



# ***FTD 2006/2 - Fuel tax: what records are required to be kept by taxpayers to substantiate a claim for a fuel tax credit?***

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 This document has changed over time. This is a consolidated version of the ruling which was published on *30 October 2019*



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# Fuel Tax Determination

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## Fuel tax: what records are required to be kept by taxpayers to substantiate a claim for a fuel tax credit?

**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, we must apply the law to you in the way set out in the ruling (or in a way that is more favourable for you if we are satisfied that the ruling is incorrect and disadvantages you, and we are not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any overpaid net fuel amount, 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 ATO Legal database ([ato.gov.au/law](http://ato.gov.au/law)) to check its currency and to view the details of all changes.]

### Ruling

1. You must keep records that record and explain all transactions and other acts you engage in that are relevant to the taxable fuel that you acquire, manufacture in, or import into, Australia to the extent that you do so for use in carrying on your enterprise<sup>1</sup> or for use in generating electricity for domestic use.<sup>2</sup>
2. The records must be retained for at least five years after the completion of the transactions or acts to which they relate.<sup>3</sup>
3. If you lodge a return that includes a net fuel amount which takes into account a fuel tax credit that relates to a tax period or fuel tax return period, you will need to keep records that explain those transactions and acts to which it relates and retain those records for at least five years after you lodge your return.<sup>4</sup>

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<sup>1</sup> The term 'carrying on' an enterprise is defined in section 110-5 of the *Fuel Tax Act 2006* (FT Act) as having the meaning given by section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act). The term 'enterprise' is defined in section 110-5 of the FT Act as having the meaning given by section 9-20 of the GST Act. See Fuel Tax Determination FTD 2006/3 Fuel tax: what is an 'enterprise' for the purposes of the *Fuel Tax Act 2006*?

<sup>2</sup> Section 42-5 of the FT Act.

<sup>3</sup> Subsections 382-5(1), (2) and (3) of Schedule 1 to the *Taxation Administration Act 1953* (TAA).

<sup>4</sup> Subsection 382-5(3) of Schedule 1 to the TAA.

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4. You are required to keep records containing particulars of any choice, estimate, determination, assumptions or calculation you make.<sup>5</sup> These records should also contain the particulars of the basis on which, and the method by which, an estimate, determination or calculation was made.<sup>6</sup> Any electronic records are subject to the same record-keeping requirements as paper records including being retained for five years and in English. They must not be altered or manipulated. They must be capable of being retrieved and read when required.<sup>6AA</sup>

## **Class of entities**

5. This Determination applies to the class of entities who acquire or manufacture in, or import into, Australia, taxable fuel, to the extent that they do so for use in carrying on an enterprise or for generating electricity for domestic use.

## **Date of effect**

6. This Determination applies from 1 July 2006. However, the Determination does 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 the Determination.

7. If a taxpayer has a more favourable private ruling (which is legally binding), the taxpayer can rely on that private ruling if the income year to which it relates has ended or has commenced but not yet ended. However if the scheme covered by the private ruling has not commenced, and the period to which it relates has not yet commenced, this Determination applies to the taxpayer to the extent of the inconsistency only.

**Note:** The Addendum to this Determination that issued on 7 December 2011, explains the Commissioner's view of the law as it applied from 1 July 2010.

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**Commissioner of Taxation**

9 August 2006

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<sup>5</sup> For information regarding apportionment methods that may be used see Practical Compliance Guideline PCG 2016/8 *Fuel Tax Credits – apportioning fuel for fuel tax credits*.

<sup>6</sup> Subsection 382-5(4) of Schedule 1 to the TAA.

<sup>6AA</sup> *Electronics Transactions Act 1999*.

## Appendix 1 – Explanation

**ⓘ** *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.*

### Background

8. In this Determination, unless otherwise stated a reference to:
- 'Acquire' is a reference to 'acquire, manufacture in, or import into Australia' in section 41-5 of the FT Act and includes the purchase of fuel.
  - 'Fuel' is a reference to 'taxable fuel' as defined in section 110-5 of the FT Act.
  - 'Eligible activity' means an activity conducted in the course of carrying on an enterprise or generating electricity for domestic use, for which you have an entitlement to a fuel tax credit.
9. [Omitted.]

