



***CR 2017/64 - Fuel tax credits: clients of Navman Wireless Australia Pty Ltd who use the FTC Claim Reports information showing litres allocated according to travel generated by FTC Manager as a record for fuel tax credit purposes***

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 This document has changed over time. This is a consolidated version of the ruling which was published on *9 October 2019*



## Class Ruling

Fuel tax credits: clients of Navman Wireless Australia Pty Ltd who use the FTC Claim Reports information showing litres allocated according to travel generated by FTC Manager as a record for fuel tax credit purposes

Contents	Para
<b>LEGALLY BINDING SECTION:</b>	
<b>Summary – what this ruling is about</b>	<b>1</b>
<b>Date of effect</b>	<b>7</b>
<b>Previous Ruling</b>	<b>8</b>
<b>Scheme</b>	<b>9</b>
<b>Ruling</b>	<b>36</b>
<b>NOT LEGALLY BINDING SECTION:</b>	
<b>Appendix 1:</b>	
<b>Explanation</b>	<b>40</b>
<b>Appendix 2:</b>	
<b>Detailed contents list</b>	<b>70</b>

### **❶ This publication provides you with the following level of protection:**

This publication (excluding appendixes) is a public ruling for the purposes of the *Taxation Administration Act 1953*.

A public ruling is an expression of the Commissioner’s opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes.

If you rely on this ruling, the Commissioner must apply the law to you in the way set out in the ruling (unless the Commissioner is satisfied that the ruling is incorrect and disadvantages you, in which case the law may be applied to you in a way that is more favourable for you – provided the Commissioner is not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any underpaid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.

**[Note: This is a consolidated version of this document. Refer to the Legal Database ([ato.gov.au/law](http://ato.gov.au/law)) to check its currency and to view the details of all changes.]**

## Summary – what this ruling is about

1. This Ruling sets out the Commissioner’s opinion on the way in which the relevant provision(s) identified below apply to the defined class of entities, who take part in the scheme to which this Ruling relates.

### Relevant provision(s)

2. The relevant provisions dealt with in this Ruling are:

- Subdivision 41-B of the *Fuel Tax Act 2006* (FTA)
- section 41-5 of the FTA
- section 60-5 of the FTA
- subsection 41-5(1) of the FTA

- subsection 41-5(2) of the FTA
- section 43-5 of the FTA
- subsection 43-10(3) of the FTA
- section 110-5 of the FTA
- section 382-5 of Schedule 1 to the *Taxation Administration Act 1953* (TAA)
- subsection 382-5(1) of Schedule 1 to the TAA
- subsection 382-5(8) of Schedule 1 to the TAA.

All legislative references in this Ruling are to the FTA unless otherwise indicated.

## **Class of entities**

3. The class of entities to which this Ruling applies are clients of Navman Wireless Australia Pty Ltd who are registered for goods and services tax and who use the FTC Claim Report information showing litres allocated according to travel generated by FTC Manager as a record for fuel tax credit purposes.

## **Qualifications**

4. The Commissioner makes this Ruling based on the precise scheme identified in the Ruling and does not rule on whether particular roads are public roads for the purposes of the FTA. Nor does this ruling extend to determining entitlement to claim and calculation of fuel tax credits.

5. The class of entities defined in this Ruling may rely on its contents provided the scheme actually carried out is carried out in accordance with the scheme described in paragraphs 9 to 35 of this Ruling.

6. If the scheme actually carried out is materially different from the scheme that is described in this Ruling, then:

- this Ruling has no binding effect on the Commissioner because the scheme entered into is not the scheme on which the Commissioner has ruled, and
- this Ruling may be withdrawn or modified.

## Date of effect

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7. This Ruling applies from 28 April 2017 to 30 June 2020. However, this Ruling will not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of this Ruling (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10).

## Previous Ruling

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8. The FTC Claim Report uses the relevant GPS data from the FTC Manager GPS Data Report described in paragraphs 22 to 24 of Class Ruling CR 2017/42 *Fuel tax credits: clients of Navman Wireless Australia Pty Ltd who use the GPS Data Report generated by FTC Manager for calculating kilometres travelled and the hours used by auxiliary equipment in or on a vehicle as a record for fuel tax credit purposes*.

