Excise Regulation.


### **Duty has been paid on LPG for non-transport use through manifest error of fact or patent misconception of the law**

You can apply for a refund of duty paid on LPG that is sold for non-transport use, if it is incorrectly duty-paid as the distributor did not apply the remission. This only applies if the LPG was sold to a person for a price that excluded the excise duty amount. If it included an amount for excise duty, a refund would only be payable if an amount equal to the excise duty has been refunded or credited to the person.<sup>205</sup>

This is to avoid the end-user claiming a fuel tax credit on the LPG in addition to a refund claim being made by the supplier.

### **Duty has been paid on goods (other than gaseous fuel) through manifest error of fact or patent misconception of the law**

You can apply for a refund of duty paid on goods (other than gaseous fuel) if duty has been paid through manifest error of fact or patent misconception of the law.<sup>206</sup>

 This circumstance applies to an error that is evident, obvious or apparent and also in situations where duty has been paid for goods entering home consumption that are not in fact excisable. In both cases a refund of the duty paid would be payable.

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#### **Example 7G**

*The system used by an entity to record deliveries into home consumption and calculate their duty liability on a weekly basis, incorrectly identifies a sale of kerosene for aviation use as tariff item 10.16 and pays excise duty at a rate of \$0.508 per litre rather than the applicable rate of \$0.03556 per litre. The entity identifies the error after the end of the settlement period. It is eligible to apply for a refund for the difference between the duty paid and the duty payable.*

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### **Duty-paid goods have been taken up as ship's stores or aircraft's stores**

Ship's stores on ships undertaking an international voyage and aircraft stores on aircraft undertaking international flights are not subject to excise duty. Where duty has been paid and the excisable fuel products are subsequently re-directed for use on ships or aircraft travelling overseas (for example, bunker fuel), this refund circumstance may apply.<sup>207</sup> As fuel that is used to power a ship or aircraft falls within the definition of ship's and aircraft's stores, a refund is payable on excise duty paid on fuel that is

<sup>205</sup> Table item 4 of clause 1 of Schedule 1 to the Excise Regulation.

<sup>206</sup> Table item 3 of clause 1 of Schedule 1 to the Excise Regulation.

<sup>207</sup> Section 160A of the Excise Act and table item 5 of clause 1 of Schedule 1 to the Excise Regulation.

subsequently used in overseas ships and international aircraft. This circumstance does not apply where a fuel tax credit entitlement exists.

### **By-law reduces duty rate of goods**

A refund is available for duty-paid goods if a by-law is subsequently made under Part XV of the Excise Act with the effect that duty is not payable or is payable at a reduced rate.<sup>208</sup>

### **Goods including fuel, gaseous fuel, oil and grease are returned to a manufacturer or to a warehouse**

A refund is available where unused duty-paid goods are returned to premises covered by a licence or a person authorised by the manufacturer to receive goods on their behalf, and the items are destroyed, or subjected to further manufacture or production.<sup>209</sup>

Returns can occur for a number of reasons, including contamination or over-delivery. This refund ground does not apply if the vapour recovery unit refund ground applies; see below.

### **Duty that is paid on certain fuel is returned to a premise covered by a licence and processed by vapour recovery units**

This circumstance relates to vapour that is pumped out of a tank at a service station and captured within tanks on the delivery truck when fuel is delivered. The vapour is extracted from the tanker back at the premises covered by a licence, is converted back to a liquid form to be re-refined and blended to eventually form part of another delivery.

### **Method to calculate vapour recovery refunds**

From 1 July 2024, a simple method to calculate vapour recovery refunds has been legislated which is subject to a refund limit. The refund is for excise duty that has been paid on gasoline and diesel products (including blends) that have not been used, where the vapour is returned to premises covered by an excise licence and processed by a vapour recovery unit. It only applies to those fuels delivered into home consumption on or after this date.<sup>210</sup>

<sup>208</sup> Table item 6 of clause 1 of Schedule 1 to the Excise Regulation.

<sup>209</sup> Table item 7 of clause 1 of Schedule 1 to the Excise Regulation.

<sup>210</sup> Table item 7A of clause 1 of Schedule 1 to the Excise Regulation.

The method for determining the refund amount of the recovered fuel vapour has 2 steps<sup>211</sup>:

#### Step 1

Add the following 2 amounts:

- duty that was paid on any quantity of gasoline, including for use as fuel in aircraft, and blends of gasoline and ethanol (subitems 10.5, 10.6 and 10.7 of the Schedule to the Excise Tariff Act); and
- duty that was paid on so much of any quantity of diesel or blends of diesel and either biodiesel or ethanol (classified under subitems 10.10 and 10.12 of the Schedule to the Excise Tariff Act) that does not exceed twice the quantity of gasoline goods above.

#### Step 2

Multiply this sum by 0.0006442.

The result is the refund amount.

Where the volume of diesel or diesel blends exceeds twice the volume of gasoline or gasoline blends you enter during the refund period, it will be reduced to an amount that is twice the amount for gasoline for the purposes of the refund calculation. If no gasoline is delivered in the refund period, no refund will be available.

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#### Example 7H – ratio of diesel to gasoline is within limit

*A taxpayer applies for a refund of excise duty paid on 150,000 litres of diesel (subitem 10.10) and 100,000 litres of gasoline (subitem 10.5) that were delivered into home consumption for the week Saturday 14 September to Friday 20 September 2024. The requirements for the refund are met.*

*Diesel to gasoline loading = 1.5:1 (150,000 to 100,000), therefore below 2:1 limit*

*Duty paid on gasoline – 100,000 litres × \$0.508 cpl = \$50,800*

*Duty paid on diesel – 150,000 litres × \$0.508 cpl = \$76,200*

*Amount of refund = (\$50,800 + \$76,200) × 0.0006442 = \$81.81*

#### Example 7I – ratio of diesel to gasoline exceeds limit

*A separate taxpayer applies for a refund of excise duty paid on 1,500,000 litres of diesel (subitem 10.10 of the Schedule to the Excise Tariff Act) and 100,000 litres of gasoline (subitem 10.5 of the Schedule) that were delivered into home consumption for the week Saturday 14 September to Friday 20*

<sup>211</sup> Subsection 12(4) of the Excise Regulation.

September 2024. The requirements for the refund are met. Here, the 2:1 limit is applied to the diesel quantities as the ratio of diesel to gasoline is 15:1. The refund amount will only reflect duty paid on 200,000 litres of diesel and duty paid on the remaining 1,300,000 litres of diesel is disregarded for refund purposes. The amount of duty paid on 200,000 litres of diesel is added to the amount of duty paid on the 100,000 litres of gasoline, and this amount is multiplied by 0.0006442. The result is the refund amount.

*Volume of dutiable diesel delivered = 1,500,000 litres*

*Volume of dutiable petrol delivered = 100,000 litres*

*Diesel to gasoline loading = 15:1 (1,500,00 to 100,000) therefore 2:1 limit applies based on petrol volume*

*Diesel capped at 2 x volume of petrol = 2 x 100,000 = 200,000 litres*

*Duty paid on gasoline – 100,000 litres x \$0.508 cpl = \$50,800*

*Duty paid on diesel – 200,000 litres x \$0.508 cpl = \$101,600*

*Amount of refund = (\$50,800 + \$101,600) x 0.0006442 = \$98.18*

### **Duty has been paid on excisable fuel products to which items 10 and 15 of the excise tariff apply, and they are sold in certain circumstances**

A refund may be made where duty has been paid on excisable fuel products to which items 10 and 15 of the excise tariff apply, and they are sold in the following circumstances:

- for the official or personal use of diplomatic or consular staff of foreign countries<sup>212</sup>
- for use by the Government of another country, under an agreement between that Government and the Australian Government and not for trade<sup>213</sup>
- for the official use of a foreign country under a Status of Forces agreement with the Australian Government and not for resale<sup>214</sup>, or
- for the official of an international organisation or personal use of the holder of a high office of an international organisation to which the *International Organisations (Privileges and Immunities) Act 1963* applies.<sup>215</sup>

<sup>212</sup> Table item 13 of clause 1 of Schedule 1 to the Excise Regulation.

<sup>213</sup> Table items 14 and 15 of clause 1 of Schedule 1 to the Excise Regulation.

<sup>214</sup> Table items 16 and 17 of clause 1 of Schedule 1 to the Excise Regulation.

<sup>215</sup> Table items 19 and 20 of clause 1 of Schedule 1 to the Excise Regulation.

### **Certain recycled hydraulic oil, brake fluid, transmission oil, transformer oil or heat transfer oil**

A refund may be made for recycled hydraulic oil, brake fluid, transmission oil, transformer oil or heat transfer oil (classified to ETA 15.2), delivered in accordance with your PSP, for which no benefit is payable under the *Product Stewardship (Oil) Regulations 2000* and that has been used for the same purpose for which it was used before being recycled.<sup>216</sup>

### **7.3.3 APPLYING FOR A DRAWBACK OF EXCISE DUTY**

You can apply for a drawback if you export fuel products that have had excise duty paid on them.<sup>217</sup>

Drawback of duty is not payable in the following circumstances:

- the goods are stabilised crude petroleum oil or condensate there is no drawback of duty paid under items 20 or 21 of the Schedule to the Excise Tariff Act<sup>218</sup>
- the goods are liquid petroleum obtained from naturally occurring petroleum gas<sup>219</sup>
- if the excise duty has been refunded on the exported fuel products<sup>220</sup>
- if after exportation the fuel products are re-landed in Australia<sup>221</sup>, or
- the exported goods are relevant fuel which an entity has or had an entitlement to a fuel tax credit under the *Fuel Tax Act 2006*, or does or did not have an increasing fuel tax adjustment for the fuel.<sup>222</sup>

We will only pay a drawback if<sup>223</sup>:

- Prior to the exportation, you advise us via a notice that you intend to claim a drawback. (We can exempt you from this requirement, in writing, either on all claims for drawback or any particular claim.)<sup>224</sup>
- Before exportation of the duty-paid fuel products, the goods are available for our inspection.
- You keep records including those that show
  - that duty was paid on the fuel products (for example, an invoice), and

<sup>216</sup> Table item 18 of clause 1 of Schedule 1 to the Excise Regulation.

<sup>217</sup> Section 79 of the Excise Act and section 14 of the Excise Regulation.

<sup>218</sup> Subsection 15(1) of the Excise Regulation.

<sup>219</sup> Subsection 15(1) of the Excise Regulation.

<sup>220</sup> Subsection 15(2) of the Excise Regulation.

<sup>221</sup> Subsection 15(2) of the Excise Regulation.

<sup>222</sup> Subsection 15(1) and clause 1(2) of Schedule 1 to the Excise Regulation.

<sup>223</sup> Subsection 16(1) of the Excise Regulation.

<sup>224</sup> Subsection 16(2) of the Excise Regulation.

- the fuel products were exported (for example, an export declaration number or bill of lading).
- You lodge a drawback claim in the approved form no later than 12 months after the fuel products are exported.
- The claim sets out the amount of drawback and a statement that the goods have not been, or are not intended to be re-landed in Australia.
- The amount of the claim or an aggregate of claims is at least \$50.

The amount of the drawback cannot exceed the amount of excise duty that was paid.<sup>225</sup>


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### Example 7K

*A fuel contractor arranges for duty-paid diesel to be sent to researchers studying porpoises on a remote Fijian island. The diesel is stored in 208 litre (55 US gallon) drums and stowed in the cargo hold of a ship. The contractor buys 20,000 litres of duty-paid diesel fuel from a fuel depot and arranges the shipping. The amount of excise duty on the fuel is \$10,160.00 (20,000 × \$0.508).*

*The contractor applies for a drawback of the duty paid on the fuel. To support the application, they provide the ATO with a copy of the invoice for the fuel purchase, and a copy of the Certificate of Clearance stamped and issued by the Australian Border Force.*

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 Fuel used in an overseas ship and international aircraft that meets the definition of ship's stores and aircraft's stores (fuel bunkers) is not considered to be exported because it is exempt from excise duty (see below). In a situation where these fuels are delivered duty-paid to overseas ships or international aircraft an entitlement to a fuel tax credit or a refund of the excise duty may arise.

 For more information about fuel bunkers, refer to [Bunker fuel and commercial shipping](#).

### 7.3.4 IF YOU ARE OVERPAID A REFUND OR DRAWBACK

If we overpay you by way of a refund or drawback, you must pay the overpaid amount back. We can demand that you pay back the amount and if you do not repay the amount within the time specified in the demand, we can recover the amount through the courts as a debt due to the Commonwealth.<sup>226</sup>

<sup>225</sup> Subsection 16(3) of the Excise Regulation.

<sup>226</sup> Section 80 of the Excise Act.

### 7.3.5 WHEN EXCISABLE FUEL PRODUCTS ARE EXEMPT FROM EXCISE DUTY

Excisable fuel products are exempt from duty if they are:

- exported
- sold for use as ship's or aircraft's stores<sup>227</sup>
- with our approval, delivered as small samples<sup>228</sup>, or
- subject to remission without application.<sup>229</sup>

#### Ship's and aircraft's stores

Ship's and aircraft's stores are goods for the use of passengers or crew on an international journey or for the service of ships or aircraft on an international journey. It includes fuel used to power the overseas ship and international aircraft.<sup>230</sup>

If you supply ship's or aircraft's stores '[underbond](#)', you must obtain a movement permission to move the goods from premises covered by a licence to the place of export.

#### Delivering samples without payment of duty

You may be able to deliver small samples without payment of duty and without entry. You must apply to us for approval and your application must:

- be in writing
- specify who the sample is for
- specify the quantity for approval, and
- specify the purpose of the sample.

In determining what constitutes a sample, we would consider each application on a case-by-case basis, but as a guide, the sample volume would need to be less than 10 litres.



You do not include approved samples in your excise return; however, you must keep records of any samples you deliver.

<sup>227</sup> Section 160A of the Excise Act.

<sup>228</sup> Section 64 of the Excise Act.

<sup>229</sup> Clause 2 of Schedule 1 to the Excise Regulation.

<sup>230</sup> Subsection 160A(5) of the Excise Act.



To apply for approval, send your application to us by:

- [ATO Online Services](#), or
- post to  
Australian Taxation Office  
PO Box 3514  
ALBURY NSW 2640

### **When CNG, LPG and LNG is exempt from excise duty**

#### **CNG**

CNG is exempt from duty if it was compressed:

- for use other than as a fuel for a motor vehicle<sup>231</sup>, or
- other than in the course of carrying on an enterprise<sup>232</sup>, or
- for use as a fuel for a forklift vehicle that is used primarily off public roads<sup>233</sup>, or
  - at a residential premises
  - the rate at which the gas was compressed at those premises is not more than 10 kilograms of compressed natural gas per hour, and
  - the gas is not sold or otherwise supplied in the course of carrying on an enterprise. This gas can be used as a fuel for a motor vehicle.<sup>234</sup>

 The phrase 'in the course of carrying on an enterprise' has the same meaning as when it is used in the *A New Tax System (Goods and Services Tax) Act 1999*.

 A 'residential premises' has the same meaning as given in the *A New Tax System (Goods and Services Tax) Act 1999*.

<sup>231</sup> Paragraph 77HA(1)(a) of the Excise Act.

<sup>232</sup> Paragraph 77HA(1)(b) of the Excise Act.

<sup>233</sup> Subparagraph 77HA(1)(c)(i) of the Excise Act.

<sup>234</sup> Subsection 77HA(2) of the Excise Act.

## **LPG and LNG**

LPG and LNG are exempt from duty if you are a licensed manufacturer and you use the fuel at the premises specified in the licence in the process of manufacturing<sup>235</sup>:

- petroleum condensate or stabilised crude petroleum oil, or
- liquefied petroleum gas, liquefied natural gas or other hydrocarbons.<sup>236</sup>

## **7.4 PROCEDURES**

### **7.4.1 APPLYING FOR A REMISSION OR REFUND**

An application for a remission (excluding automatic remissions) or refund must be submitted in the approved form and state the nature and particulars of the claim. Records to substantiate your claims must be maintained and produced when requested.<sup>237</sup>

For duty paid from 1 July 2024, you must lodge your refund application within 4 years after the day when the excise duty was paid for the following refund circumstances:<sup>238</sup>

- fuel while subject to the CEO's control that has deteriorated, been damaged, pillaged, lost or destroyed, or become unfit for human consumption
- fuel while subject to the CEO's control that is not worth the amount of duty paid on it
- duty was paid on goods (other than gaseous fuels) through manifest error of fact or patent misconception of the law
- LPG and LNG that is sold for non-transport use is incorrectly duty-paid as the distributor did not apply the remission (only applies if the LPG was sold to a person for a price that excluded the excise duty amount and if it included an amount for excise duty a refund would only be payable if an amount equal to the excise duty has been refunded or credited to the person)
- fuel supplied as bunker fuel to a vessel or aircraft that undertakes an international voyage or flight that does not create an entitlement to a fuel tax credit
- fuel which has not been used and returned to premises covered by a licence, or a person authorised by the manufacturer of the goods to receive goods on behalf of the manufacturer and are destroyed, or are subjected to further manufacture or production
- vapour recovery refunds.

<sup>235</sup> Section 77HB of the Excise Act.

<sup>236</sup> Section 77HB of the Excise Act.

<sup>237</sup> Section 10 of the Excise Regulation.

<sup>238</sup> Section 11 of the Excise Regulation.

For all other table items listed in clause 1 of Schedule 1 to the Excise Regulation, there is no time limit for lodging your application for a refund.

We may inspect or supervise the disposal of goods to ensure that excisable fuel products that are the subject of a remission, due to deterioration or contamination, do not find their way into home consumption.

If underbond fuel products need to be destroyed off site, you must apply for a movement permission to move them from premises covered by the licence to the place of destruction. With permission, you may be able to move duty-paid goods that have been delivered into home consumption, and for which you have lodged a refund and remission claim, directly to a premises not covered by a licence for destruction.<sup>239</sup>



Unless fuel products have been accidentally destroyed, you should contact us before moving or destroying any that are subject to remission or refund. We will provide you with direction and advise if the goods are to be inspected or the destruction supervised.



For more information about movement permissions, refer to [Chapter 5](#) Movement permissions.

You can elect to have a refund credited to your excise account or paid directly into your bank account. The easiest way to apply for a refund or remission is by using [ATO Online services](#). Alternatively:

- To apply for a remission, send us a completed [Excise remission](#). Help to complete this form is available at [Help completing the PDF form](#).
- To apply for a refund, send us a completed [Excise refund or drawback](#). Help to complete this form is available at [Excise refund or drawback](#). Applications can also be made on company letterhead as long as all the relevant information is provided.

If you are not satisfied with our decision to refuse your refund or remission, you can request a review of our decision by lodging an objection within 60 days of our decision.



For more information about your review rights, refer to [Chapter 8](#) Reviews and objections.

## 7.4.2 APPLYING FOR A DRAWBACK

The easiest way to claim your excise refund or drawback is by using ATO Online services. Alternatively, you can apply for a drawback of duty by sending us a completed Excise refund or drawback. Help to complete the form is available at [Excise refund or drawback](#). Applications can also be made on company letterhead as long as all the relevant information is provided.

<sup>239</sup> Table item 7 of clause 1 of Schedule 1 to the Excise Regulation.

Your drawback application must be received not later than 12 months after the day on which the goods were exported.<sup>240</sup>

If we refuse to pay your drawback and you are not satisfied with our decision, you can request a review of our decision by lodging an objection within 60 days.



For more information about your review rights, refer to [Chapter 8](#) Reviews and objections.

### 7.4.3 MORE INFORMATION

If you need more information on remissions, refunds, drawbacks and exemptions, contact us via:

- phone **1300 137 290**
- [ATO Online Services](#), or
- write to us at  
Australian Taxation Office  
PO Box 3514  
ALBURY NSW 2640

We will ordinarily respond to written information requests within 28 days. If we cannot respond within 28 days, we will contact you within 14 days to obtain more information or negotiate an extended response date.

## 7.5 PENALTIES THAT CAN APPLY IN RELATION TO REMISSIONS, REFUNDS, DRAWBACKS AND EXEMPTIONS

The following are the penalties that may apply after conviction for an offence.

### Evade

If you evade payment of any duty which is payable, the maximum penalty is 5 times the amount of duty on the excisable fuel products or where a court cannot determine the amount of that duty the penalty is a maximum of 500 units.<sup>241</sup>

<sup>240</sup> Table item 3 of subsection 16(1) of the Excise Regulation.

<sup>241</sup> Paragraphs 120(1)(iv) and 120(2)(b) of the Excise Act.

### **False or misleading statements**

If you make a false or misleading statement, or an omission from a statement in respect of duty payable on particular goods, to us, a penalty not exceeding the sum of 50 penalty units and twice the amount of duty payable on those goods.<sup>242</sup>

## **7.6 TERMS USED**

### **Excisable fuel products**

Excisable goods are goods on which excise duty is imposed. Excise duty is imposed on goods that are manufactured or produced in Australia and listed in the Schedule.

As this Guide deals with fuel products, we have used the term excisable fuel products.

Excisable fuel products include:

- petrol
- diesel
- renewable diesel
- crude petroleum oil
- condensate
- heating oil
- kerosene
- fuel ethanol
- biodiesel
- compressed natural gas (CNG)
- liquefied natural gas (LNG), and
- liquefied petroleum gas (LPG).

