

FTR 2006/2W - Fuel tax: fuel tax credits for taxable fuel acquired or manufactured in, or imported into Australia for use in carrying on an enterprise involving 'mining operations' as defined in section 11 of the Energy Grants (Credit) Scheme Act 2003

⚠ This cover sheet is provided for information only. It does not form part of *FTR 2006/2W - Fuel tax: fuel tax credits for taxable fuel acquired or manufactured in, or imported into Australia for use in carrying on an enterprise involving 'mining operations' as defined in section 11 of the Energy Grants (Credit) Scheme Act 2003*

⚠ This document has changed over time. This is a consolidated version of the ruling which was published on *1 July 2012*



Fuel Tax Ruling

Fuel tax: fuel tax credits for taxable fuel acquired or manufactured in, or imported into Australia for use in carrying on an enterprise involving 'mining operations' as defined in section 11 of the *Energy Grants (Credit) Scheme Act 2003*

ⓘ 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 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.

Withdrawal

1. 1 July 2012. The Ruling continues to apply, in respect of the fuel tax law ruled upon, to all taxpayers within the specified class who acquire, manufacture in, or import into Australia, taxable fuel before 1 July 2012. Thus, the Ruling continues to apply to those taxpayers, even following its withdrawal, who acquire taxable fuel prior to the withdrawal of the Ruling (see paragraph 46 of TR 2006/10).

Commissioner of Taxation

4 October 2006

References

Previous draft:

Not previously issued as a draft

Related Rulings/Determinations:

FTD 2006/2; FTD 2006/3;
GSTR 2006/3; GSTR 2006/4;
MT 2006/1; PGBR 2004/1;
PGBR 2005/1; PGBR 2005/2;
PGBR 2005/3; TR 2006/10

Subject references:

- acquire
- acquire, or manufacture in, or import into, Australia
- attribution
- apportionment
- apportionment of fuel
- BAS
- beneficiation
- business
- business activity statement
- business purposes
- carrying on your enterprise
- cash
- credit
- decreasing fuel tax adjustment
- diesel fuel
- early payment
- election
- eligible use
- energy grant
- Energy Grants Scheme
- exclusion of certain substances
- exploration
- grants
- half credit
- in
- increasing fuel tax adjustment
- fuel tax adjustment
- fuel tax credit
- fuel tax credit system
- minerals
- mining for minerals
- mining operations
- mining construction activity
- mining transport activity
- mining vehicle activity
- mining waste activity
- mining water activity
- net fuel amount
- off-road diesel fuel
- ore
- place

- place adjacent to that place
- private access road
- private road
- prospecting
- public road
- quarrying or dredging operations
- removal of overburden
- solely
- sundry mining activity
- tax period
- taxable fuel
- transport
- use
- use in a mining operation

Legislative references:

- ANTS(GST)A 1999
- ANTS(GST)A 1999 9-20
- ANTS(GST)A 1999 Div 23
- ANTS(GST)A 1999 184-1
- ANTS(GST)A 1999 195-1
- EGCSA 2003
- EGCSA 2003 4
- EGCSA 2003 Pt 2 Div 3 Subdiv B
- EGCSA 2003 11
- EGCSA 2003 11(1)
- EGCSA 2003 11(1)(a)
- EGCSA 2003 11(1)(b)
- EGCSA 2003 11(1)(b)(i)
- EGCSA 2003 11(1)(b)(ii)
- EGCSA 2003 11(1)(c)
- EGCSA 2003 11(1)(d)
- EGCSA 2003 11(1)(e)
- EGCSA 2003 11(1)(f)
- EGCSA 2003 11(1)(g)
- EGCSA 2003 11(1)(h)
- EGCSA 2003 11(1)(i)
- EGCSA 2003 11(2)
- EGCSA 2003 11(2)(a)
- EGCSA 2003 11(2)(b)
- EGCSA 2003 11(2)(c)
- EGCSA 2003 11(3)
- EGCSA 2003 11(3)(b)
- EGCSA 2003 11(4)
- EGCSA 2003 11(5)
- EGCSA 2003 11(6)
- EGCSA 2003 11(7)(a)
- EGCSA 2003 11(7)(b)
- EGCSA 2003 12
- EGCSA 2003 12(a)
- EGCSA 2003 12(a)(i)
- EGCSA 2003 12(a)(ii)
- EGCSA 2003 12(b)