## Scheme

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9. The following description of the scheme is based on information provided by the applicant in the application and documents supplied.

**Note:** certain information has been provided on a commercial-in-confidence basis and will not be disclosed or released under Freedom of Information legislation.

10. FTC Manager is a GPS technology based reporting tool that records and stores GPS data that will provide measurements which clients can use to apportion kilometres travelled in vehicles and hours used for auxiliary equipment. It incorporates an operating platform and technology support provided from Navman Wireless Australia Pty Ltd. The hardware (device that uses GPS satellite information) is set up on each vehicle. A GPS Data Report can be generated from the data pertaining to each vehicle. The information in that report is then used for the FTC Claim Report.

11. The FTC Manager requires clients to complete a template CSV set-up file that is entered into the system which contains name assigned to the tracking unit; vehicle registration; vehicle type, make/model; year; fuel type, gross vehicle mass (GVM); auxiliary equipment type and idle fuel burn rate and where applicable – auxiliary equipment method and auxiliary equipment burn rate. This fleet summary information provides the connection between the FTC Manager processing server and the AVL server and configures parameters for measurement and reporting.

## Hardware

12. A GPS tracking hardware device is fitted to the vehicle and it is used to generate the data required for the FTC Manager.
13. The User Interface provides real-time location event data via a mapping interface and tabular event data, configuration utilities, reporting and alerting capabilities.
14. As soon as the system is switched on following installation of the hardware it will begin collecting data for each GPS device. Once the system set-up is complete the data will be allocated to relevant vehicles and equipment based on the information uploaded to the system in the set-up data file. Data will be collected continuously from this point in time. The vehicle's position is provided by satellite to the device and the data is transmitted by the tracking unit at the time it is generated or, stored on board and transmitted when the tracking unit returns to telecommunications coverage.

## Road Map Data

15. The FTC Manager uses a processing engine to geocode event and breadcrumb data of the Australian road network and the system has incorporated centreline geotunnels around all roads from that data. The system has set a geotunnel distance of 60 metres from the centreline of every road (that is, 120 metre road width). The system allows for adjustments to enable customer and administrator geofences to be created in certain circumstances, such as the customer's premises being within the incorporated centreline geotunnel. All customer created geofences that are created by clients are submitted to the Issues Register for Administrator review and approval. Once approved the geofences are integrated into the universal map-set.
16. The Administrator can create geofences around specific locations where the more automated dataset of the Australian road network may require adjustment to reflect the categorisation of locations of travel for the purposes of fuel tax credits. Examples may include: newly opened roads not yet updated on maps based on the dataset of the Australian road system, or a road that is closed and undergoing construction and maintenance.
17. All geofences can be set permanently or to apply for a specified period. This allows clients to set-up geofences for example with a construction project operating for a defined period.
- 17A. Heavy vehicles (with a GVM exceeding 4.5 tonnes) engaged in road construction, maintenance or repair activities may operate these vehicles on road construction sites and off-road sites such as quarries. Drivers of these vehicles are required to operate flashing warning lights while operating on these sites, and to have the lights

turned off when not operating on these sites.<sup>1</sup> Clients with heavy vehicles in these situations may choose to connect the FTC Manager device to their flashing warning lights so that the system can automatically measure and record the distance and time these vehicles are not travelling on a public road while operating on these sites.

### **Auxiliary equipment**

18. Vehicles that operate auxiliary equipment usually power that equipment from either a Power Take Off (PTO) unit from the vehicle's main engine or directly from a secondary engine. The GPS tracking hardware device unit can be connected to either type of auxiliary system allowing information to be captured and reported for the period which the auxiliary equipment is in operation. The device unit records the amount of operating time (hours) of auxiliary equipment of vehicles with a GVM of greater than 4.5 tonnes.

### **Analysis**

19. Clients can undertake a vehicle trip analysis and obtain summary details from the data collected. The vehicle trip analysis provides details on the specific activities of each vehicle displaying a list of the individual trips, their start and end locations, the classification of area, duration, distance and a map showing every individual trip graphically. It also shows individual off-road idle events.