### **Excise control**

Goods are subject to excise control from the point of manufacture until they have been delivered into home consumption or for export.

Goods subject to excise control cannot be moved, altered or interfered with except as authorised by the Excise Act.

<sup>242</sup> Paragraph 120(1)(vi) and subsection 120(3) of the Excise Act.

## Excise return

An excise return<sup>243</sup> is the document that you use to advise us the volume of excisable fuel products that you:

- have delivered into home consumption during the period designated on your PSP, or
- wish to deliver into home consumption following approval.

## Home consumption

'Home consumption'<sup>244</sup> is the term used in the Excise Act and this Guide to describe when excisable fuel products are released into the Australian domestic market for consumption. The term used in the legislation is 'deliver for home consumption'.

Normally, this will be by delivering the goods away from premises covered by a licence but includes using those goods within those premises (for example, using fuel to run equipment in premises covered by your licence). It does not include goods delivered for export or the movement of goods underbond (see definition below) to another site covered by a licence.

The term 'home consumption' is not defined in the Excise Act and there is no definitive case law that looks at the issue in question. However there are several cases where issues closely related to it are considered.<sup>245</sup>

The conclusion drawn from those cases is that 'home consumption' refers to the destination of goods as being within Australia as opposed to exporting them.

## Penalty units

The value of a penalty unit is contained in section 4AA of the *Crimes Act 1914*, and is indexed regularly. The dollar amount of a penalty unit is available at [Penalties](#).

## Underbond

This is an expression not found in excise legislation but it is widely used to describe goods that are subject to excise control. Excisable goods that are subject to excise control are commonly referred to as 'underbond goods' or as being 'underbond'. This includes goods that have not yet been delivered into home consumption and goods moving between premises under a movement permission.

<sup>243</sup> The term used in section 58 of the Excise Act is 'entry for home consumption'.

<sup>244</sup> Note the legislation uses the term 'delivered for home consumption' (see, for example, sections 61 and 61C of the Excise Act).

<sup>245</sup> See *R v Lyon* [1906] HCA 17; *Collector of Customs (NSW) v Southern Shipping Co Ltd* [1962] HCA 20; *Carmody v F C Lovelock Pty Ltd* [1970] HCA 35. *Caltex Australia Petroleum Pty Ltd v Commissioner of Taxation* [2008] FCA 1951 and *Moama Refinery Pty Ltd v Chief Executive Officer of Customs* [2001] FCA 1287.

## 7.7 LEGISLATION (quick reference guide)

In this Chapter we have referred to the following legislation:

- *Excise Act 1901*
  - subsection 4(1) – definitions
  - section 24 – excisable goods and goods liable to duties of Customs may be used in manufacturing excisable goods
  - section 58 – entry for home consumption etc.
  - section 61A – permission to remove goods that are subject to CEO's control
  - section 64 – delivery of samples free of duty
  - section 77HA – compressed natural gas that is exempt from excise duty
  - section 77HB – liquefied petroleum gas and liquefied natural gas that is exempt from excise duty
  - section 77L – notice requirements for sales or supplies of LPG to which an LPG remission applies
  - section 77M – penalty for using LPG for excisable LPG use
  - section 78 – remissions, rebates and refunds
  - section 79 – drawbacks
  - section 80 – recovery of overpayments of refunds, rebates, and drawbacks
  - section 117BA – unlawfully selling LPG that is used for an excisable LPG use
  - section 120 – offences
  - section 160A – ship's stores and aircraft's stores
- *Excise Regulations 2015*
  - section 10 – application for remission, rebate or refund of excise duty
  - section 11 – period for making an application for refund or rebate of excise duty
  - section 14 – drawback of excise duty on goods
  - section 15 – when drawback of excise duty is not payable
  - section 16 – conditions relating to drawback of excise duty – general
  - section 22 – sales or supplies of LPG to which LPG remission applies – contents of notice
  - section 23 – sales or supplies of LPG to which LPG remission applies – circumstances when notice not required
  - clause 1 of Schedule 1 – circumstances in which remission, rebate or refund may be made on application
  - clause 2 of Schedule 1 – circumstances in which remission, rebate or refund may be made without application

- *Excise Tariff Act 1921*
  - The Schedule
- *Crimes Act 1914*
  - section 4AA – penalty units

## Amendment history

**27 June 2025**

Part	Comment
Throughout	<p>This chapter was updated to take into account the law changes as a result of the <a href="#">Excise and Customs Legislation Amendment (Streamlining Administration) Act 2024</a> and <a href="#">Excise and Customs Legislation Amendment (Streamlining Administration) Regulations 2024</a>. This includes:</p> <ul style="list-style-type: none"> <li>• extending the 12-month time limit for certain excise refunds to a 4-year time limit and apply this new time limit to certain refund circumstances currently with no time limit</li> <li>• providing for the remission of duties otherwise payable in respect of 'bunker' fuel used in certain shipping vessels undertaking domestic voyages</li> <li>• introducing a new refund circumstance with a standard formula for the refund of duty paid on fuels processed back into excisable fuel by vapour recovery units.</li> </ul>
Throughout	Updated in line with current ATO style and accessibility requirements.



## **8 REVIEWS AND OBJECTIONS**

### **8.1 PURPOSE**

### **8.2 INTRODUCTION**

### **8.3 POLICY AND PRACTICE**

#### 8.3.1 INTERNAL REVIEWS

#### 8.3.2 OBJECTING AGAINST DECISIONS

#### 8.3.3 SEEKING AN EXTERNAL REVIEW

### **8.4 PROCEDURES**

#### 8.4.1 REQUESTING AN INTERNAL REVIEW

#### 8.4.2 FACILITATION PROCESS

#### 8.4.3 LODGING AN OBJECTION

#### 8.4.4 REQUESTING AN EXTERNAL REVIEW

#### 8.4.5 MORE INFORMATION

### **8.5 PRIVATE RULINGS**

### **8.6 LEGISLATION (quick reference guide)**

## 8 REVIEWS AND OBJECTIONS

### 8.1 PURPOSE

This Chapter deals with:

- the types of review you can ask for
- what decisions you can object to
- when you can seek an external review
- how to request an internal review
- how to lodge an objection, and
- how to request an external review.

### 8.2 INTRODUCTION

We will provide you with a clear explanation of any decision we make about your excise affairs. If you need more information about our decisions, contact us using the details we provide when we advise you of our decision.

If you're not satisfied with a decision we've made, you can ask for it to be reviewed by:

- internal review<sup>246</sup>
- objection<sup>247</sup>, or
- external review.<sup>248</sup>

Where there is more than one review option, we will explain how these differ. For example, some reviews look at questions of law and others involve checking that we followed the correct process in reaching our decision. Which review option is best will depend on your situation.

<sup>246</sup> For example, a decision not to issue a movement permission under section 61A of the Excise Act.

<sup>247</sup> Objections are governed by Part IVC of the *Taxation Administration Act 1953* (TAA).

<sup>248</sup> These are usually conducted in the Administrative Review Tribunal or the Federal Court.

## 8.3 POLICY AND PRACTICE

### 8.3.1 INTERNAL REVIEWS

Under the ATO Charter, you can request an internal review where you believe that we have made a mistake, not complied with the law, or interpreted or applied the law incorrectly.

Your dissatisfaction with our decision may be treated as an internal review, both prior to or after receiving notification of the decision in writing.

An internal review does not waive or defer your rights to object to the decision.

However, if you choose to pursue an internal review, the time allowed to lodge an objection may have expired by the time an internal review is finalised. This would consequently affect your right for external review by the Administrative Review Tribunal or Federal Court.



This is particularly crucial if the original decision attracts only a 60-day objection period.

### 8.3.2 OBJECTING AGAINST DECISIONS

You can only lodge an objection against the decisions set out in sections 39Q and 162C of the Excise Act. These include decisions:

- made under the licensing provisions of the Excise Act<sup>249</sup> such as
  - refusal to grant a licence
  - imposing and varying conditions on a licence, or
  - suspension, cancellation or refusal to vary a licence
- to demand an amount in relation to goods not satisfactorily accounted for<sup>250</sup>, or
- relating to a drawback, refund or remission of duty.<sup>251</sup>

You may still request an internal review of other decisions. If we have made a mistake, we want to fix it at the least cost to both of us.

### 8.3.3 SEEKING AN EXTERNAL REVIEW

Where there is no right of objection, you may be able to apply to the Federal Court or Federal Magistrates Court under the *Administrative Decisions (Judicial Review) Act 1977*.

<sup>249</sup> Section 39Q of the Excise Act.

<sup>250</sup> Paragraph 162C(1)(c) of the Excise Act.

<sup>251</sup> Subparagraphs 162C(1)(i) and (j) of the Excise Act.

Where you have lodged an objection and are dissatisfied with an objection decision, you can appeal against the decision to the Federal Court. If the objection decision is a reviewable objection decision, you may either appeal to the Federal Court or, alternatively, apply to have the decision reviewed by the Administrative Review Tribunal. In either case, you must lodge your application within 60 days of the objection decision being served on you. The Administrative Review Tribunal may extend this period for applications for review, upon your request.

## 8.4 PROCEDURES

### 8.4.1 REQUESTING AN INTERNAL REVIEW

To request an internal review, use the contact details we provide to contact the person or area of the ATO handling your case. The review will be conducted by a tax officer who was not involved in making the original decision.

We will advise you of the outcome of our review within 28 days of receiving all the information we need. If we cannot finalise the review within 28 days or we need more information from you, we will contact you within 14 days to obtain the information we need or negotiate an extended reply date.

### 8.4.2 FACILITATION PROCESS

Facilitation is a process where an impartial ATO facilitator meets with you (or your representative, or as well as) and the ATO case officer or officers to identify the issues in dispute, develop options, consider alternatives and attempt to reach a resolution. The ATO facilitator will be an officer that has not been involved in the dispute and who is independent and impartial.

A facilitator will not establish facts, take sides, give advice, make a decision or decide who is 'right or wrong'. The facilitator guides the parties through the process and ensures open lines of communication.

You can make a request for facilitation (including via your representative) by emailing **facilitation@ato.gov.au**. Alternatively, the ATO may offer you facilitation to help resolve a dispute.

### 8.4.3 LODGING AN OBJECTION

You can lodge an objection by completing an objection form or writing your own objection document. Your objection must:

- be in writing
- lodged within 60 days after you receive the notice of the decision, and
- set out a full and detailed account of the grounds for the objection.<sup>252</sup>

<sup>252</sup> Section 14ZU of the TAA.

If you are a registered user, you can lodge your objection through the business portal using ATO Online Services.

You can also lodge your objection by:

- fax to **1300 139 031**
- email to [ExcAdvice@ato.gov.au](mailto:ExcAdvice@ato.gov.au), or
- post to  
Australian Taxation Office  
PO Box 3514  
ALBURY NSW 2640


If you do not lodge your objection within 60 days, we will not consider your objection, unless you provide the reasons for late lodgment. We will consider these reasons before continuing with the objection process.


If we refuse additional time to lodge an objection, you may have this decision reviewed by the Administrative Review Tribunal.

We will make a decision about your objection after receiving all the necessary information. If we need more information or we cannot make a decision, we will contact you within 14 days to obtain the information we need or to negotiate an extended reply date.

If you are dissatisfied with the objection decision, there are further review rights available to you. You can:

- apply to the Administrative Review Tribunal for a review of the decision, or
- appeal against the decision to the Federal Court.

 To obtain a copy of our objection forms and for more information about how to lodge an objection, refer to [Object to a decision](#).

 For more information about what to do if you believe your legal rights or the standards outlined in the ATO Charter have not been met, refer to [Steps to take if you are not satisfied with our service](#).

#### 8.4.4 REQUESTING AN EXTERNAL REVIEW

The Administrative Review Tribunal is an independent body that reviews decisions made by Australian Government agencies, departments, and ministers. To apply for a review, individuals can submit applications regarding decisions made under more than 400 Commonwealth Acts and laws, including decisions made under the Excise Act. If a party is dissatisfied with a decision made by the Tribunal, they may appeal to the Federal Court on a question of law. For more information, see [Administrative Review Tribunal](#).

We suggest you obtain legal advice if you are considering using external review options provided by the Administrative Review Tribunal or Federal Court.

### 8.4.5 MORE INFORMATION

If you need more information on reviews and objections, contact us via:

- phone **1300 137 290**
- email us at [ATO-EXC-Petroleum@ato.gov.au](mailto:ATO-EXC-Petroleum@ato.gov.au), or
- write to us at  
Australian Taxation Office  
PO Box 3514  
ALBURY NSW 2640

We will ordinarily respond to written information requests within 28 days. If we cannot respond within 28 days, we will contact you within 14 days to obtain more information or negotiate an extended response date.

## 8.5 PRIVATE RULINGS

A private ruling is binding advice that sets out how a tax law applies to you in relation to a specific scheme or circumstance.<sup>253</sup>

You can apply for a private ruling when you want to be certain how a tax law applies to your particular circumstances.



For more information on private rulings and how to apply for one, see [Private rulings](#).

## 8.6 LEGISLATION (quick reference guide)

In this Chapter, we have referred to the following legislation:

- *Excise Act 1901*
  - section 39Q – review of decisions
  - section 61A – permission to remove goods that are subject to CEO's control
  - section 154 – deposit of duty
  - section 155 – limited dispute rights because of objection against private ruling
  - section 162C – review of decisions
- *Taxation Administration Act 1953*
  - section 14ZU – how taxation objections are to be made

<sup>253</sup> Section 359-5 of Schedule 1 to the TAA.

- Part IVC – taxation objections, reviews and appeals
- section 359-5 of Schedule 1 – private rulings

## Amendment history

**27 June 2025**

Part	Comment
Paragraphs 8.5.1 to 8.5.4	Paragraphs 8.5.1 to 8.5.4 removed as contemporary information covering the private ruling regime and how to apply for one is available on the ATO website at <a href="#">Private rulings</a> .
Throughout	Updated in line with current ATO style and accessibility requirements.

## 9 OFFENCES

### 9.1 PURPOSE

### 9.2 INTRODUCTION

### 9.3 OFFENCES

### 9.4 PENALTIES

### 9.5 INFRINGEMENT NOTICES

### 9.6 APPLICATION OF THE CRIMINAL CODE

### 9.7 TERMS USED

### 9.8 LEGISLATION (quick reference guide)

## 9 OFFENCES

### 9.1 PURPOSE

This Chapter deals with:

- offences under the Excise Act
- penalties
- infringement notices, and
- application of the Criminal Code.

### 9.2 INTRODUCTION

This Chapter is a general discussion on offences. It is not meant as legal advice and you are encouraged to seek independent legal advice in relation to your own individual circumstances.

There are a number of acts or omissions under the Excise Act that are offences.

A conviction for an offence may result in a penalty as provided for within the Excise Act. The penalty provided may be in the form of '[penalty units](#)', a term of imprisonment or an amount of money calculated by a set formula.



## 9.3 OFFENCES

Certain acts or omissions are offences under the Excise Act for which penalties are prescribed.

For penalties to apply to an offence (except where an infringement notice has been issued), you must first be convicted of the offence in a court of law following prosecution.

Certain offences under the excise legislation are strict liability offences as defined in section 6.1 of the Criminal Code (Schedule to the *Criminal Code Act 1995*). Essentially, strict liability means that the offence consists of the physical act or omission only. It is not necessary for the court to find that you knowingly committed or were reckless or negligent in relation to the act or omission.

Some sections of the Excise Act prescribe the following 2 levels of offence for similar conduct:

- a higher penalty applies to an act or omission intentionally or recklessly committed, (that is, where there is a 'fault' element), and
- a lower penalty applies to the same act or omission on a strict liability basis, (that is, where no 'fault' element needs to be proven).

For example, section 26 of the Excise Act prescribes that licensed manufacturers are to manufacture in accordance with the Act and their licence.

- (1) A licensed manufacturer must not intentionally manufacture excisable goods knowing, or being reckless as to whether, the manufacture contravenes this Act or the manufacturer licence.  
Penalty: 2 years imprisonment or 500 penalty units.
- (2) A licensed manufacturer must not manufacture excisable goods in contravention of this Act or the manufacturer licence.  
Penalty: 100 penalty units.
- (3) Strict liability applies to subsection (2).

## 9.4 PENALTIES

The Excise Act contains many provisions that include a penalty at the foot of the section or subsection. This means that if you are convicted of an offence against the particular provision, you can receive a penalty not exceeding the penalty mentioned.<sup>254</sup> The penalty listed is thus the maximum penalty but the courts can impose a lesser penalty.

<sup>254</sup> Section 5 of the Excise Act and section 4D of the *Crimes Act 1914*.

### Example 9A

*A person manufactures excisable fuel products without a manufacturer licence. This is a contravention of subsection 25(2) of the Excise Act which says that a person shall not manufacture excisable goods without a manufacturer licence. The penalty at the foot of subsection 25(2) is 100 penalty units. We bring a court action against the person and the court convicts the person. The penalty cannot exceed 100 penalty units but it can be less.*

As indicated above, certain offences provide for alternative penalties, for example, subsection 25(1) of the Excise Act provides for a penalty of 2 years imprisonment or 500 penalty units and 5 times the amount of duty that would have been payable if the goods had been entered for home consumption.

In some cases the courts can impose both penalties upon conviction.<sup>255</sup>

 Where an offence also causes goods to be forfeited<sup>256</sup>, conviction by the courts results in the forfeited goods being condemned.<sup>257</sup> This means they are no longer your property and we can dispose of the goods as we see fit.

## 9.5 INFRINGEMENT NOTICES

We may issue an infringement notice<sup>258</sup> as an alternative to prosecution for unlawfully possessing, or unlawfully selling excisable goods.<sup>259</sup> An infringement notice imposes a penalty of 20 penalty units.

To issue an infringement notice, we must have a reasonable belief that you have committed the offence. Notices must be issued within 12 months of the commission of the offence.<sup>260</sup>

If you do not pay the penalty, we may withdraw the infringement notice and prosecute you.

You cannot be prosecuted for the same offence where an infringement notice has been issued unless the infringement notice is withdrawn.

<sup>255</sup> Section 127A of the Excise Act.

<sup>256</sup> Section 116 of the Excise Act.

<sup>257</sup> Section 151 of the Excise Act.

<sup>258</sup> Part XA of the Excise Act.

<sup>259</sup> Subsections 117(2) and 117B(2) of the Excise Act.

<sup>260</sup> Section 129B of the Excise Act.

If we withdraw an infringement notice after you have paid the penalty, we will refund it to you.<sup>261</sup>

## 9.6 APPLICATION OF THE CRIMINAL CODE

Chapter 2 of the Criminal Code applies to offences against the Excise Act. However, Parts 2.5 and 2.6, which are in Chapter 2, do not apply.<sup>262</sup> In some courts, excise prosecutions are able to be treated as criminal matters while in other courts they are treated as civil matters. This has an effect on issues such as the burden and standard of proof required.

## 9.7 TERMS USED

### Penalty units

The value of a penalty unit is contained in section 4AA of the *Crimes Act 1914*, and is indexed regularly. The dollar amount of a penalty unit is available at [Penalties](#).

## 9.8 LEGISLATION (quick reference guide)

In this Chapter, we have referred to the following legislation:

- *Excise Act 1901*
  - section 5 – penalty at foot of sections
  - section 6B – application of the *Criminal Code*
  - section 25 – only licensed manufacturers to manufacture excisable goods
  - section 26 – licensed manufacturers to manufacture in accordance with Act and licence
  - section 116 – forfeiture
  - section 117 – unlawful possession of excisable goods
  - section 117B – unlawfully selling excisable goods
  - section 127A – alternative penalties
  - section 129A – purpose and effect of this Part (Part XA – penalty instead of prosecution)
  - section 129B – when an infringement notice may be issued

<sup>261</sup> Section 129F of the Excise Act.

<sup>262</sup> Section 6B of the Excise Act.

- section 129C – matters to be included in an infringement notice
- section 129D – due date for penalty
- section 129E – effect of payment of penalty
- section 129F – withdrawal of infringement notice
- section 151 – conviction to operate as a condemnation
- *Crimes Act 1914*
  - section 4AA – penalty units
  - section 4D – penalties
- *Criminal Code Act 1995*
  - section 6.1 – strict liability
  - Chapter 2 – general principles of criminal responsibility

## Amendment history

**27 June 2025**

Part	Comment
Throughout	Updated in line with current ATO style and accessibility requirements.

## **10 FUEL IN THE EXCISE TARIFF**

### **10.1 PURPOSE**

### **10.2 INTRODUCTION**

#### **10.2.1 'FUEL' IN THE SCHEDULE TO THE EXCISE TARIFF ACT**

### **10.3 POLICY AND PRACTICE**

#### **10.3.1 ITEM 10**

#### **10.3.2 PRODUCTS CLASSIFIED TO SUBITEMS OF ITEM 10**

#### **10.3.3 PRODUCTS CLASSIFIED TO ITEM 15**

### **10.4 PROCEDURES**

#### **10.4.1 MORE INFORMATION**

### **10.5 PENALTIES THAT CAN APPLY IN RELATION TO THE EXCISE TARIFF**

### **10.6 TERMS USED**

### **10.7 LEGISLATION (quick reference guide)**

# 10 FUEL IN THE EXCISE TARIFF

## 10.1 PURPOSE

This Chapter deals with:

- the items in the Schedule to the Excise Tariff Act (Schedule) that apply to fuels (including biofuels) and other petroleum products, oils, greases and hydraulic fluids
- the rates of excise that apply
- penalties that can apply to offences in relation to the excise tariff.