### Explanation

10. To support your entitlement to a fuel tax credit, you must keep complete and accurate records that show you acquired the fuel for use in carrying on your enterprise or generating electricity for domestic use. You must retain these records for at least five years after the completion of the transactions or acts to which they relate. The records must be in English or easily translated into English. You do not need to send these records to the Commissioner unless requested to do so.<sup>10</sup>

11. To support your entitlement to a fuel tax credit you also need to keep details of any transactions, acts, estimates or calculations involving the fuel that you acquire. This may include:

- records of fuel acquired;
- use of fuel in carrying on your enterprise and private use;
- the basis and method for the calculation of the quantity of fuel for use in carrying on your enterprise or for generating electricity for domestic use and your fuel tax credit; and
- any loss of the fuel, taxable supply of fuel or fuel you have no prospect of using in carrying on your enterprise or for generating electricity for domestic use.

12. Where you have claimed a net fuel amount based on fuel acquired for use in carrying on your enterprise or generating electricity for domestic use you will need to keep records of the fuel acquired and the estimated or intended use of fuel. You will also need to keep records of fuel actually used in carrying on your enterprise or generating electricity for domestic use to determine whether you have an increasing or decreasing fuel tax adjustment.<sup>11</sup>

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<sup>6A</sup> [Omitted.]

<sup>7</sup> [Omitted.]

<sup>8</sup> [Omitted.]

<sup>9</sup> [Omitted.]

<sup>10</sup> Section 382-5 of Schedule 1 to the TAA.

<sup>11</sup> Section 44-5 of the FT Act.

13. [Omitted.]
14. [Omitted.]
15. [Omitted.]
16. [Omitted.]
17. [Omitted.]
18. [Omitted.]
19. [Omitted.]
20. [Omitted.]

### ***Records of fuel acquired***

21. If you acquire fuel you will need to retain documents to support your claim of having acquired the fuel.<sup>13A</sup> If you obtain an invoice or a tax invoice<sup>14</sup> for your acquisition, that document should contain all the relevant information to support your claim. If your invoices or tax invoices do not contain the necessary information to substantiate that you have acquired the fuel you should keep a record of the following details:

- date of acquisition or delivery;
- type of product purchased or delivered;
- details identifying the supplier including an Australian Business Number (ABN);
- price paid per litre;
- quantity delivered; and
- location or address to which the fuel was delivered.<sup>15</sup>

The details of your fuel acquisitions should be readily available from your fuel supplier.

### ***Records of fuel manufactured***

22. If you manufacture fuel you will need to retain the following records to substantiate your claim for a fuel tax credit:

- a copy of your excise return showing the excise duty payable and date payable; and
- a record of payment of the excise duty payable including the date paid.

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<sup>12</sup> [Omitted.]

<sup>13</sup> [Omitted.]

<sup>13A</sup> For information, see [ato.gov.au/business/fuel-schemes/](http://ato.gov.au/business/fuel-schemes/)

<sup>14</sup> If you are registered or required to be registered for GST, your fuel tax credit is attributed to the tax period in which you hold a tax invoice. See Division 65 of the FT Act for attribution rules for fuel tax credits.

<sup>15</sup> Any document that the Commissioner treats as a tax invoice for GST can be used to substantiate your claim for a fuel tax credit. The Commissioner has the discretion under subsection 29-70(B) of the GST Act to treat a document as a tax invoice. For further information, see Law Administration Practice Statement PS LA 2004/11 *Treating a document as a tax invoice or adjustment note*.

***Records of fuel imported***

23. Goods imported into Australia are either entered for home consumption (within the meaning of the *Customs Act 1901*) or entered for warehousing and subsequently entered for home consumption when they are delivered from a Customs licensed warehouse.