20. There is the ability for trips to be removed from the overall calculations if erroneous or where amendments to certain areas are required.

21. The FTC Manager also allows users to set up alerts based on detected potential issues.

22. There are also several layers of verification built into the FTC Manager system and these include:

- GPS technology checks – automated systems checks of the GPS signal.
- Administrator review of customer geofences – all geofences created by clients will appear in the Issues Register for review and approval prior to allowing the geofence to enter the universal map-set filter.
- Issues Register – where system errors are identified they will be reviewed and actioned by system administrators.

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<sup>1</sup> For example, State Workplace Health and Safety Laws or National Heavy Vehicle Standards which require work lights to be operated on road construction sites.

## **Fuel acquisition data entry**

23. At the end of each month the client will be required to enter fuel acquisition data into the FTC Manager system. Fuel acquisition data entry can be done automatically via CSV data file uploads or manually via data entry.

24. The CSV data file uploads allows clients to upload data obtained from fuel suppliers.

25. Manual data entry is available where CSV files cannot be obtained for fuel acquisitions such as credit card or cash purchases, or log sheets from bulk fuel tanks without bowser software. Clients can either enter all transactions individually, or can enter the total litres used by a vehicle in a certain period.

26. FTC Manager will total the fuel acquisitions for each period and allocate them to the relevant vehicle or item of machinery.

## **Reporting**

27. FTC Manager has two main levels of reporting – the GPS Data Report and the FTC Claim Report.

28. The GPS Data Reports provide the data which is necessary as the base measurements. The report shows the vehicle, registration, type of vehicle, auxiliary equipment, off-road travel percentage, on-road travel percentage, off-road idle hours and auxiliary equipment hours for a selected period.

29. The FTC Claim Report not only reports on the relevant GPS data but extends the functionality by processing information from the GPS Data Report and the fuel acquisitions entered.

## **FTC Claim Report**

30. The FTC Claim Report uses the off-road travel percentage (distance); off-road idle hours (time) and auxiliary equipment hours (time) that has been calculated within the system. The FTC Claim Report can only be processed once fuel acquisition data has been entered into the system.

31. The FTC Claim Report provides the following information in the selected period:

- Vehicle
- Vehicle type
- Type of auxiliary equipment
- Auxiliary equipment calculation – this displays the auxiliary equipment apportionment methodology selected during set-up

- Total litres – the sum of all individual fuel transactions allocated to each vehicle entered from the Fuel Transactions page
- Auxiliary equipment litres
- Off-road idle litres – calculated using hours based on categorisation of travel and idle burn rates
- Off-road travel litres – calculated by using the categorisation of the travel percentage
- Road travel litres.

32. *Auxiliary equipment litres calculation (where applicable)* – during product setup clients are given two options for calculation of the amount of fuel use in auxiliary equipment in vehicles with a GVM greater than 4.5 tonnes. If the customer elects to utilise a set percentage the amount of fuel used in the vehicle with the auxiliary equipment is multiplied by the relevant percentage. If a manual apportionment is used, FTC Manager will multiply the auxiliary equipment operating hours obtained from the GPS Data Report by the average rate of fuel consumption that has been entered during the set-up process. As part of the set-up process clients are required to obtain the average idle fuel consumption rates from engine diagnostic downloads (where available), live fuel consumption testing or manufacturer's specifications.

33. *Off-road idling litres calculation* – records the number of hours that a vehicle is idling based on the categorisation of the location (that is, the vehicle is located at an off-road site, ignition is on and the vehicle has a speed of 0 kilometres per hour for more than 5 seconds). The number of litres used off-road idling is based on the total number of off-road idle hours multiplied by an average rate of idle fuel consumption for each type of vehicle. The average idle fuel consumption rates are from engine diagnostic downloads (where available), live fuel consumption testing or manufacturer's specifications. Off-road idle calculations do not apply for vehicles that have used a set percentage for apportionment of fuel used by auxiliary equipment.