## 10.2 INTRODUCTION

### 10.2.1 'FUEL' IN THE SCHEDULE TO THE EXCISE TARIFF ACT

Fuel is covered by items 10, 15, 20 and 21 of the Schedule, however this Guide does not cover items 20 (stabilised crude oil) and 21 (condensate).

All '[excisable fuel products](#)' are classifiable to a subitem of the Schedule, which uses a 2-tiered numbering system of items and then subitems.

Items in the Schedule have a general description (which is also referred to as the preamble) of the goods classified to the item. Under each item are subitems, which provide more specific descriptions of the products included in or excluded from the subitem. Goods classified to a subitem must first be goods of the kind described in the relevant items.

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#### Example 10A

*In the general description of item 10, paragraph (i) excludes bitumen from the item. Therefore, bitumen cannot be classified to subitem 10.28 of the Schedule, which includes petroleum products not elsewhere included.*

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The scope of the subitems may narrow the application of a tariff item in the Schedule.

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**Example 10B**

*Paragraph (g) of item 10 refers to blends other than blends covered by subsections 77H(1), (2A), (2B) or (3) of the Excise Act.*

*Subitem 10.30 of the Schedule (which covers all blends other than 3 specific biofuel blends) applies only to blends that can be used as fuel in an internal combustion engine. This further restricts the application of excise to certain blends.*

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**Using imported products**

Imported products attract customs duty and are administered by the Australian Border Force (ABF). Imported fuel products can, in certain circumstances, be used in the manufacture of excisable products. This includes blending. The result of this is the creation of an excise liability and, provided the correct Customs requirements and procedures are followed, the extinguishment of the customs duty liability.

It is common practice for fuel importers to blend imported goods with excisable goods. Blending results in the manufacture of an excisable fuel product.

You should refer to the ABF for import requirements, however if you wish to use imported fuel in the manufacture of excisable goods you should speak to us. In these circumstances, you would need an excise manufacturer licence and a warehouse licence issued under section 79 of the *Customs Act 1901* (Customs Act).

Imported fuel is an excise-equivalent good (EEG) and we administer warehoused EEGs under delegation from ABF. We therefore assess applications for warehouse licences for EEGs issued under section 79 of the Customs Act.

Where imported lubricant oils and greases are customs duty-paid (nature 10 entry) and are subsequently used in excise manufacture at an excise licenced site, a refund of the customs duty may be applied for. All customs duty refund applications are dealt with by the ABF.



For more information on excise manufacture, refer to [Chapter 2](#) Licensing: Applications.

**Product names and descriptions**

Some product names in the Schedule are defined in the legislation. The definitions are found in:

- section 3 of the Excise Tariff Act (for example, 'biodiesel')
- the preamble to the Schedule ('lubricant/fluid/oil products'), and
- section 4 of the Excise Act (for example. LPG).

Most products however are not specifically defined and take their meaning according to ordinary usage. Ordinary usage may be determined by physical characteristics, how the products are used, or by current industry practice – for example, gasoline, diesel and kerosene.

Fuel quality standards are made by the Commonwealth department responsible for the administration of the *Fuel Quality Standards Act 2000*, which provides a legislative framework for setting national fuel quality and fuel quality information standards.<sup>263</sup> The requirements are in place to reduce the adverse effects of motor vehicle emissions on air quality and human health, and to enable Australia to effectively adopt new vehicle engine and emission control technologies.

Fuels to which fuel quality standards apply include petrol, diesel and biodiesel.

Products to which a fuel quality standard applies are excisable even if they do not meet the applicable standard. For example, biodiesel made through chemically altering vegetable oils to form mono-alkyl esters is excisable even if it does not meet the fuel quality standard for biodiesel.

### 'For use'

Some item classifications in the Schedule depend on the intended use of the goods.

The expression 'for use' means the intended end-use of the product at the time the goods are delivered from ['excise control'](#) in Australia.

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### Example 10C

*Examples of 'for use' in the Schedule:*

- *subitem 10.6 Gasoline for use as fuel in aircraft*
- *Item 15 Goods ... other than (a) goods for use as a fuel*

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### Items on your excise return

When you enter a product on your ['excise return'](#) under a classification from the Schedule that stipulates a particular use, you must have reasonable grounds for believing the product will be used for that purpose and not for any other purpose. Where a classification excludes a particular use, you must have reasonable grounds for believing the product will not be used for that purpose.

You need to keep documentation to substantiate the information you include on your excise return.

<sup>263</sup> As at April 2025, the Commonwealth department responsible for the administration of the *Fuel Quality Standards Act 2000* is the Department of Climate Change, Energy, the Environment and Water.




 For more information about keeping records, see [Section 3.3.1](#) Licensing criteria – (6) Ability to keep proper books of account.

## **Rates of duty when the item is measured by volume**

### **Temperature correction of volume**

The volume of fuel products is affected by density and temperature (that is, the volume changes when the temperature changes). In most instances, where rates of duty refer to volume in litres, you should use the volume of the product as if it was measured at 15° C.


 For more information on measuring the volume of liquids, refer to [Excise \(Volume of Liquid Fuels - Temperature Correction\) Determination 2016 \(No. 2\)](#).

\*Standardised calculations of measured quantities of petroleum fluids, regardless of point of origin, destination or units of measure used by custom or statute, have been adopted by petroleum companies through an international agreement. The result is the *Petroleum Measurement Tables Volume Correction Factors, Volume VIII*.<sup>264</sup>

### **Conversion of weight to volume**

There are instances when product is invoiced in kilograms and needs to be converted to litres, such as to:

- record it in stock records, and
- include it in your excise return.

 The method used to calculate litres of fuel is the standard conversion of a weight measurement to a liquid measurement which is to divide the weight of the fuel product by its density (corrected to 15° C), for example, 100 kilograms of fuel oil, with a corrected density of 0.94, converts to 106 litres ( $100 \div 0.94 = 106.38$ ).

### **Conversion of measurement of LPG**

If you have a liability for excise duty on LPG which was measured in kilograms you can convert the unit of measurement from kilograms to litres by using the conversion rate contained in the Excise Regulation.<sup>265</sup>

<sup>264</sup> The industry-wide accepted method for temperature conversion for both density and volume. American Society for Testing and Materials (ASTM), American Petroleum Institute, The Institute of Petroleum (1980) Petroleum Measurement Tables, Volume Correction Factors, Volume III, ASTM, Philadelphia.

<sup>265</sup> Section 24 of the Excise Regulation.

You may also, under certain circumstances, use a conversion method determined by the Commissioner in the [Excise \(Volume of LPG – Temperature and Pressure Correction\) Determination 2016 \(No. 2\)](#).

### **Conversion of unit of measurement in the Excise Regulation**

LPG that is measured in kilograms may be converted to litres at the rate of 1 kilogram to 1.885 litres. You may only use this conversion factor when the LPG has not been measured using volumetric measurement equipment.

If you decide to apply a particular unit of measurement for LPG which is used for a particular purpose, you are required to apply that unit of measurement throughout the financial year for all LPG used for that purpose. You may, however, seek our permission to use a different unit of measurement during the financial year for that LPG.

 The conversion rate is subject to periodic review to ensure it continues to accurately reflect the physical characteristics of LPG supplied in the Australian market.

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### **Example 10D**

*John's business is licensed for excise purposes. John supplies LPG to wholesale customers who collect the product from John's LPG refinery (wholesale sales). In these circumstances, the LPG supplied is measured in tonnes by weighbridge measurement and is not measured using temperature and pressure corrected volumetric measurement equipment.*

*John also separately delivers LPG from his refinery in his own tankers (tanker deliveries to customers). In these circumstances, measurement occurs in litres when delivered to clients.*

*John is able to determine duty liability for wholesale sales in kilograms and then convert to litres using the conversion factor. John can measure LPG for duty liability purposes in litres for the tanker deliveries to customers.*

*John is not able to change the measurement unit from kilograms to litres for wholesale sales, or from litres to kilograms for deliveries to customers. If John wishes to change measurement units, he can obtain permission from us or wait until the end of the financial year.*


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### **Conversion of unit of measurement in the Excise (Volume of LPG – Temperature and Pressure Correction) Determination 2016 (No. 2)**

[Excise \(Volume of LPG – Temperature and Pressure Correction\) Determination 2016 \(No. 2\)](#) prescribes methods that can be used to determine the volume of excisable LPG delivered into home consumption from premises covered by an excise licence.

There are 3 methods for converting the measurement of transport LPG to litres. The method you may use is dependent on the amount of transport LPG you deliver or reasonably expect to deliver into home consumption in an accounting period.

You are required to use the same method of conversion for the transport LPG you deliver in the accounting period unless we have given you the authority, in writing, to use a different method during the period.

 The accounting period is the same period you use for income tax purposes which generally is from 1 July to 30 June of the following year. You may use a different period which we have approved in writing.

#### *Method 1 – based on density*

This method is used where:

- the total amount of transport LPG you deliver, or reasonably expect to deliver, into home consumption from all of your premises covered by an excise licence exceeds 150,000 litres in the accounting period, and
- is measured in kilograms not using volumetric measurement equipment.

The amount of kilograms is converted to litres by either:

- the use of a factor based on the measured density of the LPG at ambient temperature corrected to 15 Celsius using the American Society for Testing and Materials (ASTM) *Petroleum Measurement Tables for Light Hydrocarbon Liquids - Density range 0.500 to 0.653 Kg/litre at 15°C*<sup>266</sup> (ASTM *Petroleum measurement tables for light hydrocarbon liquids:0.500-0.653kg/l*), or
- the use of the conversion factor stipulated in section 24 of the Excise Regulation.

<sup>266</sup> ASTM, The Institute of Petroleum, American Petroleum Institute, (1986) *Petroleum Measurement Tables for Light Hydrocarbon Liquids - Density range 0.500 to 0.653 Kg/litre at 15°C*.

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**Example 10E**

*If a quantity of transport LPG delivered into home consumption has been weighed as having 15.682 tonnes, the volume of the LPG would be determined by applying the conversion factor 1.885 as stipulated in the Excise Regulation for every kilogram of transport LPG (unless the person elects to measure the density of the quantity of transport LPG and apply a specific conversion factor). Application of the Excise Regulation factor 1.885 would result in a volume of 29,561 litres. Excise duty is then calculated on 29,561 litres for a person who has delivered, or reasonably expects to deliver transport LPG exceeding 150,000 litres per accounting period.*

---

**Method 2 – based on equilibrium vapour pressure**

This method is used where:

- the total amount of transport LPG you deliver, or reasonably expect to deliver, into home consumption from all of your premises covered by an excise licence, exceeds 150,000 litres in the accounting period, and
- is measured using uncorrected volumetric measurement equipment.

This method applies 2 correction factors.

The first correction factor uses the American Petroleum Institute *Manual of Petroleum Measurement Standards* at Chapter 11.2.2M *Compressibility Factors for Hydrocarbons: 350–637 kg/m<sup>3</sup> Density (15° C) and -46° C to 60° C Metering Temperature*<sup>267</sup> (API's *Petroleum Measurement Compressibility Factor Tables for Hydrocarbons: 350–637 kg/m<sup>3</sup>*), to correct the volume that was metered under operating pressure to the corresponding volume at the equilibrium vapour pressure to account for pressure effects.

The second correction factor uses the *ASTM Petroleum measurement tables for light hydrocarbon liquids: 0.500–0.653 kg/l* to correct the volume to 15° C to account for temperature effects.

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**Example 10F**

*A quantity of transport LPG is dispensed from an LPG tanker which meters an uncorrected volume of 30,000 litres under a pressure of 3000 kilopascals at a temperature of 27.5° C. During the delivery, the density and equilibrium vapour pressure of the LPG is also measured (at 27.5° C) and shown to be 515*

<sup>267</sup> American Petroleum Institute (1986) *Manual of Petroleum Measurement Standards, Chapter 11.2.2 Compressibility Factors for Hydrocarbons: 0.350–0.637 Relative Density (60 °F/60 °F) and -50 °F to 140 °F Metering Temperature*, 2<sup>nd</sup> edition, [www.api.org](http://www.api.org).

*kg/m<sup>3</sup> and 510 kilopascals respectively. To determine the corrected volume of LPG delivered, the metered volume would need to be adjusted by the pressure correction factor 1.0121 (as per the American Petroleum Institute's Petroleum Measurement Compressibility Factor Tables for Hydrocarbons: 350-637 kg/m<sup>3</sup>) to determine the volume at equilibrium vapour pressure and the volume temperature correction factor 0.9675 (as per the ASTM Petroleum measurement tables for light hydrocarbon liquids: 0.500-0.653 kg/l) to determine the volume at 15° C. Application of the relevant factors would result in an adjusted volume of 29,367 litres. Excise duty is then calculated on 29,367 litres for a person who has aggregated clearances of transport LPG exceeding 150,000 litres per accounting period.*

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### Method 3 – based on ambient temperature and operating pressure

This method may be used where:

- the total amount delivered, or reasonably expected to be delivered into home consumption from all your premises covered by an excise licence in the accounting period is less than 150,000 litres, and
- there is no requirement on your PSP to correct to 15° C and equilibrium vapour pressure.

Under this method you may either correct the volume of transport LPG using either Method 1 or 2 or use the measured volume of transport LPG at ambient temperature and operating pressure.

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### Example 10G

*Following on from Example 10F, if a person's aggregated clearances of transport LPG are less than 150,000 litres per accounting period, and that person delivers transport LPG into home consumption using uncorrected volumetric measuring equipment, that person may either apply Method 2 and correct the volume of fuel to 15° C and equilibrium vapour pressure (that is, 29,367 litres) or use the uncorrected measured volume of fuel at ambient temperature and operating pressure (that is, 30,000 litres). If the uncorrected measured volume is used, excise duty is then calculated on 30,000 litres for a person who has aggregated clearances of transport LPG not exceeding 150,000 litres per accounting period.*

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See [Excise \(Volume of LPG – Temperature and Pressure Correction\) Determination 2016 \(No. 2\)](#).

### **Conversion of measurement of compressed natural gas (CNG)**

If you have a liability of duty for excisable CNG and the quantity of CNG is measured in megajoules, you are required to use the conversion rate contained in the Excise Regulation. The conversion rate, as at 1 April 2025, is 1 megajoule of CNG to 0.01893 kilograms of CNG.<sup>268</sup>

The conversion rate is subject to periodic review to ensure it continues to accurately reflect the physical characteristics of CNG supplied in the domestic market.

### **Conversion of unit of measurement in the Excise (Mass of CNG) Determination 2016 (No. 2)**


[Excise \(Mass of CNG\) Determination 2016 \(No. 2\)](#) prescribes methods that can be used to determine the mass of excisable CNG delivered into home consumption from premises covered by an excise licence where the CNG is measured in units other than kilogram or megajoules.

## **10.3 POLICY AND PRACTICE**

### **10.3.1 ITEM 10**

Fuel products and some products which may not generally be considered as fuel are classified to item 10 of the Schedule.

For example, paragraph 10(d) of the Schedule refers to 'liquid hydrocarbon products derived through a recycling, manufacturing or other process'.

 Hydrocarbons are any of a class of compounds containing only hydrogen and carbon atoms in varying ratios, such as methane (CH<sub>4</sub>), ethylene (C<sub>2</sub>H<sub>4</sub>), acetylene (C<sub>2</sub>H<sub>2</sub>), and benzene (C<sub>6</sub>H<sub>6</sub>). Most hydrocarbon products are derived from petroleum, that is, almost exclusively from crude oil or natural gas production and refining. However, hydrocarbon products can also be derived from non-petroleum sources.

To classify hydrocarbon products derived from non-petroleum sources to a subitem of the Schedule, the product must:

- have the characteristics of gasoline, kerosene, diesel, liquefied natural gas, CNG, heating oil, mineral turpentine or white spirit
- have the physical characteristics of 'fuel oil' set out in subsection 3(4) of the Excise Tariff Act
- have the physical characteristics of 'LPG' set out in section 4 of the Excise Act, or

<sup>268</sup> Subsection 24(3) of the Excise Regulation.

- be a liquid aromatic hydrocarbon consisting principally of benzene, toluene or xylene or a mixture of them.



Liquid hydrocarbon products may contain minor amounts of other elements and still be classified as a liquid hydrocarbon product.



'Liquid' hydrocarbons are those that are liquid when they come into existence as a discrete product.



Item 10 of the Schedule captures all liquid hydrocarbon fuel products<sup>269</sup>, regardless of the feedstock or process of manufacture. Gaseous fuels (CNG, LPG and LNG) are also included at item 10.

### Example 10H

*Diesel can be produced from used tyres or waste plastic. This diesel is still classified to subitem 10.10, even though not derived from petroleum.*

In addition to these hydrocarbon products, item 10 of the Schedule also captures 2 non-hydrocarbon products which can be used as transport fuels. Like any other fuel product, these non-hydrocarbon products must meet the description at both the item and sub-item level to be classified to item 10. Currently, the 2 non-hydrocarbon products classified to item 10 are goods that:

- have the physical characteristics of 'biodiesel' set out in section 3 of the Excise Tariff Act
- are denatured ethanol for use as a fuel in an internal combustion engine.

### Exclusions from item 10

Item 10 of the Schedule contains a number of exclusions. These apply to:


- certain uses of fuel in oil production and refining, including
  - stabilised crude petroleum oil and condensate for use in the recovery, production, pipeline transportation or refining of petroleum, or as refinery feedstock, and
  - refined or semi-refined liquid petroleum products for use in refining petroleum at a refinery covered by a licence, apart from use as fuel in internal combustion engines
- goods classified to item 15 of the Schedule, and
- waxes and bitumen.

<sup>269</sup> It is included by paragraph 10(d) in the preamble to item 10 of the Schedule.

Other exclusions from item 10 of the Schedule are referred to under relevant subitems.

### 10.3.2 PRODUCTS CLASSIFIED TO SUBITEMS OF ITEM 10

The information below provides some context around subitems included in item 10 of the Schedule, grouped according to product type. All excise duty rates listed are current as at 3 February 2025.

 Rates of duty on fuel (excluding aviation fuels) are subject to change. For the current rates of duty, refer to our tariff working page [Excise duty rates for fuel and petroleum products](#).

#### Major road transport fuels

##### Gasoline (other than for use as fuel in aircraft)

The primary use of gasoline is in spark ignition internal combustion engines.

Technology is currently available to produce gasoline from natural gas using the gas to liquids (GTL) method. Gasoline produced in this manner would be classified to item 10(d), subitem 10.5 of the Schedule. Gasoline refined from crude oil and condensate would similarly be classified to subitem 10.5 of the Schedule via item 10(c).

Figure 3: Description and rate of duty applicable to gasoline (other than for use as fuel in aircraft)

Subitem	Description of goods	Rate of Duty
10.5	Gasoline (other than for use as fuel in aircraft)	\$0.508 per litre

##### Diesel

Diesel is primarily used as the fuel for compression ignition internal combustion engines (diesel engines). Diesel is not specifically defined in the Excise Tariff Act; therefore, we look to the physical characteristics, how the products are used and current industry practice to determine whether a particular product is diesel.

Recent developments in technology have meant that hydrocarbon fuels can be manufactured from sources other than crude oil or waste oil. Technology now exists that allows fuel to be manufactured from feed-stocks such as waste plastic, used tyres and general household waste or from the hydrogenation of animal fats or vegetable oils.

Renewable diesel is not specifically defined in the Excise Tariff Act and takes the ordinary definition, being diesel manufactured from renewable resources. Paragraph (d) of item 10 of the Schedule includes liquid hydrocarbon products derived through a recycling, manufacturing or other process, and subitem 10.10 specifies diesel.



If the fuel produced from these alternative feedstock can be used to run a diesel engine and its characteristics are generally in line with diesel, it would be classified to item 10(d), subitem 10.10 of the Schedule.

As with gasoline, diesel can also be produced using gas-to-liquid technology.

Figure 4: Description and rate of duty applicable to diesel

Subitem	Description of goods	Rate of Duty
10.10	Diesel	\$0.508 per litre

## Aviation fuels

The major aviation fuels are:

- aviation gasoline (AVGAS), and
- aviation kerosene (also known as aviation turbine fuel, AVTUR or Jet A1).

AVGAS is primarily used in small piston-engine aircraft. It is classified to subitem 10.6 of the Schedule.<sup>270</sup>

AVTUR is primarily used in large turbine-powered aircraft. It is classified to subitem 10.17 of the Schedule.<sup>271</sup>

The excise duty imposed on aviation gasoline and aviation kerosene is used to fund the Civil Aviation Safety Authority (CASA).

## Biofuels

Biofuels are fuels made from renewable or organic feedstock or both. Denatured ethanol for use in an internal combustion engine (commonly referred to as 'fuel ethanol'), biodiesel and renewable diesel are biofuels currently in commercial use in Australia.

