


# ***ER 2012/1A3 - Addendum - Excise: the meaning of the expression 'manufactured or produced' for the purposes of the Excise Acts***

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# Addendum

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## Excise Ruling

### Excise: the meaning of the expression 'manufactured or produced' for the purposes of the Excise Acts

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Excise Ruling ER 2012/1 to reflect the amendments made to subsection 77FC(2) of the *Excise Act 1901* by the *Treasury Laws Amendment (Refining and Improving Our Tax System) Act 2023*.

ER 2012/1 is amended as follows:

#### 1. Paragraph 44

After paragraph 44, insert new paragraphs 44A to 44C:

44A. An exemption to this applies to the first 10,000 litres of beer that is repackaged at particular premises in a financial year provided:

- the beer is repackaged into exempt beer containers for the purposes of retail sale; and
- the retail sale occurs immediately after the repackaging of the beer.

44B. An exempt beer container is a sealed individual container, of no more than 2 litres, that is not pressurised.

44C. For businesses who repackage beer at more than one premises, each premises is subject to its own 10,000 litre threshold.

#### 2. Paragraph 46

After the word 'purposes', insert '*as a 5 litre keg is not an exempt beer container*'.

#### 3. Paragraph 46A

- (a) In the heading after the word 'is', insert 'not'.
- (b) Omit the wording of the paragraph; substitute:

*Harry's Hotel refills 2 litre containers ('growlers') for their customers. They fill these smaller containers directly from 30 litre, duty-paid kegs, using the draught beer system at their bar.*

**4. Paragraph 46B**

Omit the wording of the paragraph; substitute:

*During the course of the financial year, Harry's Hotel refills 3,500 growlers for their retail customers at their hotel premises thereby repackaging 7,000 litres of beer.*

**5. Paragraph 46C**

Omit the wording of the paragraph; substitute:

*As the beer is being repackaged into containers of 2 litres or less that are not pressurised, the refilling occurs immediately before the retail sale to the customer and Harry's Hotel has not repackaged more than 10,000 litres during the financial year at its hotel premises, the refilling of the growlers is not taken to be manufacture for excise purposes.*

**6. Paragraph 46D**

Omit the wording of the paragraph; substitute:

*George's Craft Brewery manufactures beer which is pumped into 50 litre kegs, and pays excise duty when the kegs are moved from their licensed premises into a separate warehouse.*

**7. Paragraph 46E**

Omit the wording of the paragraph; substitute:

*Once a month they repackage the beer into smaller containers at their warehouse and then offer them for sale to customers at their Brewery.*

**8. Paragraph 46F**

Omit the wording of the paragraph; substitute:

*Although George's Craft Brewery repackage the beer into exempt beer containers, the repackaging has not occurred immediately prior to retail sale. Given this, the repackaging is taken to be manufacture for excise purposes.*

**9. Paragraph 88**

Omit the first dot point (and associated dashed point); substitute:

- Section 77FC of the Excise Act:
  - changes to the repackaging provisions for beer apply from 1 July 2023. See *Treasury Laws Amendment (Refining and Improving Our Tax System) Act 2023*. See paragraph 44 of this Ruling.

**10. Paragraph 114**

Omit the legislative quotation; substitute:

**77FC Repackaged beer**

- (1) If:
- (a) beer classified to subitem 1.2, 1.6 or 1.11 of the Schedule to the *Excise Tariff Act 1921* is entered for home consumption; and
  - (b) the beer is repackaged into sealed individual containers:
    - (i) of less than 8 litres; or
    - (ii) of at least 8 litres but not exceeding 48 litres and not designed to connect to a pressurised gas delivery system, pump delivery system or other system prescribed for the purposes of subitem 1.1, 1.5 or 1.10 of that Schedule (if any);

then, for the purposes of this Act, that repackaging is taken to be the manufacture of beer (subject to subsection (2)).

...

(2) Subsection (1) does not apply in relation to the repackaging of the first 10,000 litres of beer, at particular premises in a financial year, in relation to which the following conditions are satisfied:

- (a) the beer is repackaged into exempt beer containers for the purposes of retail sale;
- (b) the retail sale occurs immediately after the repackaging of the beer.

(3) For the purposes of subsection (2), an exempt beer container is a sealed individual container, of no more than 2 litres, that is not pressurised.

**11. Paragraph 115**

- (a) Omit the paragraph.
- (b) After the paragraph, insert new paragraph 115A:

115A For businesses who repackage beer at more than one premises, each premises is subject to its own 10,000 litre threshold.<sup>58A</sup>

- (c) After 'threshold' in new paragraph 115A, insert new footnote 58A:

<sup>58A</sup> Paragraph 5.18 of the Explanatory Memorandum to the Treasury Laws Amendment (Refining and Improving Our Tax System) Bill 2023.

**12. Detailed contents list**

Omit '*Example 5A: repackaging that is the manufacture of an excisable good*'; substitute '*Example 5A: repackaging that is not the manufacture of an excisable good*'.

This Addendum applies from 1 July 2023.

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**Commissioner of Taxation**

20 September 2023

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## ATO references

NO:	1-Y1RPG78
ISSN:	2200-6087
BSL:	Excise Centre
ATOlaw topic:	Excise ~ Alcohol
	Excise ~ Fuel excise
	Excise ~ Tobacco

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