34. *Off-road travel litres calculation* – once the auxiliary equipment and off-road idling litres have been calculated the remaining litres acquired by each vehicle are designated as the total litres used for driving and the off-road travel litres is established by multiplying the relevant off-road travel percentage from the GPS Data Reports by the total litres used for driving. Off-road travel calculations do not apply for vehicles that have used a set percentage for apportionment of fuel used by auxiliary equipment.

35. *Road transport litres* – comprises the remaining total litres used for driving.

## Ruling

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36. The FTC Manager is a GPS technology based reporting tool which generates the FTC Claim Report that provides information on the auxiliary equipment litres used, idle litres and travel litres based on the categorisation of the travel for a period.

37. The report is in English.

38. This report is a document that satisfies a record for the purposes of subsection 382-5(8) of Schedule 1 of the *Taxation Administration Act 1953* (TAA).

39. Provided the report is retained for 5 years, or in accordance with the specific requirements of section 382-5 of Schedule 1 of the TAA, it can be used as a record for record keeping purposes as part of the process for calculating fuel usage to the extent that it shows details:

- total litres after submitting the information from other source documentation
- the litres used in auxiliary equipment (where applicable)
- litres used by a vehicle Idling time based on the categorisation of the travel, and
- the litres based on the categorisation of travel.

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**Commissioner of Taxation**

20 September 2017

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## Appendix 1 – Explanation

① *This Appendix is provided as information to help you understand how the Commissioner's view has been reached. It does not form part of the binding public ruling.*

### **Is apportionment a requirement to work out the entitlement to a fuel tax credit?**

40. Subsection 41-5(1) provides that an entity is entitled to a fuel tax credit for taxable fuel they acquire or manufacture in, or import into, Australia to the extent that they do so for use in carrying on their enterprise.

41. Taxable fuel is defined in section 110-5.

42. However, under subsection 41-5(2), the entity is only entitled to the fuel tax credit if they are registered for goods and services tax at the time they acquire, manufacture or import the fuel.

43. Section 43-5 provides that the amount of an entity's fuel tax credit is the amount of effective fuel tax that is paid on the fuel. Subsection 43-10(3) provides that to the extent an entity acquires taxable fuel to use, in a vehicle, for travelling on a public road, the amount of its fuel tax credit for the fuel is reduced by the road user charge for the fuel.

44. Subdivision 41-B contains the disentitlement rules for fuel tax credits and includes at section 41-20 the following disentitlement:

#### **41-20 No fuel tax credit for fuel to be used in light vehicles on a public road**

You are not entitled to a fuel tax credit for taxable fuel to the extent that you acquire, manufacture or import the fuel for use in a vehicle with a gross vehicle mass of 4.5 tonnes or less travelling on a public road.

45. Hence an entity that acquires taxable fuel for use in their enterprise in a vehicle with a GVM of 4.5 tonnes or less (a light vehicle), is entitled to a fuel tax credit to the extent the fuel is used otherwise than in the vehicle travelling on a public road.

46. The use of the phrase 'to the extent' in section 41-5, section 41-20 and subsection 43-10(3) contemplates apportionment between fuel acquired for an eligible use and fuel acquired for an ineligible use, or uses which may give rise to different rates of fuel tax credit entitlement. The implications of this phrase for the purposes on entitlement has been considered in paragraph 5 of Fuel Tax Determination FTD 2010/1 *Fuel tax: is apportionment used when determining total fuel tax credits in calculating the net fuel amount under section 60-5 of the Fuel Tax Act 2006?*

47. At paragraph 5 of FTD 2010/1 the Commissioner relevantly states:

5. The use of the phrase 'to the extent that' in the FT Act contemplates apportionment in the case of:

- section 41-5 of the FT Act between a use that entitles you to a fuel tax credit and one that does not, and between uses that give rise to different rates of fuel tax credits, taking into account the operation of Division 41 of the FT Act ...
- section 41-10 between a use that entitles you to a fuel tax credit and one that does not;
- section 42-5 between a use that entitles you to a fuel tax credit and one that does not;...
- ...and
- subsection 43-10(3) between a use that reduces your fuel tax credit amount by the road user charge and one that does not.