24. If you import fuel you will need to retain the following records to support your claim for a fuel tax credit:

- the relevant import declaration with a status of 'FINALISED', that is, either:
  - an Import declaration: N10 – which provides details of values and charges for the imported goods that are initially entered for home consumption, and includes details of deferred GST and the total amount of customs duty payable; or
  - an Import Declaration (out of warehouse): N30 – this provides details of values and charges for the imported goods that are entered for home consumption when they are cleared out of a customs licensed warehouse. This document also includes details of deferred GST and the total amount of customs duty payable; and
- related matching official receipts from Customs (this document contains details of the total amount of customs duty paid).

***Use of fuel in carrying on your enterprise***

25. The fuel for which you are entitled to a fuel tax credit must be acquired for use or actually used in carrying on your enterprise. You need to keep records that show that you are carrying on an enterprise and that the fuel was acquired for use or actually used in activities done in the course of carrying on that enterprise.<sup>15A</sup> These records may include the following:

- records of business expenses that relate to activities conducted in the course of carrying on your enterprise;
- sales and production records;
- lease documents for example, for agricultural land or equipment;
- share farming contracts;
- vehicle and equipment use and maintenance records; and
- work contracts, or government requirements (such as licences).

26. You are required to keep normal business and commercial records relating to your other taxation obligations. If these records contain information showing that you are carrying on an enterprise and that the fuel was acquired for use or actually used in activities done in the course of carrying on that enterprise then you do not need to keep separate records to substantiate your claim.

26A. For further discussion on methods of apportionment and records that may be used to calculate and substantiate claims see Practical Compliance Guidelines PCG 2016/8 *Fuel Tax Credits – apportioning fuel for fuel tax credits* and PCG 2016/11 *Fuel tax credits – apportioning taxable fuel used in a heavy vehicle with auxiliary equipment*.

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<sup>15A</sup> For information see [ato.gov.au/business/fuel-schemes/](http://ato.gov.au/business/fuel-schemes/)

27. [Omitted.]
28. [Omitted.]
29. [Omitted.]
30. [Omitted.]
31. [Omitted.]
32. [Omitted.]
33. [Omitted.]

**Environmental criteria**

34. To be entitled to a fuel tax credit, operators of diesel powered motor vehicles with a GVM of more than 4.5 tonnes or with a GVM of 4.5 tonnes acquired before 1 July 2006<sup>17A</sup> are required to meet certain environmental criteria.<sup>18</sup> The vehicle must either:

- have been manufactured on or after 1 January 1996;
- be part of an accredited audited maintenance program;
- meet the Australian Transport Council's in-service emission standard (referred to in the National Environment Protection (Diesel Vehicle Emissions) Measure); or
- comply with a Government-endorsed maintenance schedule which includes an emission component.

35. If you operate a diesel powered motor vehicle with a GVM of more than 4.5 tonnes or with a GVM of 4.5 tonnes acquired before 1 July 2006<sup>18A</sup> you will need to keep records that show that you have complied with these requirements.<sup>19</sup> These records must be retained for at least five years.

36. [Omitted.]

**Electronic records**

36A. Electronic records are subject to the same record-keeping requirements as paper records, including encrypted records, e-commerce records and records stored in the cloud.<sup>22</sup>

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<sup>16</sup> [Omitted.]

<sup>17</sup> [Omitted.]

<sup>17A</sup> See item 12 of Schedule 3 to the *Fuel Tax (Consequential and Transitional Provisions) Act 2006* (Transitional Act).

<sup>18</sup> Section 41-25 of the FT Act. A diesel powered motor vehicle that is used in carrying on a primary production business and primarily on an agricultural property is not subject to environmental criteria.

<sup>18A</sup> See item 12 of Schedule 3 to the Transitional Act.

<sup>19</sup> For further information, see the Department of Infrastructure, Regional Development and Cities website [www.infrastructure.gov.au](http://www.infrastructure.gov.au).

<sup>20</sup> [Omitted.]

<sup>21</sup> [Omitted.]

<sup>22</sup> In this Determination, 'the cloud' means the provision of information technology resources as a service through the Internet to store, manage and process data (as opposed to use of a local server or a personal computer).