## Fuel ethanol


Denatured ethanol for use as fuel in an internal combustion engine is classified to subitem 10.20 of the Schedule. Ethanol is another term for ethyl alcohol.

### *Manufacturing fuel ethanol*

If you produce ethanol for any purpose, you must hold an excise manufacturer licence. If you produce ethanol for fuel and non-fuel applications, your licence must specify this.

<sup>270</sup> If this product is for use for any purpose other than in an aircraft it is classified to subitem 10.5 of the Schedule, which attracts duty at the rate of \$0.508 per litre.

<sup>271</sup> If this product is for use for any purpose other than in an aircraft it is classified to subitem 10.16 of the Schedule, which attracts duty at the rate of \$0.508 per litre.

 For further information on licensing, see [Chapter 2](#) Licensing: Applications.

### Denaturing

Fuel ethanol is usually denatured by the addition of 1% or more of unleaded petrol. However, we will accept other denaturants, provided that they meet the requirements of [Excise \(Denatured spirits\) Determination 2016 \(No. 3\)](#) which deals specifically with alcoholic beverages. The Explanatory Statement explains the background, purpose and operation of this determination.

Figure 5: Description and rate of duty applicable to denatured ethanol

Subitem	Description of goods	Rate of Duty
10.20	Denatured ethanol for use as fuel in an internal combustion engine	\$0.166 per litre

### Fuel ethanol blends

Fuel ethanol is usually blended (primarily with petrol) for use as a fuel in spark ignition engines.

In other limited cases, denatured ethanol can be used in compression ignition engines. Although rare, blends of diesel and ethanol are sometimes referred to as 'Diesohol'.

In the Schedule, there are specific subitems for ethanol blends:

Figure 6: Description and rate of duty applicable to fuel ethanol blends

Subitem	Description of goods	Rate of Duty
10.7	Blends of gasoline and ethanol	The amount of duty worked out under section 6G
10.12	Blends of diesel and either biodiesel or ethanol, or both	The amount of duty worked out under section 6G

 For further information, see [Calculating duty according to section 6G of the Excise Tariff Act](#).

Blending fuel ethanol with products such as petrol or diesel is excise manufacture.<sup>272</sup> The only exceptions to this rule are:

- where all the components of the blend are duty-paid
- where the blending meets the circumstances prescribed in a determination.<sup>273</sup> For example, fuel ethanol is incidentally blended with other fuel and there is no intention to manufacture a further fuel ethanol blend.

<sup>272</sup> Subsection 77H(2) of the Excise Act.

<sup>273</sup> See Excise (Blending Exemptions) Instrument 2024.

## **Biodiesel**

Biodiesel is defined in subsection 3(1) of the Excise Tariff Act as ‘mono-alkyl esters of fatty acids of a kind used as a fuel, derived from animal or vegetable fats or oils whether or not used.’ Subitem 10.21 of the Schedule applies only to products that meet this definition. Therefore, fuel produced from animal fats or vegetable oils by hydrogenation (renewable diesel) is not biodiesel for the purposes of the Schedule. Fuel made from other feedstock, such as waste plastics, is also not biodiesel.

Figure 7: Description and rate of duty applicable to biodiesel

Subitem	Description of goods	Rate of Duty
10.21	Biodiesel	Rate worked out under section 6J of the Excise Tariff Act

### *Biodiesel manufacture*

Biodiesel can be made from the following feedstock:

- new or used vegetable oils (for example, soybean oil, rapeseed/canola oil, cotton seed and mustard seed oils)
- oils from oil bearing trees (for example, palm & coconut oil)
- animal fats for example, beef tallow), and
- waste cooking oils (for example, used frying oil, grease trap waste).

In general, biodiesel can be manufactured by the following processes:

- alkali-catalysed transesterification of the feedstock with alcohol
- direct acid-catalysed esterification of the feedstock with alcohol, or
- the conversion of the feedstock to fatty acids and then to alkyl esters with acid catalysis.

To make biodiesel, you must be licensed as an excise manufacturer regardless of the amount you make or whether you only use it for your own purposes.



For further information on licensing, see [Chapter 2](#) Licensing: Applications.



Biodiesel is excisable whether or not it meets the fuel quality standard for biodiesel developed by the Department of Climate Change, Energy, the Environment and Water who are responsible for the administration of the *Fuel Quality Standards Act 2000*. Information on the standard may be obtained from that department.

### *Biodiesel blends*

Biodiesel is often blended with other fuel (primarily diesel) prior to being used.

Blending biodiesel with products such as diesel is excise manufacture. The only exceptions to this rule are:

- where all the components of the blend are duty-paid fuels<sup>274</sup>
- where the blending meets the relevant circumstances prescribed in a determination. For example, biodiesel is incidentally blended with other fuel and there is no intention to manufacture a biodiesel blend duty-paid



The relevant determination is the [Excise \(Blending Exemptions\) Instrument 2024](#). The Explanatory Statement explains the purpose and operation of this instrument.

### Example 10I

*A non-licensed fuel supplier makes a commercial decision to stop supplying biodiesel and to use the tank to expand their diesel storage capability. When the last sale of biodiesel is made the fuel supplier orders a bulk quantity of diesel from their distributor which is discharged into the tank. The tank contained remnants of the biodiesel as it is impractical to completely empty the biodiesel from the tank. There is no intention to make a blend of diesel and biodiesel.*

*This circumstance is incidental blending as covered by the determination. It is not excise manufacture. (It would also be excluded from excise manufacture on the basis that all components are duty-paid fuels).*

### **Diesel and biodiesel blends**

Blends of diesel and biodiesel are covered by subitem 10.12 of the Schedule.

Figure 8: Description and rate of duty applicable to diesel and biodiesel blends

Subitem	Description of goods	Rate of Duty
10.12	Blends of diesel and either biodiesel or ethanol, or both	The amount of duty worked out under section 6G



For further information, see [Calculating duty according to section 6G of the Excise Tariff Act](#).

Diesel and biodiesel blends are usually named by reference to the percentage of biodiesel in the blend. For example, a blend containing 10% biodiesel is referred to as 'B10'. A blend containing 5% biodiesel is referred to as 'B5'.

<sup>274</sup> Subsection 77H(2) of the Excise Act.

## Other fuel blends

Fuel blends that do not have their own specific classification are classified to subitem 10.30 of the Schedule. For a blend to be classified to this subitem, it must be able to be used as fuel in an internal combustion engine. This is accepted as meaning the blend can be used in an internal combustion engine without causing material damage to an engine within a short period (for example, a day or within 100 kilometres).

Figure 9: Description and rate of duty applicable to other fuel blends

Subitem	Description of goods	Rate of Duty
10.30	Blends of 1 or more of the above goods (with or without other substances) not elsewhere included that can be used as fuel in an internal combustion engine (other than goods covered by section 77J of the <i>Excise Act 1901</i> )	The amount of duty worked out under section 6G

## Example 10J

*Diesel and base oil can be blended together to produce a mould release agent that is used in brick manufacture.*

*The blend can be used in internal combustion engines and is therefore classified to subitem 10.30 of the Schedule.*



A blend is not classified to subitem 10.30 of the Schedule if:

- it has been used as a solvent and recycled for use again as a solvent by the user<sup>275</sup> (this is further discussed in [Chapter 11](#) Blending)
- all the components are duty-paid and apart for denatured ethanol and biodiesel, the rate of duty for each component is the same (but not where an entity is eligible to claim a fuel tax credit on any of the components)<sup>276</sup>
- the blend is not marketed or sold for use as fuel in an internal combustion engine and it contains products listed in the Schedule of the [Fuel Tax \(Fuel Blends\) Determination 2016 \(No. 1\)](#) at a concentration equal to or greater than the specified minimum, or
- it is covered by *Excise (Blending Exemptions) Instrument 2024*.

<sup>275</sup> Section 77J of the Excise Act.

<sup>276</sup> Subsection 77H(2) of the Excise Act.

### Calculating duty according to section 6G of the Excise Tariff Act

The rate of duty applicable to these specified blends is determined in accordance with the method statement in section 6G of the Excise Tariff Act. This method takes account of any duty already paid on the components of the blend.

The method for working out the duty payable on these blends is:

#### **Step 1**

Add up the amount of duty that would be payable on each constituent of the blend that is classified to item 10 of the Schedule.

#### **Step 2**

Work out the volume, in litres, of any other constituent of the blend (excluding any water added to the manufacture of the blended goods).<sup>277</sup>

#### **Step 3**

Multiply the result of Step 2 by the rate \$0.508.

Note: the rate set out in this Step is indexed under section 6A of the Excise Tariff Act.

#### **Step 4**

Total the results of Steps 1 and 3.

#### **Step 5**

Subtract from the total any duty paid on a constituent of the blended goods that is classified to item 10 or 15 of the Schedule.

If a constituent of the blended goods was imported, and customs duty was paid or payable on the goods, treat that customs duty as if it were excise duty in working out the duty payable. In the unlikely situation where the rate of excise duty on a constituent of the blended goods would be less than the customs duty paid, use the lesser amount in working out the duty payable.<sup>278</sup>



For more information about fuel blends, refer to [Chapter 11](#) Blending.

<sup>277</sup> This can occur in the production of emulsified diesel and water blends (sometimes known as 'aquadiesel').

<sup>278</sup> Subsection 6G(2) of the Excise Tariff Act.

**Example 10K**

Marvin's Fuel manufactures a B20 blend (20% biodiesel ÷ 80% diesel) using 16,000 litres of [underbond](#) diesel and 4,000 litres of duty-paid domestic biodiesel.

Marvin's Fuel works out the duty payable on the blend under section 6G of the Excise Tariff Act as follows:

Step 1:

- 16,000 litres of diesel at \$0.508 per litre = \$8,128.
- 4,000 litres of biodiesel at \$0.152 per litre = \$608
- Total = \$8,736

Step 2: Nil

Step 3: Nil

Step 4: Total of Steps 1 and 3 = \$8,736

Step 5:

- Step 4 less duty paid = \$8,736 – \$608
- Duty payable on the blend (to nearest dollar) = \$8,128.00

**Example 10L**

Esther's Fuels manufactures an E10 blend from 18,000 litres of duty-paid gasoline and 2000 litres of duty-paid fuel ethanol.

Step 1:

- 18,000 litres of gasoline at \$0.508 per litre = \$9,144.
- 2,000 litres of fuel ethanol at \$0.166 per litre = \$332
- Total = \$9,476

Step 2: Nil

Step 3: Nil

Step 4: Total of Steps 1 and 3 = \$9,476

Step 5:

- Step 4 less duty paid = \$9,476 – \$9,476
- Duty payable on the blend (to nearest dollar) = \$0.

*As there is no duty payable on the blend, Esther's Fuels is not required to enter the E10 blend on the excise return (or returns) for the period (or periods) when the blend is delivered into home consumption as all components are duty-paid.*

## Burner fuels

Kerosene, heating oil and fuel oil<sup>279</sup> are often described as burner fuels because these products are mainly used in burner applications (for example, as fuel for heating appliances). They are also capable of being used in other applications, for example, as solvents.

Figure 10: Description and rate of duty applicable to burner fuels

Subitem	Description of goods	Rate of Duty
10.15	Heating oil	*\$0.508 per litre
10.16	Kerosene (other than for use as fuel in aircraft)	\$0.508 per litre
10.18	Fuel oil	\$0.508 per litre

\*Rate of duty as at 5 August 2024.

## Crude oil and condensate used as fuel

Condensate, stabilised crude oil and topped crude oil are included in item 10 of the Schedule when these products are used directly as fuel.

Condensate or stabilised crude oil is excluded from item 10 of the Schedule when used:

- in the recovery, production, pipeline transportation or refining of crude oil or condensate, or
- as refinery feedstock.

 Stabilised crude oil and condensate can attract duty under items 20 and 21 respectively of the Schedule and item 10 of the Schedule.<sup>280</sup>

Condensate is a defined term meaning<sup>281</sup>:

- liquid petroleum, or
- a substance:

<sup>279</sup> Subsection 3(4) of the Excise Tariff Act.

<sup>280</sup> Section 77K of the Excise Act.

<sup>281</sup> Subsection 4(1) of the Excise Act.



- (i) that is derived from gas associated with oil production; and
- (ii) that is liquid at standard temperature and pressure.

Figure 11: Description and rate of duty applicable to condensate used as fuel

Subitem	Description of goods	Rate of Duty
10.1	Petroleum condensate	*\$0.508 per litre

\*Rate of duty as at 3 February 2025.

Stabilised crude petroleum oil (stabilised crude oil) is produced when crude oil from a well is extracted in, or converted to, a state in which it can be safely stored, transported and further dealt with.

Figure 12: Description and rate of duty applicable to stabilised crude oil

Subitem	Description of goods	Rate of Duty
10.2	Stabilised crude petroleum oil	*\$0.508 per litre

\*Rate of duty as at 3 February 2025.

Topped crude petroleum oil (topped crude oil) is produced when the more valuable light fractions are removed from crude oil.

Figure 13: Description and rate of duty applicable to topped crude oil

Subitem	Description of goods	Rate of Duty
10.3	Topped crude petroleum oil	*\$0.508 per litre

\*Rate of duty as at 3 February 2025.

### Liquefied petroleum gas (LPG)

LPG is defined to include<sup>282</sup>:

- liquid propane
- liquid mixture of propane and butane
- liquid mixture of propane and other hydrocarbons that consists mainly of propane, or
- a liquid mixture of propane, butane and other hydrocarbons that consists mainly of propane and butane.

<sup>282</sup> Subsection 4(1) of the Excise Act.

LPG is the generic name for mixtures of light hydrocarbon gas, consisting of mainly propane or propane and butane that have been liquefied through cooling or compression. These gases are produced either directly through the processing of crude oil and natural gas or as a by-product of the petroleum refining process.

LPG is generally supplied as a mixture of propane and butane but it can also be supplied as 100 percent propane. It may also include a small proportion of other hydrocarbons.

In addition to being used as a transport fuel, LPG containing propane only is used for a variety of purposes including commercial and domestic cooking, drying and heating.

A remission of duty is available where the LPG is supplied for non-transport use.<sup>283</sup>

Although this means that no duty is payable on non-transport LPG, you still need an excise licence to manufacture the goods.

LPG is exempt from duty when it is used at the premises specified in a manufacturer licence in the process of manufacturing<sup>284</sup>:

- petroleum condensate or stabilised crude petroleum oil, or
- liquefied petroleum gas, liquefied natural gas or other hydrocarbons.

This is provided the manufacture of the goods is done in accordance with the manufacturer licence.


 For more information about the remission of excise duty on LPG supplied for non-transport use, refer to [Chapter 7](#) Remissions, refunds, drawbacks and exemptions

Figure 14: Description and rate of duty applicable to LPG

Subitem	Description of goods	Rate of Duty
10.19A	Liquefied petroleum gas, other than liquefied petroleum gas exempted from excise duty by section 77HB of the <i>Excise Act 1901</i>	*\$0.166 per litre

\*Rate of duty as at 3 February 2025.

### Liquefied natural gas (LNG)

LNG is produced from natural gas that is cooled to the point that it condenses to a liquid. The majority of LNG manufactured in Australia is exported although some is used as a transport fuel, generally in heavy-duty long range road transport.

Excise is calculated as a rate of cents per kilogram, rather than cents per litre as with other fuels.

<sup>283</sup> Item 9, Clause 2 of Schedule 1 to the Excise Regulation.

<sup>284</sup> Section 77HB of the Excise Act.

A remission of duty is available where the LNG is supplied for non-transport use.<sup>285</sup>

Although this means that no duty is payable on non-transport LNG you still need an excise licence to manufacture the goods.

LNG is exempt from duty when it is used at the premises specified in a manufacture licence in the process of manufacturing<sup>286</sup>:

- petroleum condensate or stabilised crude petroleum oil, or
- liquefied petroleum gas, liquefied natural gas or other hydrocarbons.

This is provided the manufacture of the goods is done in accordance with the manufacturer licence.

 For more information about the remission of excise duty on LNG supplied for non-transport use, refer to [Chapter 7](#) Remissions, refunds, drawbacks and exemptions

Figure 15: Description and rate of duty applicable to LNG

Subitem	Description of goods	Rate of Duty
10.19B	Liquefied natural gas, other than liquefied natural gas exempted from excise duty by section 77HB of the <i>Excise Act 1901</i>	*\$0.348 per kilogram

\*Rate of duty as at 3 February 2025.

### Compressed natural gas

CNG is natural gas that is compressed. CNG is used in some bus fleets, street sweepers and garbage collection vehicles. There is currently no significant use of CNG in cars in Australia.

CNG is exempt from duty if it was compressed:

- for use other than as a fuel for a motor vehicle<sup>287</sup>
- other than in the course of carrying on an enterprise<sup>288</sup>
- for use as a fuel for a forklift vehicle that is used primarily off public roads, or<sup>289</sup>
- at a residential premises

AND

- the rate at which the gas was compressed at those premises is not more than 10 kilograms of compressed natural gas per hour, and

<sup>285</sup> Item 9, Clause 2 of Schedule 1 to the Excise Regulation.

<sup>286</sup> Section 77HB of the Excise Act.

<sup>287</sup> Paragraph 77HA(1)(a) of the Excise Act.

<sup>288</sup> Paragraph 77HA(1)(b) of the Excise Act.

<sup>289</sup> Subparagraph 77HA(1)(c)(i) of the Excise Act.

- the gas is not sold or otherwise supplied in the course of carrying on an enterprise.<sup>290</sup>

**i** The phrase 'in the course of carrying on an enterprise' has the same meaning as when it is used in the *A New Tax System (Goods and Services Tax) Act 1999*.

**i** A 'residential premises' has the same meaning as given in the *A New Tax System (Goods and Services Tax) Act 1999*.

In most instances, the ultimate use of CNG will be known at the time of compression. For instance, compression will commonly occur directly before delivery into the motor vehicle or into storage tanks for other uses. Hence, it will be readily established whether CNG is eligible for exemption. If the CNG you manufacture is exempt, you do not need to hold a licence under the Excise Act to undertake that activity.

Figure 16: Description and rate of duty applicable to CNG

Subitem	Description of goods	Rate of Duty
10.19C	Compressed natural gas, other than compressed natural gas exempted from excise duty by section 77HA of the <i>Excise Act 1901</i>	*\$0.348 per kilogram

\*Rate of duty as at 3 February 2025.

### Liquid aromatic hydrocarbons

Some industrial processes, such as coal coking, waste incineration and some plastics production, result in by-products consisting principally of the aromatic hydrocarbons benzene, toluene and xylene, or mixtures of them. These can be used as fuels.

Other substances may be present in these products, but these aromatics must be the principal constituents to be classified to subitem 10.25 of the Schedule.

Figure 17: Description and rate of duty applicable to liquid aromatic hydrocarbons

Subitem	Description of goods	Rate of Duty
10.25	Liquid aromatic hydrocarbons consisting principally of benzene, toluene or xylene or mixtures of them (other than goods covered by section 77J of the <i>Excise Act 1901</i> )	*\$0.508 per litre

\*Rate of duty as at 3 February 2025.

<sup>290</sup> Section 77HA(2) of the Excise Act.

### Mineral turpentine and white spirit

Mineral turpentine and white spirit are very similar and are predominantly used as solvents.

Figure 18: Description and rate of duty applicable to mineral turpentine and white spirit

Subitem	Description of goods	Rate of Duty
10.26	Mineral turpentine (other than goods covered by section 77J of the <i>Excise Act 1901</i> )	*\$0.508 per litre
10.27	White spirit (other than goods covered by section 77J of the <i>Excise Act 1901</i> )	*\$0.508 per litre

\*Rate of duty as at 3 February 2025.

### Petroleum products not elsewhere included

Subitem 10.28 of the Schedule includes all unblended petroleum products not elsewhere included that fall within the general description of item 10 of the Schedule. Products classified to this subitem can be as diverse as lighter fluid, naphtha and recycled waste oil, including waste oil recycled by filtering, dewatering and demineralisation. Waste oil that is only subjected to a filtering and dewatering process is not an excisable good captured by the Schedule as the process is not considered to be excise manufacture.<sup>291</sup>

Recycled waste oil is only classified to this subitem if it cannot be classified elsewhere (for example, diesel to subitem 10.12 of the Schedule; re-refined base oil not for fuel use to subitem 15.2 of the Schedule).

Figure 19: Description and rate of duty applicable to petroleum products not elsewhere included

Subitem	Description of goods	Rate of Duty
10.28	Petroleum products (other than blends) not elsewhere included (other than goods covered by section 77J of the <i>Excise Act 1901</i> )	*\$0.508 per litre

\*Rate of duty as at 3 February 2025.

 Products derived from non-petroleum sources cannot be classified to subitem 10.28 of the Schedule.

<sup>291</sup> *Cooper Bros Holdings Pty Ltd trading as Triple R Waste Management and Commissioner of Taxation* [2013] AATA 99.