48. To determine the extent of the fuel tax credit an entity that acquires taxable fuel, will need to apportion the fuel between:

- for vehicles with a GVM exceeding 4.5 tonnes – the use for travelling on a public road (where the fuel tax credit rate is the excise duty rate less the road user charge) and the use while travelling on non-public roads, or off-road while or while not for travelling (where the fuel tax credit rate is the excise duty rate), and
- for vehicles with a GVM of 4.5 tonnes or less – the use in a vehicle travelling on a public road and travelling on non-public roads or off-road.

### **What are the principles for apportioning fuel used in a vehicle?**

49. The FTA does not prescribe how to apportion fuel between different uses. The Commissioner has explained in FTD 2010/1 that methods that are fair and reasonable are acceptable.

50. Specifically paragraph 33 of FTD 2010/1 says:

33. It is not necessary for an apportionment method to track the intended use of every last drop of fuel. A method may be fair and reasonable without doing so provided that the application of the method reasonably reflects the extent to which taxable fuel is acquired for an eligible activity.

51. Apportionment of fuel for the purpose of working out an entitlement, and calculating the amount of the entitlement, are distinct phases. Specifically, an entity can either:

- undertake all the necessary apportionment as a single step process that encompasses working out the entitlement as well as the calculation of a fuel tax credit amount, or
- undertake apportionment as discrete steps, for example:

- apportionment takes place in working out entitlement to a fuel tax credit and then in calculating the fuel tax credit amount, or
- apportionment takes place in working out the amount of fuel used in particular equipment or particular auxiliary equipment of a vehicle travelling on a public road or in a group of equipment or group of auxiliary equipment and then apportioning the uses of fuel in relation to that equipment or group to calculate the fuel tax credit amount.

52. The amount of the entitlement calculated should be the same whether a single step process or a discrete step calculation is performed.

53. To apportion the taxable fuel an entity has acquired to the different activities for which the fuel was used, a measure can be used as part of an apportionment methodology. The Commissioner accepts that an entity can use any appropriate reliable measure as the basis for calculating the amount of taxable fuel that it acquires for use in an eligible activity.

54. Examples of known reliable measures include:

- odometer readings of kilometres actually travelled
- route distances
- hours of operation of vehicle or equipment, or
- average hourly fuel consumption of vehicle or equipment.

55. Although these are commonly used measures, because of the diverse range of eligible activities, this is not an exhaustive list and there may be other measures that are appropriate to an entity's circumstances.

**Does the FTC Manager provide a step in the apportionment of fuel such that it allocates the number of litres used in a vehicle, or auxiliary equipment (where applicable) or whilst idling and travelling based on the categorisation?**

56. A vehicle's location is provided by satellite to the FTC Manager device and then is transmitted or stored on board based on telecommunications coverage.

57. The distance travelled by the vehicle is recorded according to GPS satellite data using the vehicle's latitude and longitude generated on a second-by-second basis. This information can be used to determine the number of kilometres travelled by the vehicle and the location of that travel, and then subsequently used in determining the apportionment of fuel at various locations. The FTC Manager is also able to record idle hours by the amount of time that the vehicle spends idling (ignition on, no movement for 5 seconds or more) and the location this idling occurs. This information can also be used as a step in the apportionment of fuel for such uses.

57A. Clients with heavy vehicles that operate in situations described in paragraph 17A of this Ruling may choose to connect the FTC Manager device to the flashing warning lights in these vehicles. This will allow the FTC Manager system to automatically measure and record the distance and time these vehicles are not travelling on a public road while operating on these sites.

58. The GPS tracking hardware device unit can be connected to either a PTO or from the main engine or secondary engine of the vehicle. The system allows information to be captured on the hours of operation of auxiliary equipment and reported for the period which the equipment is operational and used in a step in the apportionment of fuel.

59. The kilometres travelled by a vehicle, the location of the travel, the idle hours off-road and the hours of operation of any auxiliary equipment can be used as part of the formula to determine the extent of the taxable fuel to be apportioned to use in the vehicle and/or auxiliary equipment for fuel tax credit purposes.