36B. If you choose to keep your business records electronically, your records to support your entitlement to fuel tax credits must be in a form that we can access and understand.

36C. Reports generated by a GPS technology/telematics system or the portal associated with the system may include information for a reporting period relevant for calculating fuel tax credits, for example between different uses of vehicles. These reports may include information that can be a record of transactions or acts such as:

- fuel purchases, for example, data from fuel card purchases;
- the uses of fuel including activities of vehicles in which the technology is installed, such as location and distance of the vehicles' travel;
- other details about fuel usage of the vehicle, idling activity (that is, the engine is operating but the vehicle is not moving) or, operation of the vehicle's auxiliary equipment.

36D. It is also essential for you to keep records which contain the particulars of the basis on which any of your calculations are made. For example:

- records to show the basis for inputs used to determine fuel used, for example, burn rates or engine management reports;
- details of the vehicles or fleet and its operations. If a sample of vehicles is used to establish a methodology, the relevance of the sample to the normal operations of the fleet;
- details about the classification of locations and reasons for categorising them in a certain way<sup>23</sup>; and
- any testing and checking undertaken to ensure that the GPS technology/telematics system has accurately recorded the locations and activities of the vehicles.

36E. A report that identifies information about the transactions and acts set out in paragraph 36C of this Determination for a tax period is a record<sup>24</sup> of those transactions and acts. This record can be used for apportioning fuel tax credits if it is produced in English and:

- identifies each operation of the vehicle in particular locations by providing the date of operation with at least one of the following:
  - times and distances of travel;
  - litres of fuel used; or
  - hours of operation.
- allows users of the report to export information to analyse trip details, specific activities, show data (such as kilometres travelled according to segments or categories) in working out their fuel tax credit claim.

36F. A report that identifies this information will not be the sole record to support a fuel tax credit claim. The report can also be used to support other business records such as fuel used in vehicles, trips undertaken to support delivery dockets and trip sheets, etcetera.

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<sup>23</sup> Subsection 382-5(4) of Schedule 1 to the TAA.

<sup>24</sup> Subsections 382-5(1), (2) and (3) of Schedule 1 to the TAA.

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## ***\$300 annual threshold***

37. You are not required to keep records showing proof that you acquired fuel if you claim less than \$300 in fuel tax credits in a year. However, the fuel that you acquire must be for use or actually used in generating electricity for domestic use.

## References

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*Previous draft:*

Not previously issued as a draft

*Related Rulings/Determinations:*

FTD 2006/3; FTD 2010/1

*Legislative references:*

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- ANTS(GST)A 1999 29-C
- ANTS(GST)A 1999 29-70(1B)
- ANTS(GST)A 1999 195-1
- Customs Act 1901
- EGCSA 2003
- EGCSA 2003 4
- FT Act 2006
- FT Act 2006 41-5
- FT Act 2006 41-25
- FT Act 2006 42-5
- FT Act 2006 43-10
- FT Act 2006 44-5
- FT Act 2006 Div 45
- FT Act 2006 Div 65
- FT Act 2006 110-5
- FT (Consequential and Transitional Provisions) Act 2006

- FT (Consequential and Transitional Provisions) Act 2006 Sch 3 10(3)
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- FT (Consequential and Transitional Provisions) Act 2006 Sch 3 11(3)
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- TAA 1953
- TAA 1953 Sch 1 105-55
- TAA 1953 Sch 1 382-5
- TAA 1953 Sch 1 382-5(1)
- TAA 1953 Sch 1 382-5(2)
- TAA 1953 Sch 1 382-5(3)
- TAA 1953 Sch 1 382-5(4)
- Tax Laws (2009 Measures No. 2) Act 2009

*Other references:*

- Law Administration Practice Statement PS LA 2004/11
- Law Administration Practice Statement PS LA 2010/3
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NO: 2006/3601

ISSN: 1833-9662

ATOlaw topic: Excise ~~ Fuel tax credits~~ Reporting