### 10.3.3 PRODUCTS CLASSIFIED TO ITEM 15

Figure 20: Description and rate of duty applicable to goods classified to item 15

Item	Subitem	Description of goods	Rate of Duty
15		Goods as follows, other than: (a) diesel; and (b) blends of diesel and any other goods; and (c) goods for use as a fuel; and (d) goods ordinarily used as a fuel; and (e) exempt oils and hydraulic fluids; and (f) any other goods prescribed for the purposes of this paragraph	
	15.1	Either: (a) petroleum-based oils that are lubricant/fluid/oil products; or (b) the synthetic equivalents of such oils; but not greases	\$0.142 per litre
	15.2	Either: (a) petroleum-based oils that are lubricant/fluid/oil products or greases; or (b) synthetic equivalents of such oils; recycled for use as oils that are lubricant/fluid/oil products but not recycled for use as greases	\$0.142 per litre
	15.3	Petroleum-based greases and their synthetic equivalents	\$0.142 per kilogram
	15.4	Either: (a) petroleum-based oils that are lubricant/fluid/oil products or greases; or (b) synthetic equivalents of such oils; recycled for use as greases	\$0.142 per kilogram

The preamble to item 15 covers:

Goods as follows, other than:

- (a) diesel; and
- (b) blends of diesel and any other goods; and
- (c) goods for use as a fuel; and
- (d) goods ordinarily used as a fuel; and

- (e) exempt oils and hydraulic fluids; and
- (f) any other goods prescribed for the purposes of this paragraph

Exempt oils and hydraulic fluids are those that meets the specified industry standards or criteria specified in the Excise Tariff Act<sup>292</sup> and which are:

- food grade white mineral oil
- polyglycol brake fluids, and
- aromatic process oils.

Goods for use as a fuel and goods ordinarily used as a fuel are not classified to item 15 of the Schedule but may be excisable under item 10 of the Schedule.

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### Example 10M

*An oil recycler produces re-refined base oil which can be manufactured into lubricating oil by the addition of suitable additives. It can also be used as fuel and in its current form is ordinarily used as a fuel.*

*The base oil is delivered for home consumption. It does not meet industry standards for diesel or another specified product under item 10 of the Schedule.*

*The base oil is not classified to item 15 of the Schedule to the Excise Tariff Act. It is classified to subitem 10.28 of the Schedule (as a petroleum product (other than a blend) not elsewhere included (and not covered by section 77J of the Excise Act). Duty is payable at \$0.508 per litre.*

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<sup>292</sup> Subsection 3(6) of the Excise Tariff Act.

Item 15 of the Schedule specifies the following subitems:

Figure 21: Description and rate of duty applicable to subitems under item 15 of the Schedule

Subitem	Description of goods	Rate of Duty
15.1	Either: (a) petroleum-based oils that are lubricant/fluid/oil products; or (b) the synthetic equivalents of such oils; but not greases	*\$0.142 per litre
15.2	Either: (a) petroleum-based oils that are lubricant/fluid/oil products or greases; or (b) synthetic equivalents of such oils; recycled for use as oils that are lubricant/fluid/oil products but not recycled for use as greases	*\$0.142 per litre
15.3	Petroleum-based greases and their synthetic equivalents	*\$0.142 per kilogram
15.4	Either: (a) petroleum-based oils that are lubricant/fluid/oil products or greases; or (b) synthetic equivalents of such oils; recycled for use as greases	*\$0.142 per kilogram

\*Rate of duty as at 3 February 2025.

### Synthetic equivalents of petroleum based oils and greases

A synthetic product is *equivalent* to a petroleum-based (lubricant or fluid or oil) product where it performs the equivalent function of the petroleum-based oil. Factors to consider include indicated use and marketing.<sup>293</sup>

<sup>293</sup> See also paragraphs 75 to 81 of Product Grants and Benefits Ruling [PGBR 2012/1](#) *Product Stewardship (Oil) Benefit: the meaning of the expression 'goods produced from used oil' and the terms 'filtered', 'de-watered', and 'de-mineralised' for the purposes of the Product stewardship for oil benefit scheme.*



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**Example 10N**

*Synthetic lubricating oil is designed to be used as lubricating oil in an engine. It performs the same function as petroleum-based lubricating oil. It is therefore the equivalent of petroleum based lubricating oil.*

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If you are unsure whether your products are subject to excise duty under item 15 of the Schedule, you can seek advice from us.

## 10.4 PROCEDURES

### 10.4.1 MORE INFORMATION

If you need more information on fuel in the excise tariff, contact us via:

- phone **1300 137 290**
- [ATO Online Services](#) or
- write to us at  
Australian Taxation Office  
PO Box 3514  
ALBURY NSW 2640

We will ordinarily respond to written information requests within 28 days. If we cannot respond within 28 days, we will contact you within 14 days to obtain more information or negotiate an extended response date.

## 10.5 PENALTIES THAT CAN APPLY IN RELATION TO THE EXCISE TARIFF

The following are the penalties that may apply after conviction for an offence.

### Manufacture

If you manufacture '[excisable fuel products](#)' without a manufacturer licence, the penalty is a maximum of 2 years in prison or the greater of 500 '[penalty units](#)' and 5 times the amount of duty on the excisable fuel products.<sup>294</sup>

If you manufacture excisable fuel products contrary to the Excise Act or any conditions specified in your licence, the penalty is a maximum of 2 years in prison or 500 penalty units.<sup>295</sup>

If you manufacture excisable fuel products at premises that are not specified in your licence, the penalty is a maximum of 2 years in prison or the greater of 500 penalty units and 5 times the amount of duty on the excisable fuel products.<sup>296</sup>

### Move, alter or interfere

If you move underbond excisable fuel products without approval, the penalty is a maximum of 2 years in prison or the greater of 500 penalty units and 5 times the amount of duty on the excisable fuel products.<sup>297</sup>

Note: this includes moving underbond excisable fuel products from your premises to any other location or for export.

If your movement of underbond excisable fuel products does not comply with the permission to move the underbond excisable fuel products, the penalty is a maximum of 2 years in prison or the greater of 500 penalty units and 5 times the amount of duty on the excisable fuel products.<sup>298</sup>

If you move, alter or interfere with excisable fuel products that are subject to '[excise control](#)', without permission, the penalty is a maximum of 2 years in prison or the greater of 500 penalty units and 5 times the amount of duty on the excisable fuel products.<sup>299</sup>

<sup>294</sup> Section 25 of the Excise Act.

<sup>295</sup> Section 26 of the Excise Act.

<sup>296</sup> Section 275 of the Excise Act.

<sup>297</sup> Section 117A of the Excise Act.

<sup>298</sup> Section 61A of the Excise Act.

<sup>299</sup> Section 61 of the Excise Act.

**Deliver**

If you deliver excisable fuel products into '[home consumption](#)' contrary to your permission, the penalty is a maximum of 2 years in prison or the greater of 500 penalty units and 5 times the amount of duty on the excisable fuel products.<sup>300</sup>

**Records**

If you do not keep, retain and produce records in accordance with a '[direction under section 50](#)' of the Excise Act, the penalty is a maximum of 30 penalty units.

**Directions**

If you do not comply with a direction in regard to what parts of the factory can be used for various matters, the penalty is a maximum of 10 penalty units.<sup>301</sup>

**False or misleading statements**

If you make a false or misleading statement, or an omission from a statement in respect of duty payable on particular goods, to us, the penalty is a maximum of 50 penalty units and twice the amount of duty payable on those goods.<sup>302</sup>

**Evade**

If you evade payment of any duty which is payable, the maximum penalty is 5 times the amount of duty on the excisable fuel products, or where a court cannot determine the amount of that duty the penalty is a maximum of 500 penalty units.<sup>303</sup>

**Facilities etc.**

If you do not provide all reasonable facilities for enabling us to exercise our powers under the Excise Act, the penalty is a maximum of 10 penalty units.<sup>304</sup>

If you do not provide sufficient lights, correct weights and scales, and all labour necessary for weighing material received into and all excisable fuel products manufactured in your factory and for taking stock of all material and excisable fuel products contained in your factory, the maximum penalty is 10 penalty units.<sup>305</sup>

<sup>300</sup> Section 61C of the Excise Act.

<sup>301</sup> Section 51 of the Excise Act.

<sup>302</sup> Section 120 of the Excise Act.

<sup>303</sup> Paragraphs 120(1)(iv) and 120(2)(b) of the Excise Act.

<sup>304</sup> Section 49 of the Excise Act.

<sup>305</sup> Section 52 of the Excise Act.

If we mark or seal excisable fuel products or fasten, lock or seal any plant in your factory and you alter, open, break or erase the mark, seal, fastening or lock, the maximum penalty is 50 penalty units.<sup>306</sup>

## 10.6 TERMS USED

### Excisable fuel products

Excisable goods are goods on which excise duty is imposed. Excise duty is imposed on goods listed in the Schedule and that are manufactured or produced in Australia and listed in the Schedule.

As this Guide deals with fuel products, we have used the term excisable fuel products.

Excisable fuel products include:

- petrol
- diesel
- renewable diesel
- crude petroleum oil
- condensate
- heating oil
- kerosene
- fuel ethanol
- biodiesel
- compressed natural gas (CNG)
- liquefied natural gas (LNG), and
- liquefied petroleum gas (LPG).

While oils and grease classified to item 15 are not technically fuel, we have included them in this generic term in this Guide.

This Guide does not cover stabilised crude petroleum oil or condensate classified to items 20 and 21 respectively in the Schedule.

### Excise control

Goods are subject to excise control from the point of manufacture until they have been delivered into home consumption or for export.

<sup>306</sup> Section 92 of the Excise Act.

Goods subject to excise control cannot be moved, altered or interfered with except as authorised by the Excise Act.

### Excise return

An excise return<sup>307</sup> is the document that you use to advise us the volume of excisable fuel products that you have:

- delivered into home consumption during the period designated on your PSP, or
- wish to deliver into home consumption following approval.

### Home consumption

'Home consumption'<sup>308</sup> is the term used in the Excise Act and this Guide to describe when excisable fuel products are released into the Australian domestic market for consumption. The term used in the legislation is 'deliver for home consumption'.

Normally, this will be by delivering the goods away from premises covered by a licence but includes using those goods within those premises (for example, using fuel to run equipment in premises covered by your licence). It does not include goods delivered for export or the movement of goods underbond (see definition below) to another site covered by a licence.

The term 'home consumption' is not defined in the Excise Act and there is no definitive case law that looks at the issue in question. However there are several cases where issues closely related to it are considered.<sup>309</sup>

The conclusion drawn from those cases is that 'home consumption' refers to the destination of goods as being within Australia as opposed to exporting them.

### Penalty units

The value of a penalty unit is contained in section 4AA of the *Crimes Act 1914*, and is indexed regularly. The dollar amount of a penalty unit is available at [Penalties](#).

### Section 50 direction

This is a written instruction issued under section 50 of the Excise Act to a manufacturer, or proprietor of licensed premises covered by a storage licence, to keep specified records, furnish specified returns, retain records for a specified period and produce those records on demand by us.

<sup>307</sup> The term used in section 58 of the Excise Act is 'entry for home consumption'.

<sup>308</sup> Note the legislation uses the term 'delivered for home consumption' (see, for example, sections 61 and 61C of the Excise Act).

<sup>309</sup> See *R v Lyon* [1906] HCA 17; *Collector of Customs (NSW) v Southern Shipping Co Ltd* [1962] HCA 20; *Carmody v F C Lovelock Pty Ltd* [1970] HCA 35; *Caltex Australia Petroleum Pty Ltd v Commissioner of Taxation* [2008] FCA 1951 and *Moama Refinery Pty Ltd v Chief Executive Officer of Customs* [2001] FCA 1287.

## Underbond

This is an expression not found in excise legislation but it is widely used to describe goods that are subject to excise control. Excisable goods that are subject to excise control are commonly referred to as 'underbond goods' or as being 'underbond'. This includes goods that have not yet been delivered into home consumption and goods moving between premises under a movement permission.

## 10.7 LEGISLATION (quick reference guide)

In this Chapter, we have referred to the following legislation:

- *Excise Act 1901*
  - section 4 – definitions
  - section 24 – excisable goods and goods liable to duties of Customs may be used in manufacturing excisable goods
  - section 25 – only licensed manufacturers to manufacture excisable goods
  - section 26 – licensed manufacturers to manufacture in accordance with Act and licence
  - section 27 – licensed manufacturers to manufacture only at premises covered by a licence
  - section 49 – facilities to officers
  - section 50 – record keeping
  - section 51 – collector may give directions
  - section 52 – weights and scales
  - section 58 – entry for home consumption etc.
  - section 61 – control of excisable goods
  - section 61A – permission to remove goods that are subject to CEO's control
  - section 61C – permission to deliver certain goods for home consumption without entry
  - section 77H – blending exemptions
  - section 77HA – compressed natural gas that is exempt from excise duty
  - section 77HB – liquefied petroleum gas and liquefied natural gas that is exempt from excise duty
  - section 77J – goods that are not covered by subitem 10.25, 10.26, 10.27, 10.28 or 10.30
  - section 77K – crude oil and condensate may attract more than one excise duty
  - section 92 – seals etc. not to be broken
  - section 117A – unlawfully moving excisable goods
  - section 117B – unlawfully selling excisable goods

- section 120 – offences
- *Excise Tariff Act 1921*
  - section 3 – definitions
  - section 6G – duty payable on blended goods
  - Schedule item 10(j) – goods covered by 77HA or 77HB of the *Excise Act 1901*
- *Excise Regulations 2015*
  - section 24 – conversion of measurements of LPG and compressed natural gas
  - clause 2 of Schedule 1
- *Crimes Act 1914*
  - section 4AA – penalty units

## Amendment history

27 June 2025

Part	Comment
Throughout	This chapter was updated to take into account the law changes as a result of the <a href="#">Excise and Customs Legislation Amendment (Streamlining Administration) Act 2024</a> .
Throughout	Updated in line with current ATO style and accessibility requirements.

## **11 BLENDING**

### **11.1 PURPOSE**

### **11.2 INTRODUCTION**

### **11.3 POLICY AND PRACTICE**

#### **11.3.1 WHAT BLENDING IS**

#### **11.3.2 EXEMPT BLENDING**

#### **11.3.3 BLENDING IMPORTED FUEL**

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#### **11.3.5 ACCOUNTING FOR FUEL USED IN THE MANUFACTURE OF NON-EXCISABLE GOODS**

### **11.4 PROCEDURES**

#### **11.4.1 MORE INFORMATION**

### **11.5 PENALTIES THAT CAN APPLY IN RELATION TO BLENDING**

### **11.6 TERMS USED**

### **11.7 LEGISLATION (quick reference guide)**



# 11 BLENDING

## 11.1 PURPOSE

This Chapter deals with:

- what a blended product is
- how it is classified
- the rates of excise that apply, and
- penalties that can apply to offences in relation to blending.

## 11.2 INTRODUCTION

Fuel is commonly blended with other fuel or other substances to make products suitable for a particular purpose. The excise treatment of blends is quite complex and may vary. The correct excise treatment may depend on what components and proportions are in the blend and whether duty-paid products are used. The provisions relating to blends ensure that the correct amount of revenue is collected and that the fuel tax credit scheme operates appropriately.

## 11.3 POLICY AND PRACTICE

### 11.3.1 WHAT BLENDING IS

Although the term 'blend' is not defined in the Excise Act or the Excise Tariff Act, section 77G of the Excise Act specifically provides that fuel blending which produces goods covered by item 10(g) of the Schedule to the Excise Tariff Act (Schedule) constitutes the manufacture of those goods. Given that it is taken to be the manufacture of those goods, it follows that the blends are excisable.



Some limited exemptions apply. For further information, see [Section 11.3.2](#) Exempt blending.

In general, blends of any one or more of the following (with or without other substances) are excisable (unless an exclusion applies):

- gasoline (petrol)
- kerosene
- diesel
- heating oil
- fuel oil (as defined in subsection 3(1) of the Excise Tariff Act)
- biodiesel

- fuel ethanol
- liquid aromatic hydrocarbon products (for example, toluene, benzene or xylene)
- mineral turpentine
- white spirit
- petroleum condensate
- stabilised crude petroleum oil
- topped crude petroleum oil.

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**Example 11A**

*Examples of blended fuel:*

*An importer mixes imported underbond diesel with locally produced underbond diesel. This is regarded as blending covered by section 77G of the Excise Act and is therefore manufacture for excise purposes.*

*A licensed manufacturer mixes duty-paid benzene with [‘underbond’](#) benzene. This is regarded as blending for excise purposes.*

**Example 11B**

*A manufacturer produces white spirit by means of blending various petroleum products.*

*The product, though a blend of other products that fall within item 10 of the Schedule, is classified as white spirit, subitem 10.27 of the Schedule.*

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**11.3.2 EXEMPT BLENDING**

Exempt blending occurs where the blending process results in a product that would be classifiable to paragraph 10(g) of the Schedule but the Excise Act or related legislative instrument specify that this is not excise manufacture.

In some cases, the exemption relates to the blend and the constituents of the blend while in other cases, the exemption arises due to the circumstances in which the blending occurs.

The following series of questions sets out the process for deciding whether production of a particular blend is excise manufacture.

1. Does the blend fall under section 77G of the Excise Act?

The answer will be yes if:

- the blend components are classifiable to Items 10, 15, 20 or 21 of the Schedule, and
- the blend is covered by paragraph 10(g) of the Schedule.

The blend is excise manufacture.

2. Are the circumstances covered by a legislative instrument made under subsection 77H(4)?

The answer will be yes if the product meets any of the tests described in paragraphs 6(a) to (f) in the [Excise \(Blending Exemptions\) Instrument 2024](#) detailed below.

The blend is not excise manufacture.

3. Is the blend a blend of the same kind of 'relevant fuel' (that is not subject to remission), and excise or customs duty has been paid on each component that is blended?<sup>310</sup>

If the answer is yes, the blended product is not covered by paragraph 10(g) of the Schedule.

The blend is not excise manufacture.

4. Is the blend a blend of LPG or a blend of LNG and for each amount in the blend either:
  - a remission of excise or customs duty applied, or
  - each amount in the blend was manufactured, produced or imported before 1 December 2011?<sup>311</sup>

If the answer is yes to either situation, the blended product is not covered by paragraph 10(g) of the Schedule.

The blend is not excise manufacture.

<sup>310</sup> Subsection 77H(2A) of the Excise Act.

<sup>311</sup> Subsection 77H(2B) of the Excise Act.

5. Is the blend either:

- a blend of components that have all been duty-paid, and apart from any denatured ethanol for use as fuel in an internal combustion engine, or biodiesel, the rate of each of those duties is the same, or
- covered by a determination under subsection 95-5(1) of the *Fuel Tax Act 2006* that the blend does not constitute a fuel?<sup>312</sup>

If the answer is yes, the blended product is not covered by item 10(g) of the Schedule. However, the exemption does not apply if any of the duty-paid components of the blend are taxable fuel for which any entity has been entitled to a fuel tax credit under the *Fuel Tax Act 2006*.<sup>313</sup>

The following is a summary of the legislative provisions that result in these blends not being excisable and the source of the exemption.

### Subsections 77H(3) and (4) of the Excise Act

[Excise \(Blending Exemptions\) Instrument 2024](#) was created under subsections 77H(3) and (4) of the Excise Act. Blends covered by this Determination are generally of an incidental or trivial nature:

- oil and gasoline are blended for use as two stroke gasoline where duty has been paid on both constituents
- an incidental blend occurs where the constituents are placed in a tank containing remnants of those fuels listed above or another substance
- diesel or biodiesel on which duty has been paid is blended with stabilised crude petroleum oil
- fuel on which duty has been paid is blended with a dye
- fuel on which duty has been paid is blended with prepared additives that enhance the performance of an internal combustion engine or assist in its maintenance (the prepared additives cannot be methanol or other fuel) and if the resultant blend is packaged into packages of more than 10 litres capacity, the total amount of all prepared additives in the blend does not exceed 0.5% volume per volume
- goods that are the product of the blending of amounts of LPG without other substances and all the following apply
  - any applicable excise duty or an excise equivalent duty of Customs that is payable on each quantity of the LPG has been paid, and
  - the blending occurs
    - in a container that is capable of containing not more than 210 kilograms of LPG

<sup>312</sup> Subsection 77H(1) of the Excise Act.

<sup>313</sup> Subsection 77H(2) of the Excise Act.

- in a tank at residential premises and the resultant blend is not for use in carrying on an enterprise, or
- in a tank that is for use in a system for supplying LPG to at least 2 residential premises (whether or not the system also supplies fuel to premises other than residential premises)
- the tank in which the blending occurs is not for use in a system for supplying fuel to an internal combustion engine of either a motor vehicle or a vessel, either directly or by filling another tank connected to such an engine.

### Subsection 77H(1) of the Excise Act

Subsection 77H(1) of the Excise Act provides that excise manufacture has not occurred where the constituents of the blend have all had duty (customs or excise) paid, and except for denatured ethanol and biodiesel, the rate of duty was the same rate. The same exemption also applies where goods are covered by a determination in force under section 95-5 of the *Fuel Tax Act 2006*.

In determining whether duty has been paid at the same rate on all of the components of the blend, disregard any changes of the rates due to indexation.<sup>314</sup>

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### Example 11C

*A fuel retailer mixes duty-paid diesel with duty-paid kerosene to make winter mix, for use in diesel engines in cold climatic conditions. No one has been entitled to claim a fuel tax credit on the diesel or on the heating oil.*

*The blend is not excisable, as both components have been duty-paid at the same rate.*

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[Fuel Tax \(Fuel Blends\) Determination 2016 \(No. 1\)](#) has been created under section 95-5 of the *Fuel Tax Act 2006*. This determination is largely directed at the solvents industry where various formulations could be used in internal combustion engines but are not marketed as such.