60. Fuel acquisition data is entered into the FTC Manager system to allow the allocation of fuel based on the data from the kilometres travelled, categorisation of the travel and hours of operation and idling. This enables fuel usage to be allocated based on the operation of the auxiliary equipment, idling and travel based on the categorisation of the travel. This allocation of fuel usage is a step in the apportionment methodology for fuel tax credits.

**Does the FTC Claim Report generated from the FTC Manager satisfy a record for the purposes of subsection 382-5(8) of Schedule 1 to the TAA?**

61. Subsection 382-5(1) of Schedule 1 of the TAA provides that you must keep records that record and explain all transactions and other acts you engage in that are relevant to an entitlement to a fuel tax credit.

62. You must retain these records for at least five years after the completion of the transactions or acts to which they relate.

63. Subsection 382-5(8) of Schedule 1 to the TAA provides that the records must be in English, or easily translated into English, and enable an entitlement under an indirect tax law, that is, a fuel tax law to be ascertained.

64. Clients using the FTC Manager can undertake a vehicle trip analysis by examining the specific activities undertaken by each vehicle including listing individual trips made by the vehicle, their start and end locations, the classification of the travel, their duration and distance and a map showing the individual trip graphically. The information also shows idle events and location of this idling.

65. The overall travel percentages for different location categories, and the idle time and location of this idling for all selected trips can also be shown. Clients are able to uncheck individual trips or idle events and remove them from the calculations. This allows for a review of erroneous results.

66. The analysis of the data based on the activities and classification of the travel is used in the reporting functionality of FTC Manager.

67. The portal allows the client using the FTC Manager in their enterprise to generate a FTC Claim Report after fuel acquisition information has been entered. The FTC Claim Report available to the client in a selected period shows:

- Vehicle
- Vehicle type
- Type of auxiliary equipment
- Auxiliary equipment calculation
- Total litres
- Auxiliary equipment litres
- Off-road idle litres
- Off-road travel litres
- Road travel litres.

68. The FTC Claim Reports are produced in English and allows users to export obtain information showing litres allocated according to travel into a pdf or csv (excel file) document for a specific period.

69. The FTC Claim Report is a record that can be used in determining apportionment for fuel tax credit purposes. As such, it is a document that satisfies a record for the purposes of subsection 382-5(8) of Schedule 1 to the TAA.

**Appendix 2 – Detailed contents list**

70. The following is a detailed contents list for this Ruling:

	<b>Paragraph</b>
<b>Summary – what this ruling is about</b>	<b>1</b>
Relevant provision(s)	2
Class of entities	3
Qualifications	4
<b>Date of effect</b>	<b>7</b>
<b>Previous Ruling</b>	<b>8</b>
<b>Scheme</b>	<b>9</b>
Hardware	12
Road Map Data	15
Auxiliary equipment	18
Analysis	19
Fuel acquisition data entry	23
Reporting	27
FTC Claim Report	30
<b>Ruling</b>	<b>36</b>
<b>Appendix 1 – Explanation</b>	<b>40</b>
Is apportionment a requirement to work out the entitlement to a fuel tax credit?	40
What are the principles for apportioning fuel used in a vehicle?	49
Does the FTC Manager provide a step in the apportionment of fuel such that it allocates the number of litres used in a vehicle, or auxiliary equipment (where applicable) or whilst idling and travelling based on the categorisation?	56
Does the FTC Claim Report generated from the FTC Manager satisfy a record for the purposes of subsection 382-5(8) of Schedule 1 to the TAA?	61
<b>Appendix 2 – Detailed contents list</b>	<b>70</b>

## References

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- Previous draft:*
- Not previously issued as a draft
- Related Rulings/Determinations:*
- TR 2006/10; FTD 2010/1;  
CR 2017/42
- Legislative references:*
- FTA 2006
  - FTA 2006 Div 41
  - FTA 2006 41-5
  - FTA 2006 41-5(1)
  - FTA 2006 41-5(2)
  - FTA 2006 Subdiv 41-B
  - FTA 2006 41-10
  - FTA 2006 41-20
  - FTA 2006 42-5
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  - FTA 2006 43-10(3)
  - FTA 2006 60-5
  - FTA 2006 110-5
  - TAA 1953
  - TAA 1953 Sch 1 382-5
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