Blends covered by this determination are blends that are not marketed or sold as fuel for an internal combustion engine. The blend must consist of a taxable fuel classified to subitem 10.21, 10.25, 10.26, 10.27 or 10.28 of the Schedule, and either the blend contains:

- one of the substance in the minimum concentration listed below, or
- more than one of the substances listed below so that the total concentration of these substances is at least 10% by volume.

<sup>314</sup> Subsection 77H(2AA) of the Excise Act.

Table 3: Minimum concentration of substances in the blend

Product	Minimum concentration for percentage volume per volume
Tertiary butyl alcohol	0.5
Other alcohols (other than methanol, ethanol and isopropyl alcohol)	10.0
Ketones	10.0
Methyl tertiary butyl ether	1.0
Di-isopropyl ether	1.0
Other ethers	10.0
Esters	10.0
Surfactants	1.0
Silicone oils	2.0
Oleic acid	2.0
Water	5.0

**Example 11D**

*An entity makes a range of solvent formulations which it does not market as being for use as fuel in an internal combustion engine.*

*Blend 1: 90% toluene with 10% methyl ethyl ketone*

*This does not constitute a fuel for fuel tax credit purposes since the minimum concentration for ketones is 10%. Therefore, this product is covered by the Fuel Tax (Fuel Blends) Determination 2016 (No. 1) and the blend is not excisable.*

*Blend 2: 90% toluene with 8% methyl ethyl ketone and 2% butanol*


*This does not constitute a fuel for fuel tax credit purposes since the total of ketones and other alcohols is greater than 10%. Therefore, this product is covered by the Fuel Tax (Fuel Blends) Determination 2016 (No. 1) and the blend is not excisable.*


*Blend 3: 90% toluene with 4% methyl ethyl ketone, 4% butanol and 2% benzene*

*This constitutes a fuel for fuel tax credit purposes since the total of ketones and other alcohols is less than 10%. Therefore, this product is not covered by the Fuel Tax (Fuel Blends) Determination 2016 (No. 1) and the blend is excisable.*

### **Subsection 77H(2) of the Excise Act**

This subsection provides an exception to the exemptions provided for in subsection 77H(1) of the Excise Act where any of the constituents of the blend is a taxable fuel for which an entity has been entitled to claim a fuel tax credit (for example, kerosene that has been packaged in 20 litre containers).

 If you are unsure whether the products you produce are subject to excise duty under item 10 of the Schedule, you can seek specific advice from us.

 For more information on the Commissioner's view on manufacture for the purposes of the Excise Act, refer to Excise Ruling [ER 2012/1](#) *Excise: the meaning of the expression 'manufactured or produced' for the purposes of the Excise Acts*.

### **Section 77H(2A) of the Excise Act**

Subsection 77H(2A) applies to the blending of the following fuels<sup>315</sup>:

- gasoline for use in aircraft
- kerosene for use in aircraft
- LPG
- LNG
- CNG that is classified to subitem 10.19C of the Schedule.

The blending of these fuels is not excise manufacture if the blended fuels:

- are not subject to a remission of excise or customs duty, either in full or in part, and
- any excise or customs duty payable on the fuels has been paid.

### **Example 11E**

*A quantity of LPG was duty-paid on 3 March 2025 at a rate of \$0.1660 per litre (with no remission available because it was intended for use in transport), and it is added to a tank containing a quantity of*

<sup>315</sup> Subsection 77H(5) of the Excise Act.

*LPG that was duty-paid prior to 3 February 2025 at a rate of \$0.1650 (also with no remission available because it was intended for a transport use).*

*The blending does not constitute manufacture.*



For more information on the remissions, refer to [Chapter 7](#) Remissions, refunds, drawback and exemptions

### **Subsection 77H(2B) of the Excise Act**

Subsection 77H(2B) applies to the blending of LPG or LNG where the fuel has been eligible for an excise or customs remission, regardless of the level of remission.

The blending of LPG or LNG is not excise manufacture if the fuel is:

- subject to a remission, either in full or in part, of excise or customs duty because it is not used, or intended for use, in an internal combustion engine in either a motor vehicle or a vessel, or
- not subject to excise or customs duty because it was manufactured, produced or imported before 1 December 2011.

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### **Example 11F**

*Evan's BBQ Bonanza Gas receives a delivery of 10,000 litres of LPG on 15 March 2025 that their supplier has applied a remission to as he knows that Evan's BBQ Bonanza only supplies LPG in 9 kilogram barbeque bottles. The LPG is delivered into the bulk tank of Evan's BBQ Bonanza that already contains 4,000 litres of LPG delivered on 20 January 2022 that was the subject of the full remission. The blending of these 2 quantities of LPG does not constitute excise manufacture and therefore the blend is not subject to duty.*



The exemption only applies where all quantities of LPG or LNG that are blended have been subject to a remission, either in full or in part on the grounds that those quantities have not been used, and were not intended for use, in an internal combustion engine in either a motor vehicle or a vessel.



For more information on the remissions refer to [Chapter 7](#) Remissions, refunds, drawback and exemptions



### 11.3.3 BLENDING IMPORTED FUEL

We acknowledge that long-standing practice in the fuel industry in relation to imported fuels has been to mix imported fuel with local fuel and then deal with the resulting fuel through the excise system. We accept that mixing of imported fuel with local fuel, in premises covered by an excise manufacturer licence and a Customs warehouse licence, is blending covered by section 77G of the Excise Act and is therefore manufacture.

This position is supported by section 24 of the Excise Act. Section 24 provides:

- (1) Excisable goods may, while subject to the CEO's control, be used in the manufacture of other excisable goods in accordance with this Act.
- (2) Goods liable to duties of Customs may, while subject to customs control under the *Customs Act 1901*, be used in the manufacture of excisable goods in accordance with this Act.
- (3) The regulations may prescribe conditions on the use of:
  - (a) excisable goods, while subject to the CEO's control, in the manufacture of other excisable goods; or
  - (b) goods liable to duties of Customs, while subject to customs control under the *Customs Act 1901*, in the manufacture of excisable goods.

The *Customs Act 1901* provides for the extinguishment of customs duty on fuel where certain imported goods (including fuel) are used in the manufacture of '[excisable goods](#)'.<sup>316</sup> The manufacture must occur at premises covered by both an excise manufacturer licence and a Customs warehouse licence.

### 11.3.4 CALCULATING THE DUTY PAYABLE ON EXCISABLE BLENDED PRODUCTS

In the Schedule, there are 3 specific biofuel blends with separate subitems and a general subitem for other blends.

If you are blending fuels of the same type (for example, petrol with petrol) or where a blend has the characteristics accepted in the industry for a particular product mentioned in the Schedule (for example, see Example 11B above) it is classified to the specific subitem and not as a blend.

<sup>316</sup> Part VAA of the Customs Act.

Figure 22: Description and rate of duty applicable to blends

Subitem	Description of goods	Rate of duty
10.7	Blends of gasoline and ethanol	The amount of duty worked out under section 6G
10.12	Blends of diesel and either biodiesel or ethanol, or both	The amount of duty worked out under section 6G
10.30	Blends of 1 or more of the above goods (with or without other substances) not elsewhere included that can be used as fuel in an internal combustion engine (other than goods covered by section 77J of the <i>Excise Act 1901</i> )	The amount of duty worked out under section 6G

Section 6G of the Excise Tariff Act sets out the method statement for working out the duty payable on blends as follows:

Step 1:

Add up the amount of duty that would be payable on each constituent of the blend that is classified to item 10 of the Schedule.

Step 2:

Work out the volume, in litres, of any other constituent of the blend (excluding any water) that was added to the blended goods.<sup>317</sup>

Step 3:

Multiply the result of Step 2 by the 'CPI Indexed rate' that applies on the day the goods are delivered into home consumption or when payment of duty is made, whichever is the earlier.

Note: the rate set out in this step is indexed under section 6A of the Excise Tariff Act.

Step 4:

Total the results of Steps 1 and 3.

Step 5:

Subtract from the total any duty paid on a constituent of the blended goods that is classified to item 10 or 15 of the Schedule.

<sup>317</sup> This can occur in the production of emulsified diesel and water blends (sometimes known as 'aquadiesel').

If a constituent of the blended goods was imported, and customs duty was paid or payable on the goods, treat that customs duty as if it were excise duty in working out the duty payable.

If the rate of excise duty on a constituent of the blended goods would be less than the customs duty-paid, use the lesser amount in working out the duty payable.

---

### Example 11G

*A manufacturer makes a solvent blend to a customer's specification from 10,000 litres of underbond toluene (classified to subitem 10.25 of the Schedule) and 5,000 litres of a duty-paid product classified to 10.28 of the Schedule. The blend is capable of being used as fuel in an internal combustion engine.*

*The resulting blend is classified to subitem 10.30 of the Schedule and is delivered into home consumption on 1 March 2025. Duty is payable on the blend as follows:*

*Step 1:*

$$10,000 \text{ litres of toluene} \times \$0.508 \text{ per litre} = \$5,080.00$$

*Step 2:*

*5,000 litres of petroleum product*

*Step 3*

$$5,000 \text{ litres} \times \$0.508 = \$2,540.00$$

*Step 4:*

$$\text{Total of steps 1 and 3} = \$5,080 + \$2,540 = \$7,620.00$$

*Step 5:*

$$\text{Step 4 less duty paid} = \$7,620 - \$2,540$$

$$\text{Duty payable on the blend (to nearest dollar)} = \$5,080.00.$$


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### 11.3.5 ACCOUNTING FOR FUEL USED IN THE MANUFACTURE OF NON-EXCISABLE GOODS

Before underbond excisable fuel products can be blended as part of the manufacture of non-excisable goods (for example, when they are used in the manufacture of paint), they must be 'delivered' into home consumption. If you have a PSP, the underbond product is deemed to be delivered into home consumption at the point the blend is made and would be included in the next ['excise return'](#). If you do not have a PSP, you need to enter the product on an excise return, pay the duty and receive an Authority to deliver excisable goods before you make the blend.

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**Example 11H**

*Lionel's Solvents is licensed to manufacture toluene and has a PSP. On 25 August 2024, Lionel's Solvents uses some underbond toluene to make a blend that cannot be used as fuel in an internal combustion engine.*

*Lionel's Solvents must include the toluene used in the blend on its next excise return as subitem 10.25 of the Schedule and pay duty at the rate of \$0.508 per litre.*

*The toluene is delivered into home consumption at the time the blend is made.*

**Example 11I**

*Barry's Blenders wants to make a blend of 90% toluene and 10% methyl ethyl ketone. They have 9,000 litres of underbond toluene.*

*The blend is covered by Fuel Tax (Fuel Blends) Determination 2016 (No. 1) and is not excisable.*

*The act of blending the toluene into the final product that can't be used in an internal combustion engine is the point where the toluene is considered to be delivered into home consumption. Barry's Blenders don't hold a PSP and therefore must include the 9,000 litres of toluene in an excise return and pay the duty, prior to undertaking the blending process. The toluene is entered on the return under subitem 10.25 of the Schedule and duty is payable at the rate in force on the day the payment is made.*

*The blend itself is not included in an excise return.*

---

You may make blends that are not excisable using duty-paid components even if you do not hold an excise manufacturer licence.

As these blends are not excisable, they are not subject to excise control. Excise duty has been paid on any excisable component before the blend is made.

## 11.4 PROCEDURES

### 11.4.1 MORE INFORMATION

If you need more information on blending, contact us via:

- phone **1300 137 290**
- [ATO Online Services](#), or
- write to us at  
Australian Taxation Office  
PO Box 3514  
ALBURY NSW 2640

We will ordinarily respond to written information requests within 28 days. If we cannot respond within 28 days, we will contact you within 14 days to obtain more information or negotiate an extended response date.

## 11.5 PENALTIES THAT CAN APPLY IN RELATION TO BLENDING

The following are the penalties that may apply after conviction for an offence.

### Manufacture

If you manufacture excisable fuel products without a manufacturer licence, the penalty is a maximum of 2 years in prison or the greater of 500 '[penalty units](#)' and 5 times the amount of duty on the excisable fuel products.<sup>318</sup>

If you manufacture excisable fuel products contrary to the Excise Act or any conditions specified in your licence, the penalty is a maximum of 2 years in prison or 500 penalty units.<sup>319</sup>

If you manufacture excisable fuel products at premises that are not specified in your licence, the penalty is a maximum of 2 years in prison or the greater of 500 penalty units and 5 times the amount of duty on the excisable fuel products.<sup>320</sup>

<sup>318</sup> Section 25 of the Excise Act.

<sup>319</sup> Section 26 of the Excise Act.

<sup>320</sup> Section 27 of the Excise Act.

**Move, alter or interfere**

If you move underbond excisable fuel products without approval, the penalty is a maximum of 2 years in prison or the greater of 500 penalty units and 5 times the amount of duty on the excisable fuel products.<sup>321</sup>

Note: this includes moving underbond excisable fuel products from your premises to any other location or for export.

If your movement of underbond excisable fuel products does not comply with the permission to move the underbond excisable fuel products, the penalty is a maximum of 2 years in prison or the greater of 500 penalty units and 5 times the amount of duty on the excisable fuel products.<sup>322</sup>

If you move, alter or interfere with excisable fuel products that are subject to excise control, without permission, the penalty is a maximum of 2 years in prison or the greater of 500 penalty units and 5 times the amount of duty on the excisable fuel products.<sup>323</sup>

**Deliver**

If you deliver excisable fuel products into home consumption contrary to your permission, the penalty is a maximum of 2 years in prison or the greater of 500 penalty units and 5 times the amount of duty on the excisable fuel products.<sup>324</sup>

**Sell**

If you sell excisable fuel products on which duty has not been paid (unless it is an underbond sale or a sale for export), the penalty is a maximum of 2 years in prison or the greater of 500 penalty units and 5 times the amount of duty on the excisable fuel products.<sup>325</sup>

**Records**

If you do not keep, retain and produce records in accordance with a '[direction under section 50](#)' of the Excise Act, the penalty is a maximum of 30 penalty units.

**Directions**

If you do not comply with a direction in regard to what parts of the factory can be used for various matters, the penalty is a maximum of 10 penalty units.<sup>326</sup>

<sup>321</sup> Section 117A of the Excise Act.

<sup>322</sup> Section 61A of the Excise Act.

<sup>323</sup> Section 61 of the Excise Act.

<sup>324</sup> Section 61C of the Excise Act.

<sup>325</sup> Section 117B of the Excise Act.

<sup>326</sup> Section 51 of the Excise Act.

**False or misleading statements**

If you make a false or misleading statement or an omission from a statement in respect of duty payable on particular goods, to us, the penalty is a maximum of 50 penalty units and twice the amount of duty payable on those goods.<sup>327</sup>

**Evade**

If you evade payment of any duty which is payable, the maximum penalty is 5 times the amount of duty on the excisable fuel products, or where a court cannot determine the amount of that duty the penalty is a maximum of 500 penalty units.<sup>328</sup>

**Facilities etc.**

If you do not provide all reasonable facilities for enabling us to exercise our powers under the Excise Act, the penalty is a maximum of 10 penalty units.<sup>329</sup>

If you do not provide sufficient lights, correct weights and scales, and all labour necessary for weighing material received into and all excisable fuel products manufactured in your factory, and for taking stock of all material and excisable fuel products contained in your factory, the maximum penalty is 10 penalty units.<sup>330</sup>

If we mark or seal excisable fuel products or fasten, lock or seal any plant in your factory and you alter, open, break or erase the mark, seal, fastening or lock, the maximum penalty is 50 penalty units.<sup>331</sup>

## 11.6 TERMS USED

**Excisable goods**

Excisable goods are goods on which excise duty is imposed. Excise duty is imposed on goods that are manufactured or produced in Australia and listed in the Schedule.

As this Guide deals with fuel products, we have used the term excisable fuel products.

Excisable fuel products include:

- petrol
- diesel

<sup>327</sup> Section 120 of the Excise Act.

<sup>328</sup> Paragraphs 120(1)(iv) and 120(2)(b) of the Excise Act.

<sup>329</sup> Section 49 of the Excise Act.

<sup>330</sup> Section 52 of the Excise Act.

<sup>331</sup> Section 92 of the Excise Act.

- renewable diesel
- crude petroleum oil
- condensate
- heating oil
- kerosene
- fuel ethanol
- biodiesel
- compressed natural gas (CNG)
- liquefied natural gas (LNG)
- liquefied petroleum gas ((LPG).

### **Excise control**

Goods are subject to excise control from the point of manufacture until they have been delivered into home consumption or for export.

Goods subject to excise control cannot be moved, altered or interfered with except as authorised by the Excise Act.

### **Excise return**

An excise return<sup>332</sup> is the document that you use to advise us the volume of excisable fuel products that you:

- have delivered into home consumption during the period designated on your PSP, or
- wish to deliver into home consumption following approval.

### **Home consumption**

'Home consumption'<sup>333</sup> is the term used in the Excise Act and this Guide to describe when excisable fuel products are released into the Australian domestic market for consumption. The term used in the legislation is 'deliver for home consumption'.

Normally, this will be by delivering the goods away from premises covered by a licence but includes using those goods within those premises (for example, using fuel to run equipment in premises covered by your licence). It does not include goods delivered for export or the movement of goods underbond (see definition below) to another site covered by a licence.

<sup>332</sup> The term used in section 58 of the Excise Act is 'entry for home consumption'.

<sup>333</sup> Note the legislation uses the term 'delivered for home consumption' (see, for example, sections 61 and 61C of the Excise Act).



The term 'home consumption' is not defined in the Excise Act and there is no definitive case law that looks at the issue in question. However there are several cases where issues closely related to it are considered.<sup>334</sup>

The conclusion drawn from those cases is that 'home consumption' refers to the destination of goods as being within Australia as opposed to exporting them.

### Penalty units

The value of a penalty unit is contained in section 4AA of the *Crimes Act 1914*, and is indexed regularly. The dollar amount of a penalty unit is available at [Penalties](#).

### Section 50 direction

This is a written instruction issued under section 50 of the Excise Act to a licensed manufacturer, or proprietor of premises covered by a storage licence, to keep specified records, furnish specified returns, retain records for a specified period and produce those records on demand by us.

### Underbond

This is an expression not found in excise legislation but it is widely used to describe goods that are subject to excise control. Excisable goods that are subject to excise control are commonly referred to as 'underbond goods' or as being 'underbond'. This includes goods that have not yet been delivered into home consumption and goods moving between premises under a movement permission.

## 11.7 LEGISLATION (quick reference guide)

In this Chapter, we have referred to the following legislation:

- *Excise Act 1901*
  - section 24 – excisable goods and goods liable to duties of Customs may be used in manufacturing excisable goods
  - section 25 – only licensed manufacturers to manufacture excisable goods
  - section 26 – licensed manufacturers to manufacture in accordance with Act and licence
  - section 27 – licensed manufacturers to manufacture only at premises covered by a licence
  - section 49 – facilities to officers

<sup>334</sup> See *R v Lyon* [1906] HCA 17; *Collector of Customs (NSW) v Southern Shipping Co Ltd* [1962] HCA 20; *Carmody v F C Lovelock Pty Ltd* [1970] HCA 35. *Caltex Australia Petroleum Pty Ltd v Commissioner of Taxation* [2008] FCA 1951; and *Moama Refinery Pty Ltd v Chief Executive Officer of Customs* [2001] FCA 1287.

- section 50 – record keeping
- section 51 – collector may give directions
- section 52 – weights and scales
- section 58 – entry for home consumption etc.
- section 61 – control of excisable goods
- section 61A – permission to remove goods that are subject to CEO's control
- section 61C – permission to deliver certain goods for home consumption without entry
- section 77G – fuel blending is to be treated as manufacture
- section 77H – blending exemptions
- section 77HB – liquefied petroleum gas and liquefied natural gas that is exempt from excise duty
- section 77J – goods that are not covered by subitem 10.25, 10.26, 10.27, 10.28 or 10.30
- section 92 – seals etc. not to be broken
- section 117A – unlawfully moving excisable goods
- section 117B – unlawfully selling excisable goods
- section 120 – offences
- *Excise Tariff Act 1921*
  - section 6G – duty payable on blended goods
  - The Schedule
- *Customs Act 1901*
  - Part VAA – special provisions relating to excise-equivalent goods
- *Fuel Tax Act 2006*
  - section 95-5 – determination of blends that no longer constitute fuels
- *Crimes Act 1914*
  - section 4AA – penalty units

## Amendment history

27 June 2025

Part	Comment
Throughout	This chapter was updated to take into account the law changes as a result of the <a href="#">Excise and Customs Legislation Amendment (Streamlining Administration) Act 2024</a> .
Throughout	Updated in line with current ATO style and accessibility requirements.

## **12 SOLVENTS**

### **12.1 PURPOSE**

### **12.2 INTRODUCTION**

#### **12.2.1 WHAT A SOLVENT IS**

### **12.3 POLICY AND PRACTICE**

#### **12.3.1 LICENCE REQUIREMENTS**

#### **12.3.2 BLENDING SOLVENTS**

#### **12.3.3 SOLVENT RECYCLING EXEMPTION**

#### **12.3.4 REMISSION OF DUTY FOR CHEMICAL TRANSFORMATION**

### **12.4 PROCEDURES**

#### **12.4.1 MANUFACTURING A PRODUCT THAT YOU WANT ADDED TO THE FUEL BLENDS DETERMINATION**

### **12.5 PENALTIES THAT CAN APPLY IN RELATION TO SOLVENTS**

### **12.6 TERMS USED**

### **12.7 LEGISLATION (quick reference guide)**

# 12 SOLVENTS

## 12.1 PURPOSE

This Chapter deals with:

- what a solvent is
- obligations that arise with the blending of solvents
- obligations associated with dealing with [‘underbond’](#) and duty-paid product
- packaging concessions for solvent suppliers
- the recycling concession for solvent users
- remissions of duty where solvents are chemically transformed
- entitlement to fuel tax credits for excise paid on solvents, and
- penalties that can apply to offences in relation to solvents.

## 12.2 INTRODUCTION

### 12.2.1 WHAT A SOLVENT IS

Most fuels used in a non-fuel application are used as solvents, that is, fuels used to dissolve or form solutions with other substances. Solvents are used in a wide range of industrial processes, for example, cleaning. They can also be blended into other products such as paints and adhesives.



Most solvents are classified to subitems 10.16, 10.25, 10.26, 10.27, 10.28 or 10.30 of the Schedule to the Excise Tariff Act (Schedule).

#### Excise to be paid on solvents



For more information about excise rates, refer to [Chapter 10](#) Fuel in the excise tariff.

### Entitlement to a fuel tax credit for excise paid on solvents

If you acquire, manufacture, or import into Australia, solvents that are subject to fuel tax<sup>335</sup> for use in your business, you may be entitled to a fuel tax credit.

If you package certain solvents into small packages, you may be entitled to a fuel tax credit.



For more information on packaging rules and fuel tax credits, see [Fuel schemes](#).

## 12.3 POLICY AND PRACTICE

### 12.3.1 LICENCE REQUIREMENTS

Whether you need an excise licence depends upon what you intend to do with the solvents. If you intend to manufacture other excisable goods, you need to be licensed as a manufacturer. Then you will be able to receive fuel underbond (without the duty having been paid).

If you intend to use the solvents other than to manufacture excisable goods, you will need to use duty-paid solvents. There is one exception to this. If you intend to use solvents to manufacture non-excisable goods and the solvents are chemically transformed (other than by combustion) during the manufacturing process, you may be able to have a storage licence and receive the solvent underbond.<sup>336</sup>

#### Underbond solvents

To receive underbond solvents:

- you will need to hold an excise licence, and
- you or your supplier will need to hold a movement permission (continuing or single) that allows the product to move underbond between premises that are covered by a licence.

If you do receive underbond solvents you do not have to pay excise duty until the solvent is delivered into '[home consumption](#)' (this includes consumption by an excise licence holder on premises covered by a licence), and:

<sup>335</sup> 'Fuel tax' is defined in section 110-5 of the *Fuel Tax Act 2006* and means 'duty that is payable on fuel under:

- (a) the *Excise Act 1901* and the *Excise Tariff Act 1921*, or
- (b) under the *Customs Act 1901* and the *Customs Tariff Act 1995*;

other than any duty that is expressed as a percentage of the value of fuel for the purposes of section 9 of the *Customs Tariff Act 1995*.

<sup>336</sup> Subsection 78(3) of the Excise Act.

- if you hold a PSP, you must enter the amount used or delivered in your settlement period on your '[excise return](#)' and pay the relevant duty, or
- if you do not hold a PSP, you will need to lodge an excise return, pay the relevant duty and wait until you receive a Delivery Authority from us, prior to using or delivering the solvent.



For more information about PSPs and payment of duty, see [Chapter 6](#) Payment of duty.

### Duty-paid solvents

Duty-paid solvents are outside the excise system and you do not need an excise licence to receive them. However, if you are unlicensed, you cannot use a duty-paid solvent to create another '[excisable fuel product](#)', as this is excise manufacture and requires a licence.



For more information about whether a particular process involves excise manufacture, you should seek advice from us. See [Section 12.4.1](#) Manufacturing a product that you want added to the fuel blends determination.

## 12.3.2 BLENDING SOLVENTS

A blended solvent is produced by blending an excisable fuel with:

- another excisable fuel, or
- another substance.

### Excisable blends

You must hold an excise manufacturer licence to make an excisable blend. An excisable blend is a blend that can be used as a fuel in an internal combustion engine even if it is to be used as a solvent.

You must pay excise on an excisable blend when it is delivered into home consumption.

The amount of excise is calculated under section 6G of the Excise Tariff Act and takes into account any excise already paid on any of the constituents of the blend.



For more information about section 6G, refer to [Section 10.3.2](#) Calculating duty according to section 6G of the Excise Tariff Act and [Section 11.3.1](#) What blending is.



Excisable blends are classified to subitem 10.30 of the Schedule to the Excise Tariff Act unless they are a distinct product as described in the Schedule, such as:

- blends of gasoline and ethanol (subitem 10.7)
- liquid aromatic hydrocarbon mixtures of benzene, toluene or xylene (subitem 10.25)
- mineral turpentine (subitem 10.26), or
- white spirit (subitem 10.27).

## Non-excisable blends

You do not need an excise manufacturer licence to make a non-excisable blend.

There are 4 circumstances when a blend is not excisable:

1. All the components of the blend are duty (customs or excise) paid, and except for denatured ethanol and biodiesel, the rate of duty was the same rate (this does not include fuel on which a person is entitled to a fuel tax credit).
2. Any excisable component is duty-paid and the blend falls within a determination made under section 95-5 of the *Fuel Tax Act 2006*.<sup>337</sup>
3. Any excisable component is duty-paid and the blend is a product that would otherwise be classified to subitem 10.30 of the Schedule but cannot be used as fuel in an internal combustion engine.
4. The user of the solvent recycles the solvent for further use by them as a solvent (see [Section 12.3.3](#) Solvent recycling exemption).

You do not have to pay further excise if excise has already been paid on all components of the blend.



For more information about excise rates, refer to [Chapter 11](#) Blending.

### 12.3.3 SOLVENT RECYCLING EXEMPTION

To be exempt from excise, a user of duty-paid solvent who recycles the solvent for re-use must meet the following criteria<sup>338</sup>:

- the solvent must be used in the manufacture of other goods
- the solvent must be recycled by the person who used the solvent
- the resulting recycled solvent must be classifiable to the same subitem as the original solvent, and
- the resulting recycled solvent must be for use by the same person.

This exemption applies to the following fuels:

- liquid aromatic hydrocarbons (consisting principally of benzene, toluene or xylene or mixtures of them) – subitem 10.25 of the Schedule
- mineral turpentine – subitem 10.26 of the Schedule
- white spirit – subitem 10.27 of the Schedule

<sup>337</sup> Paragraph 77H(1)(b) of the Excise Act.

<sup>338</sup> Section 77J of the Excise Act.



- petroleum products (other than blends) not elsewhere included – subitem 10.28 of the Schedule, or
- blends not elsewhere included – subitem 10.30 of the Schedule.

### Example 12A

*A car components manufacturer makes body panels under contract for a major car maker. They purchase duty-paid solvent, classifiable to subitem 10.28 of the Schedule, which is sprayed onto steel sheets to degrease them prior to pressing into panels. Excess solvent runs off, is collected in a sump and recirculated.*

*Over time the solvent becomes too contaminated for further use. The manufacturer puts the contaminated solvent through a recycling process and returns the recycled solvent to the sump for further use.*

*Subitem 10.28 of the Schedule does not apply to this recycled solvent. It is exempt from excise duty.*

## 12.3.4 REMISSION OF DUTY FOR CHEMICAL TRANSFORMATION

If your fuel product is transformed through a chemical reaction (other than combustion) to produce a product that is not excisable the duty is automatically remitted on the fuel.<sup>339</sup> This is the case in some large-scale petrochemical manufacturing processes. The [‘remission’](#) allows licensed manufacturers who chemically transform fuel to do this without incurring excise duty and having to claim fuel tax credits.

The remission does not apply if the fuel is:

- merely mixed with other substances to make products such as solvents, cleaning agents or paint (that is, there is no chemical transformation)
- not chemically transformed, or
- used as a fuel (that is, combustion).

### Example 12B

*Benzene is sold to a polystyrene manufacturer who holds an excise storage licence. The polystyrene manufacturer may obtain underbond benzene from a manufacturer or supplier.*

<sup>339</sup> Subsection 78(3) of the Excise Act.

*The benzene is chemically transformed into styrene during the process. Styrene is not an excisable product. Liability for duty is remitted when the benzene is chemically transformed into styrene.*

*The manufacturer does not have to pay duty on the benzene. However, the manufacturer must keep records of the volume of benzene used when directed and produce these on request.<sup>340</sup>*

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## 12.4 PROCEDURES

### 12.4.1 MANUFACTURING A PRODUCT THAT YOU WANT ADDED TO THE FUEL BLENDS DETERMINATION

If you want to enquire about amending the fuel blends determination, you will need to contact us, via.

- phone **1300 137 290**
- [ATO Online Services](#), or
- write to us at  
Australian Taxation Office  
PO Box 3514  
ALBURY NSW 2640

We will ordinarily respond to written information requests within 28 days. If we cannot respond within 28 days, we will contact you within 14 days to obtain more information or negotiate an extended response date.

## 12.5 PENALTIES THAT CAN APPLY IN RELATION TO SOLVENTS

The following are the penalties that may apply after conviction for an offence.

### Manufacture

If you manufacture excisable fuel products without a manufacturer licence, the penalty is a maximum of 2 years in prison or the greater of 500 '[penalty units](#)' and 5 times the amount of duty on the excisable fuel products.<sup>341</sup>

<sup>340</sup> Section 50 of the Excise Act.

<sup>341</sup> Section 25 of the Excise Act.

If you manufacture excisable fuel products contrary to the Excise Act or any conditions specified in your licence, the penalty is a maximum of 2 years in prison or 500 penalty units.<sup>342</sup>

If you manufacture excisable fuel products at premises that are not specified in your licence, the penalty is a maximum of 2 years in prison or the greater of 500 penalty units and 5 times the amount of duty on the excisable fuel products.<sup>343</sup>

### **Move, alter or interfere**

If you move underbond excisable fuel products without approval, the penalty is a maximum of 2 years in prison or the greater of 500 penalty units and 5 times the amount of duty on the excisable fuel products.<sup>344</sup>

Note: this includes moving underbond excisable fuel products from your premises to any other location or for export.

If your movement of underbond excisable fuel products does not comply with the permission to move the underbond excisable fuel products, the penalty is a maximum of 2 years in prison or the greater of 500 penalty units and 5 times the amount of duty on the excisable fuel products.<sup>345</sup>

If you move, alter or interfere with excisable fuel products that are subject to '[excise control](#)', without permission, the penalty is a maximum of 2 years in prison or the greater of 500 penalty units and 5 times the amount of duty on the excisable fuel products.<sup>346</sup>

### **Deliver**

If you deliver excisable fuel products into the Australian domestic market contrary to your permission, the penalty is a maximum of 2 years in prison or the greater of 500 penalty units and 5 times the amount of duty on the excisable fuel products.<sup>347</sup>

### **Records**

If you do not keep, retain and produce records in accordance with a '[direction under section 50](#)' of the Excise Act, the penalty is a maximum of 30 penalty units.

<sup>342</sup> Section 26 of the Excise Act.

<sup>343</sup> Section 27 of the Excise Act.

<sup>344</sup> Section 117A of the Excise Act.

<sup>345</sup> Section 61A of the Excise Act.

<sup>346</sup> Section 61 of the Excise Act.

<sup>347</sup> Section 61C of the Excise Act.

**Directions**

If you do not comply with a direction in regard to what parts of the factory can be used for various matters, the penalty is a maximum of 10 penalty units.<sup>348</sup>

**False or misleading statements**

If you make a false or misleading statement, or an omission from a statement in respect of duty payable on particular goods, to us, a penalty not exceeding the sum of 50 penalty units and twice the amount of duty payable on those goods.<sup>349</sup>

**Evade**

If you evade payment of any duty which is payable, the maximum penalty is 5 times the amount of duty on the excisable fuel products, or where a court cannot determine the amount of that duty the penalty is a maximum of 500 penalty units.<sup>350</sup>

**Facilities etc.**

If you do not provide all reasonable facilities for enabling us to exercise our powers under the Excise Act, the penalty is a maximum of 10 penalty units.<sup>351</sup>

If you do not provide sufficient lights, correct weights and scales, and all labour necessary for weighing material received into, and all excisable fuel products manufactured in, your factory and for taking stock of all material and excisable fuel products contained in your factory, the maximum penalty is 10 penalty units.<sup>352</sup>

If we mark or seal excisable fuel products or fasten, lock or seal any plant in your factory and you alter, open, break or erase the mark, seal, fastening or lock, the maximum penalty is 50 penalty units.<sup>353</sup>

## 12.6 TERMS USED

**Excisable fuel products**

Excisable goods are goods on which excise duty is imposed. Excise duty is imposed on goods that are manufactured or produced in Australia and listed in the Schedule.

<sup>348</sup> Section 51 of the Excise Act.

<sup>349</sup> Section 120 of the Excise Act.

<sup>350</sup> Paragraphs 120(1)(iv) and 120(2)(b) of the Excise Act.

<sup>351</sup> Section 49 of the Excise Act.

<sup>352</sup> Section 52 of the Excise Act.

<sup>353</sup> Section 92 of the Excise Act.

As this Guide deals with fuel products, we have used the term excisable fuel products.

Excisable fuel products include:

- petrol
- diesel
- renewable diesel
- crude petroleum oil
- condensate
- heating oil
- kerosene
- fuel ethanol
- biodiesel
- compressed natural gas (CNG)
- liquefied natural gas (LNG), and
- liquefied petroleum gas (LPG).

### **Excise control**

Goods are subject to excise control from the point of manufacture until they have been delivered into home consumption or for export.

Goods subject to excise control cannot be moved, altered or interfered with except as authorised by the Excise Act.

### **Excise return**

An excise return<sup>354</sup> is the document that you use to advise us the volume of excisable fuel products that you:

- have delivered into home consumption market during the period designated on your PSP, or
- wish to deliver into the home consumption following approval.

### **Home consumption**

'Home consumption'<sup>355</sup> is the term used in the Excise Act and this Guide to describe when excisable fuel products are released into the Australian domestic market for consumption. The term used in the legislation is 'deliver for home consumption'.

<sup>354</sup> The term used in section 58 of the Excise Act is 'entry for home consumption'.

<sup>355</sup> Note the legislation uses the term 'delivered for home consumption' (see, for example, sections 61 and 61C of the Excise Act).

Normally, this will be by delivering the goods away from premises covered by a licence but includes using those goods within those premises (for example, using fuel to run equipment in premises covered by a licence). It does not include goods delivered for export or the movement of goods underbond (see definition below) to another site covered by a licence.

The term 'home consumption' is not defined in the Excise Act and there is no definitive case law that looks at the issue in question. However there are several cases where issues closely related to it are considered.<sup>356</sup>

The conclusion drawn from those cases is that 'home consumption' refers to the destination of goods as being within Australia as opposed to exporting them.

### Penalty units

The value of a penalty unit is contained in section 4AA of the *Crimes Act 1914*, and is indexed regularly. The dollar amount of a penalty unit is available at [Penalties](#).

### Remission

A remission of excise duty extinguishes the liability for duty that was created at the point of manufacture.

### Section 50 direction

This is a written instruction issued under section 50 of the Excise Act to a licensed manufacturer, or proprietor of premises covered by a storage licence, to keep specified records, furnish specified returns, retain records for a specified period and produce those records on demand by us.

### Underbond

This is an expression not found in excise legislation but it is widely used to describe goods that are subject to excise control. Excisable goods that are subject to excise control are commonly referred to as 'underbond goods' or as being 'underbond'. This includes goods that have not yet been delivered into home consumption and goods moving between premises under a movement permission.

## 12.7 LEGISLATION (quick reference guide)

In this Chapter, we have referred to the following legislation:

- *Excise Act 1901*

<sup>356</sup> See *R v Lyon* [1906] HCA 17; *Collector of Customs (NSW) v Southern Shipping Co Ltd* [1962] HCA 20; *Carmody v F C Lovelock Pty Ltd* [1970] HCA 35; *Caltex Australia Petroleum Pty Ltd v Commissioner of Taxation* [2008] FCA 1951 and *Moama Refinery Pty Ltd v Chief Executive Officer of Customs* [2001] FCA 1287.

- section 24 – excisable goods and goods liable to duties of Customs may be used in manufacturing excisable goods
- section 25 – only licensed manufacturers to manufacture excisable goods
- section 26 – licensed manufacturers to manufacture in accordance with Act and licence
- section 27 – licensed manufacturers to manufacture only at premises covered by a licence
- section 49 – facilities to officers
- section 50 – record keeping
- section 51 – collector may give directions
- section 52 – weights and scales
- section 58 – entry for home consumption etc.
- section 61 – control of excisable goods
- section 61A – permission to remove goods that are subject to CEO's control
- section 61C – permission to deliver certain goods for home consumption without entry
- section 77H – blending exemptions
- section 77J – goods that are not covered by subitem 10.25, 10.26, 10.27, 10.28 or 10.30
- section 78 – remissions, rebates and refunds
- section 92 – seals etc. not to be broken
- section 117A – unlawfully moving excisable goods
- section 117B – unlawfully selling excisable goods
- section 120 – offences
- *Crimes Act 1914*
  - section 4AA – penalty units

## Amendment history

### 27 June 2025

Part	Comment
Throughout	This chapter was updated to take into account the law changes as a result of the <a href="#">Excise and Customs Legislation Amendment (Streamlining Administration) Act 2024</a> .
Throughout	Updated in line with current ATO style and accessibility requirements.

## **13 OIL RECYCLING**

### **13.1 PURPOSE**

### **13.2 INTRODUCTION**

#### 13.2.1 WHAT OIL RECYCLING IS

### **13.3 POLICY AND PRACTICE**

#### 13.3.1 WHEN A RECYCLING PROCESS ALSO CONSTITUTES EXCISE MANUFACTURE

#### 13.3.2 RECYCLED FUELS THAT ARE NON-EXCISABLE

#### 13.3.3 WORKING OUT THE AMOUNT OF EXCISE DUTY TO PAY

#### 13.3.4 OBTAINING AN EXCISE DUTY REMISSION OR REFUND

#### 13.3.5 CLAIMING A CREDIT OR BENEFIT FOR EXCISE DUTY PAID

### **13.4 PROCEDURES**

#### 13.4.1 MORE INFORMATION

### **13.5 PENALTIES THAT CAN APPLY IN RELATION TO OIL RECYCLING**

### **13.6 TERMS USED**

### **13.7 LEGISLATION (quick reference guide)**



## 13 OIL RECYCLING

### 13.1 PURPOSE

This Chapter deals with:

- what constitutes oil recycling
- how the excise system applies to oil recycling
- circumstances where duty is not payable on recycled oil, and
- blending of recycled oil products.

### 13.2 INTRODUCTION

#### 13.2.1 WHAT OIL RECYCLING IS

Oil recycling involves the use of processes to convert used or waste oils into saleable products that can be re-used. This conversion constitutes excise manufacture where the recycling process results in something new or different having a distinctive character or use. Recycling to this extent constitutes manufacture and requires an excise manufacturer licence.<sup>357</sup> Merely preparing waste oil for re-use (for example, settling or straining for large-scale impurities) is not considered to be manufacture and does not make the end product excisable.

Some of these products are '[excisable fuel products](#)'.<sup>358</sup>



For more information about obtaining an excise manufacturer licence, see [Chapter 2](#) Licensing: Applications.

<sup>357</sup> Whilst the Excise laws do not define recycling, the Commissioner's view on whether recycling constitutes manufacture is expressed in paragraphs 66 to 75M of Excise Ruling ER 2012/1 *Excise: the meaning of the expression 'manufactured or produced' for the purposes of the Excise Acts*.

<sup>358</sup> Paragraph 66 of ER 2012/1.

## 13.3 POLICY AND PRACTICE

### 13.3.1 WHEN A RECYCLING PROCESS ALSO CONSTITUTES EXCISE MANUFACTURE

Recycling includes filtering, de-watering, demineralisation, separation of contaminants by settlement, centrifuge and refining to treat waste or contaminated oils or fuels. However, it is noted that these processes can be performed with varying levels of effectiveness depending on the type of equipment or process used.

It is a question of fact and degree as to whether a recycling process (for example, filtering, de-watering and de-mineralisation, or refining) results in something that is new or different having a distinctive character or use.

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#### Example 13A – recycling that is not manufacturing or producing an excisable good

*Di Waste Oils Pty Ltd (Di) is a waste management company that collects various used oils, coolants (glycol and water) and other hazardous liquids.<sup>359</sup>*

*These waste liquids are collected from several sites in a single journey. During collection, the waste liquids are pumped into a tanker through a metal screen. By detecting audible changes in pump speed caused by variations in the viscosity of liquid passing through it, the tanker operator switches from one segregated part of the tanker to another to separate the fluids according to the relative viscosity. This is done in order to optimise the separation of less viscous fluids including water, which will be directly disposed of by Di as hazardous waste, from other higher viscosity hydrocarbon liquids.*

*At Di's depot, the tanker's compartments containing the less viscous liquids are disposed of as hazardous waste. The higher viscosity liquids (comprising primarily used oils and hydraulic fluids) are pumped through a filter bag into a large, fixed waste oil storage tank. The filter bag removes small particles of wear metal and other solid or semi-solid contaminants.*

*The oil in the waste oil tank is then pumped through a heat exchange where it is heated to a suitable temperature (to reduce the viscosity of the oil which assists with separation) and passed through a centrifuge to remove any remaining solids and water suspended within the oil. The oil is then tested to ensure, among other things, that the oil is compliant with local council and state environmental legislation and that it meets customer specifications. The oil is then sold as 'low grade burner fuel'.*

*The low grade burner fuel is not a new and different product with a distinctive character or use. The burner fuel 'merely contains less water and other extrinsic impurities than the used oil'. The burner fuel*

<sup>359</sup> Example 9 of ER 2012/1.

*does not inherently have a different utility to that out of which it was made and is 'merely better able to be used for the same purpose'.*

*Di has not manufactured or produced a product for excise purposes.*

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This example can be contrasted with Example 13B in which used oil is subjected to an additional step of 'demineralisation'. This additional step results in the removal of impurities that are more intrinsic in nature (than the water and other extrinsic impurities removed by filtering and de-watering alone).

Given that the above processes are not recycling, they would not be considered to constitute excise manufacture and no excise licence would be required.

---

### **Example 13B – recycling that is manufacturing or producing an excisable good**

*Eric is an oil recycler. Eric collects used oil of varying type and quality from multiple sources. Upon arrival at his depot, Eric drains any free water from the road tanker and then pumps the used oil through a screen into a reaction tank.<sup>360</sup>*

*In order to reduce the ash content of the oil when combusted, Eric needs to remove intrinsically dissolved mineral contaminants produced from the breakdown of mineral enhancers and lubricants, both added to the oil by manufacturers and accumulated from fuel engine deposits.*

*To do so, Eric adds a quantity of sulphuric acid followed by an inter-facial surface active agent (surfactant) to the reaction tank and the mixture is stirred and heated to 60° C for 2 hours. The mixture is then allowed to stand so that it can separate into 2 layers or 'phases' – that is, an oil phase and water-based or 'aqueous' phase. The surfactant facilitates both the reaction of the sulphuric acid with mineral contaminants dissolved within the oil and the separation of the 2 phases. Excess acid, water and the reacted contaminants in the oil accumulate in the aqueous phase, which settles to the bottom of the reaction tank and is drained off as slurry.*

*The oil then undergoes centrifugal separation to remove any remaining fine particles suspended in the oil. Eric samples and tests the oil to ensure the oil meets his customer's specifications for high-grade industrial burner oil.*

*A chemical transformation is required for the removal of mineral contaminants intrinsically dissolved in the used oil. This will also result in the modification of some of the used oil's physicochemical properties. This procedure involves more than the 'mere removal of water and other extrinsic materials' that may be achieved by filtering and de-watering alone.*

<sup>360</sup> Example 10 of ER 2012/1.

*The process undertaken by Eric results in a 'recycled oil' that is new or different with a distinctive character from the used oil as collected. The high-grade industrial burner oil is manufactured or produced for excise purposes.*

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### **Paying excise on recycled oil**

You must pay excise duty on liquid hydrocarbon products produced through a recycling, manufacturing or other process.<sup>361</sup> This includes products derived from petroleum and non-petroleum sources.

You must also pay excise duty on petroleum-based oils (including lubricant, fluid or oil products and greases) and their synthetic equivalents that are recycled for use as oils or greases.<sup>362</sup>

Excise treatment of blended recycled products depends on whether the blend is an excisable blend or a blend that is not excisable.



For more information about blending and excisable blends, refer to [Chapter 11](#) Blending.

You need to pay excise on products derived from a petroleum source (for example, used lubricating oil) even if they do not fit into a specific product subitem of the Schedule. This is because subitem 10.28 of the Schedule covers any product which is not included elsewhere.

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### **Example 13C**

*Mark's Oil Recycling filters, de-waters and demineralises waste oil (consisting mainly of used engine lubricant oil) to produce a high-grade industrial burner fuel. The product does not meet industry product standards for heating oil and is not 'fuel oil' as defined in the Excise Tariff Act.*

*The product is excisable and classified to subitem 10.28 of the Schedule.*

### **Example 13D**

*Max's manufacturing company uses waste plastic to produce a fuel that meets the diesel standard. The fuel (diesel) is classifiable to subitem 10.10 of the Schedule.*

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<sup>361</sup> Subitem 10(d) of the Schedule to the Excise Tariff Act.

<sup>362</sup> Item 15 of the Schedule to the Excise Tariff Act.

### 13.3.2 RECYCLED FUELS THAT ARE NON-EXCISABLE

#### Recycled solvents

A recycled solvent product does not attract excise if<sup>363</sup>:

- the product was originally delivered into '[home consumption](#)' under subitems 10.25, 10.26, 10.27, 10.28 or 10.30 of the Schedule
- you used the product as a solvent
- you recycle it for your own re-use as a solvent, and
- when recycled, the product is classified to its original subitem of the Schedule.

---

#### Example 13E – solvent recycling that is non-excisable

*Peter's Spray Shed uses solvents to clean spray painting equipment on a weekly basis. After 2 month's use, the solvent becomes unusable. The solvents are recycled by Peter's Spray Shed by putting them through a basic filtering process to remove impurities. The recycled solvent is then used for cleaning spray equipment. The recycled solvent does not attract excise duty and Peter's Spray Shed does not require an excise manufacturer's licence for this recycling.*



The exemption does not apply where someone other than the end-user recycles the solvent.

#### Recycled oil that will be used to make a non-excisable blend

Some blended recycled products are non-excisable. Blended products that are not suitable for use in an internal combustion engine are not excisable. However excise duty must be paid on any excisable constituents of the blend.

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#### Example 13F – blend that is non-excisable

*Mark's Recycling produces high-grade burner fuel by recycling waste oil. The burner fuel is classifiable to subitem 10.28 of the Schedule.*

<sup>363</sup> Section 77J of the Excise Act.

*Mark's Recycling wants to blend the burner fuel with bitumen to make an anti-corrosion waterproof paint. The composition of the paint means it cannot be used as a fuel in an internal combustion engine. As such, the paint is not classified to subitem 10.30 of the Schedule.*

*Even though the paint is not excisable, Mark's Recycling must pay excise duty on the burner fuel that was used in its production. As Mark holds a PSP, the burner fuel is considered to be delivered into home consumption at the point of blending with the bitumen.*

*Mark's Recycling will need to lodge an excise return and pay the duty liability on the burner fuel.*

### 13.3.3 WORKING OUT THE AMOUNT OF EXCISE DUTY TO PAY

The amount of excise you're liable to pay depends on the rate of excise duty that applies to the recycled oil on the day it's delivered into home consumption (including when it's consumed at premises covered by your licence) and the quantity involved.



For the current rates of duty, refer to our tariff working page [Excise duty rates for fuel and petroleum products](#).



For more information, refer to [Chapter 6](#) Payment of duty.

#### Example 13G

*An oil recycler filters de-waters and demineralises waste oil consisting mainly of used engine lubricant oil. They produce a liquid hydrocarbon product suitable for use as a high-grade industrial burner fuel.*

*The product does not meet industry product standards for heating oil and is not 'fuel oil' as defined in the Excise Tariff Act. As a consequence the product is classified to subitem 10.28 of the Schedule. The oil recycler pays excise duty at the rate in force on the day the product is delivered into home consumption.*

#### Measuring the volume of recycled oil

If you deliver excisable goods into home consumption, you must accurately measure volumes of recycled oil. This ordinarily means using calibrated tanks or flow meters.

If you recycle oil for your own use, you can measure the volume of the recycled oil by using<sup>364</sup>:

- a properly calibrated flow meter
- a formula that determines the volume of output by using historical data from similar oil, or
- any other similarly accurate method that has been approved at the time your licence was issued.

### When excise duty is payable



For more information about payment of duty, refer to [Chapter 6](#) Payment of duty.

Two examples specific to the recycling industry are as follows.

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#### Example 13H

*Mario's Waste Oil Recycling produces 1,000 litres of diesel fuel from waste oil and sells the product for electricity generation.*

*This product is classified to subitem 10.10 of the Schedule and duty is payable on the diesel at the rate of \$0.508<sup>365</sup> per litre. Mario's Waste Oil Recycling has a PSP. Mario's Waste Oil Recycling declares the 1,000 litres on their weekly [excise return](#) and pays excise duty of \$508.00.*

#### Example 13I

*Pauline's Brickworks holds an excise manufacturer licence to recycle waste oil. It collects 1,500 litres of waste oil and recycles it for use as a high-grade burner fuel in its brick kilns.*

*The product is a petroleum-based recycled waste oil that cannot be classified to a specific subitem of the Schedule. This product is classified to subitem 10.28 of the Schedule and excise duty is payable on the recycled waste oil at the rate of \$0.508 per litre.*

*Pauline's Brickworks has a PSP. It declares the 1,500 litres on the weekly excise return that is lodged after the product is used in the brick kilns, and pays excise duty of \$762.*

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<sup>364</sup> Excise (Volume-recycled waste oil) Determination 2016 (No. 1) and Explanatory Statement.

<sup>365</sup> Excise duty rate for diesel as at 3 February 2025.

### 13.3.4 OBTAINING AN EXCISE DUTY REMISSION OR REFUND

In certain situations, you may be entitled to a '[refund](#)' or '[remission](#)' of the excise duty paid or payable on recycled oils.<sup>366</sup> These circumstances were introduced at the same time as the introduction of the Product Stewardship for Oil (PSO) scheme to ensure no entitlement to a PSO benefit arises for oil products that are recycled using relatively simple processes and that these recycled oils are not subjected to the excise duty of 14.2c per litre under item 15 of the Schedule.

A remission of duty is available for recycled oil products if:

- the recycled product is hydraulic oil, brake fluid, transmission oil, transformer oil or heat transfer oil classified to subitem 15.2 of the Schedule
- no PSO benefit is payable
- the recycled product will be used for the same purpose for which it was used before being recycled (that is, recycled transmission oil will be used as transmission oil etc), and
- the recycled product is delivered into home consumption under a PSP.

A refund of duty is available on recycled oil products if:

- excise duty was paid on recycled hydraulic oil, brake fluid, transmission oil, transformer oil or heat transfer oil classified to subitem 15.2 of the Schedule
- no PSO benefit is payable
- the product has been used for the same purpose for which it was used before being recycled.



For more information about excise remissions and refunds, refer to [Chapter 7](#) Remissions, refunds, drawbacks and exemptions.

### 13.3.5 CLAIMING A CREDIT OR BENEFIT FOR EXCISE DUTY PAID

If the product of your recycling activities is a taxable fuel<sup>367</sup> (for fuel tax credit purposes) you may be able to claim a fuel tax credit if you use this fuel in your business.

You may also be entitled to a benefit under the PSO program for the oil you recycle.



For more information on:

- fuel tax credits, see [Fuel schemes](#)
- PSO benefits, see [Product stewardship for oil program](#).

<sup>366</sup> Table item 18, subclause 1 of Schedule 1 to the Excise Regulation.

<sup>367</sup> Section 110-5 of the *Fuel Tax Act 2006*. Note products that are oils classified to item 15 of the Schedule to the Excise Tariff Act are not taxable fuels.



## 13.4 PROCEDURES

### 13.4.1 MORE INFORMATION

If you need more information on oil recycling, contact us via:

- phone **1300 137 290**
- [ATO Online Services](#), or
- write to us at  
Australian Taxation Office  
PO Box 3514  
ALBURY NSW 2640

We will ordinarily respond to written information requests within 28 days. If we cannot respond within 28 days, we will contact you within 14 days to obtain more information or negotiate an extended response date.

## 13.5 PENALTIES THAT CAN APPLY IN RELATION TO OIL RECYCLING

The following are the penalties that may apply after conviction for an offence.

### Manufacture

If you manufacture excisable fuel products without a manufacturer licence, the penalty is a maximum of 2 years in prison or the greater of 500 '[penalty units](#)' and 5 times the amount of duty on the excisable fuel products.<sup>368</sup>

If you manufacture excisable fuel products contrary to the Excise Act or any conditions specified in your licence, the penalty is a maximum of 2 years in prison or 500 penalty units.<sup>369</sup>

If you manufacture excisable fuel products at premises that are not specified in your licence, the penalty is a maximum of 2 years in prison or the greater of 500 penalty units and 5 times the amount of duty on the excisable fuel products.<sup>370</sup>

<sup>368</sup> Section 25 of the Excise Act.

<sup>369</sup> Section 26 of the Excise Act.

<sup>370</sup> Section 27 of the Excise Act.

**Move, alter or interfere**

If you move '[underbond](#)' excisable fuel products without approval, the penalty is a maximum of 2 years in prison or the greater of 500 penalty units and 5 times the amount of duty on the excisable fuel products.<sup>371</sup>

Note: this includes moving underbond excisable fuel products from your premises to any other location or for export.

If your movement of underbond excisable fuel products does not comply with the permission to move the underbond excisable fuel products, the penalty is a maximum of 2 years in prison or the greater of 500 penalty units and 5 times the amount of duty on the excisable fuel products.<sup>372</sup>

If you move, alter or interfere with excisable fuel products that are subject to '[excise control](#)', without permission, the penalty is a maximum of 2 years in prison or the greater of 500 penalty units and 5 times the amount of duty on the excisable fuel products.<sup>373</sup>

**Deliver**

If you deliver excisable fuel products into home consumption contrary to your permission, the penalty is a maximum of 2 years in prison or the greater of 500 penalty units and 5 times the amount of duty on the excisable fuel products.<sup>374</sup>

**Records**

If you do not keep, retain and produce records in accordance with a '[direction under section 50](#)' of the Excise Act, the penalty is a maximum of 30 penalty units.

**Directions**

If you do not comply with a direction in regard to what parts of the factory can be used for various matters, the penalty is a maximum of 10 penalty units.<sup>375</sup>

**False or misleading statements**

If you make a false or misleading statement, or an omission from a statement in respect of duty payable on particular goods, to us, a penalty not exceeding the sum of 50 penalty units and twice the amount of duty payable on those goods.<sup>376</sup>

<sup>371</sup> Section 117A of the Excise Act.

<sup>372</sup> Section 61A of the Excise Act.

<sup>373</sup> Section 61 of the Excise Act.

<sup>374</sup> Section 61C of the Excise Act.

<sup>375</sup> Section 51 of the Excise Act.

<sup>376</sup> Section 120 of the Excise Act.

**Evade**

If you evade payment of any duty which is payable, the maximum penalty is 5 times the amount of duty on the excisable fuel products, or where a court cannot determine the amount of that duty the penalty is a maximum of 500 penalty units.<sup>377</sup>

**Facilities etc.**

If you do not provide all reasonable facilities for enabling us to exercise our powers under the Excise Act, the penalty is a maximum of 10 penalty units.<sup>378</sup>

If you do not provide sufficient lights, correct weights and scales, and all labour necessary for weighing material received into, and all excisable fuel products manufactured in, your factory and for taking stock of all material and excisable fuel products contained in your factory, the maximum penalty is 10 penalty units.<sup>379</sup>

If we mark or seal excisable fuel products or fasten, lock or seal any plant in your factory and you alter, open, break or erase the mark, seal, fastening or lock, the maximum penalty is 50 penalty units.<sup>380</sup>

## 13.6 TERMS USED

**Excisable fuel products**

Excisable goods are goods on which excise duty is imposed. Excise duty is imposed on goods that are manufactured or produced in Australia and listed in the Schedule.

As this Guide deals with fuel products, we have used the term excisable fuel products.

Excisable fuel products include:

- petrol
- diesel
- renewable diesel
- crude petroleum oil
- condensate
- heating oil
- kerosene

<sup>377</sup> Paragraphs 120(1)(iv) and 120(2)(b) of the Excise Act.

<sup>378</sup> Section 49 of the Excise Act.

<sup>379</sup> Section 52 of the Excise Act.

<sup>380</sup> Section 92 of the Excise Act.

- fuel ethanol
- biodiesel
- compressed natural gas (CNG)
- liquefied natural gas (LNG), and
- liquefied petroleum gas (LPG).

### Excise control

Goods are subject to excise control from the point of manufacture until they have been delivered into home consumption or for export.

Goods subject to excise control cannot be moved, altered or interfered with except as authorised by the Excise Act.

### Excise return

An excise return<sup>381</sup> is the document that you use to advise us the volume of excisable fuel products that you:

- have delivered into home consumption during the period designated on your PSP, or
- wish to deliver into home consumption following approval.

### Home consumption

'Home consumption'<sup>382</sup> is the term used in the Excise Act and this Guide to describe when excisable fuel products are released into the Australian domestic market for consumption. The term used in the legislation is 'deliver for home consumption'.

Normally, this will be by delivering the goods away from premises covered by a licence but includes using those goods within those premises (for example, using fuel to run equipment in premises covered by your licence). It does not include goods delivered for export or the movement of goods underbond (see definition below) to another licensed site.

The term 'home consumption' is not defined in the Excise Act and there is no definitive case law that looks at the issue in question. However there are several cases where issues closely related to it are considered.<sup>383</sup>

<sup>381</sup> The term used in section 58 of the Excise Act is 'entry for home consumption'.

<sup>382</sup> Note the legislation uses the term 'delivered for home consumption' (see, for example, sections 61 and 61C of the Excise Act).

<sup>383</sup> See *R v Lyon* [1906] HCA 17; *Collector of Customs (NSW) v Southern Shipping Co Ltd* [1962] HCA 20; *Carmody v F C Lovelock Pty Ltd* [1970] HCA 35. *Caltex Australia Petroleum Pty Ltd v Commissioner of Taxation* [2008] FCA 1951 and *Moama Refinery Pty Ltd v Chief Executive Officer of Customs* [2001] FCA 1287.

The conclusion drawn from those cases is that 'home consumption' refers to the destination of goods as being within Australia as opposed to exporting them.

### Penalty units

The value of a penalty unit is contained in section 4AA of the *Crimes Act 1914*, and is indexed regularly. The dollar amount of a penalty unit is available at [Penalties](#).

### Refund

A refund is the repayment of duty that has already been paid.

### Remission

A remission of excise duty extinguishes the liability for duty that was created at the point of manufacture.

### Section 50 direction

This is a written instruction issued under section 50 of the Excise Act to a licensed manufacturer, or proprietor of premises covered by a storage licence, to keep specified records, furnish specified returns, retain records for a specified period and produce those records on demand by us.

### Underbond

This is an expression not found in excise legislation but it is widely used to describe goods that are subject to excise control. Excisable goods that are subject to excise control are commonly referred to as 'underbond goods' or as being 'underbond'. This includes goods that have not yet been delivered into home consumption and goods moving between premises under a movement permission.

## 13.7 LEGISLATION (quick reference guide)

In this Chapter, we have referred to the following legislation:

- *Excise Act 1901*
  - section 24 – excisable goods and goods liable to duties of Customs may be used in manufacturing excisable goods
  - section 25 – only licensed manufacturers to manufacture excisable goods
  - section 26 – licensed manufacturers to manufacture in accordance with Act and licence
  - section 27 – licensed manufacturers to manufacture only at premises covered by a licence
  - section 49 – facilities to officers
  - section 50 – record keeping

- section 51 – collector may give directions
- section 52 – weights and scales
- section 58 – entry for home consumption etc.
- section 61 – control of excisable goods
- section 61A – permission to remove goods that are subject to CEO's control
- section 61C – permission to deliver certain goods for home consumption without entry
- section 77H – blending exemptions
- section 77J – goods that are not covered by subitem 10.25, 10.26, 10.27, 10.28 or 10.30
- section 78 – remissions, rebates and refunds
- section 92 – seals etc. not to be broken
- section 117A – unlawfully moving excisable goods
- section 117B --unlawfully selling excisable goods
- section 120 – offences
- *Excise Regulations 2015*
  - item 18, Clause 1 of Schedule 1 – circumstances under which refunds, rebates and remissions are made
- *Excise Tariff Act 1921*
  - section 3 – definitions
  - The Schedule
- *Product Grants and Benefits Administration Act 2000*
  - section 9 – registration for entitlement to grants or benefits
- *Product Stewardship (Oil) Act 2000*
  - section 6 – definitions
- *Product Stewardship (Oil) Regulations 2000*
  - regulation 4 – amount of product stewardship benefit
- *Crimes Act 1914*
  - section 4AA – penalty units

## Amendment history

**27 June 2025**

Part	Comment
Throughout	This chapter was updated to take into account the law changes as a result of the <a href="#">Excise and Customs Legislation Amendment (Streamlining Administration) Act 2024</a> .
Throughout	Updated in line with current ATO style and accessibility requirements.

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