- EGCSA 2003 13
- EGCSA 2003 13(a)
- EGCSA 2003 13(b)
- EGCSA 2003 14
- EGCSA 2003 14(a)
- EGCSA 2003 14(b)
- EGCSA 2003 14(b)(i)
- EGCSA 2003 14(b)(ii)
- EGCSA 2003 14(c)
- EGCSA 2003 15
- EGCSA 2003 15(a)
- EGCSA 2003 15(b)
- EGCSA 2003 15(c)
- EGCSA 2003 15(d)
- EGCSA 2003 15(e)
- EGCSA 2003 16
- EGCSA 2003 16(a)
- EGCSA 2003 16(b)
- EGCSA 2003 17
- EGCSA 2003 17(a)
- EGCSA 2003 17(b)
- EGCSA 2003 17(c)
- EGCSA 2003 18
- EGCSA 2003 18(a)
- EGCSA 2003 18(b)
- EGCSA 2003 18(c)
- EGCSA 2003 18(d)
- EGCSA 2003 18(e)
- EGCSA 2003 18(e)(i)
- EGCSA 2003 18(e)(ii)
- EGCSA 2003 18(e)(iii)
- EGCSA 2003 19
- EGCSA 2003 20
- EGCSA 2003 20(a)
- EGCSA 2003 20(b)
- EGCSA 2003 51(2)
- EGCSA 2003 52
- EGCSA 2003 53
- EGCSA 2003 53(1)
- EGCSA 2003 53(2)
- EGCSA 2003 53(3)
- EGCSA 2003 53(6)
- EGCSA 2003 53(7)
- EGCSA 2003 55A
- EGCS Regulations 2003
- FTA 2006
- FTA 2006 41-5
- FTA 2006 41-5(1)
- FTA 2006 41-5(2)
- FTA 2006 Subdiv 41-B
- FTA 2006 41-25
- FTA 2006 Div 43
- FTA 2006 43-10
- FTA 2006 Div 44
- FTA 2006 44-5(3)
- FTA 2006 Subdiv 45-A
- FTA 2006 45-5
- FTA 2006 45-5(2)
- FTA 2006 Div 60
- FTA 2006 60-5
- FTA 2006 60-5(1)
- FTA 2006 61-15
- FTA 2006 61-20
- FTA 2006 Div 65
- FTA 2006 65-5(1)
- FTA 2006 65-5(2)
- FTA 2006 65-5(3)
- FTA 2006 65-5(4)
- FTA 2006 65-10(2)
- FTA 2006 95-5
- FTA 2006 110-5
- FT (Consequential and Transitional Provisions) Act 2006
- FT (Consequential and Transitional Provisions) Act 2006 Sch 3
- FT (Consequential and Transitional Provisions) Act 2006 Sch 3 9
- FT (Consequential and Transitional Provisions) Act 2006 Sch 3 9(3)
- FT (Consequential and Transitional Provisions) Act 2006 Sch 3 10
- FT (Consequential and Transitional Provisions) Act 2006 Sch 3 10(5)(b)
- FT (Consequential and Transitional Provisions) Act 2006 Sch 3 11
- FT (Consequential and Transitional Provisions) Act 2006 Sch 3 11(5)(b)
- FT (Consequential and Transitional Provisions) Act 2006 Sch 3 11(6)
- FT (Consequential and Transitional Provisions) Act 2006 Sch 3 11(7)
- FT (Consequential and Transitional Provisions) Act 2006 Sch 3 12
- FT (Consequential and Transitional Provisions) Act 2006 Sch 3 12A
- FT (Consequential and Transitional Provisions) Act 2006 Sch 3 12A(1)(c)(i)
- FT (Consequential and Transitional Provisions) Act 2006 Sch 3 12A(1)(e)(i)

- FT (Consequential and Transitional Provisions) Act 2006 Sch 3 12A(1)(e)(ii)
 - FT (Consequential and Transitional Provisions) Act 2006 Sch 3 12A(2)
 - FT (Consequential and Transitional Provisions) Act 2006 Sch 3 12A(3)(a)
 - FT (Consequential and Transitional Provisions) Act 2006 Sch 3 12A(3)(b)
 - PGBAA 2000
 - PGBAA 2000 9
 - PGBAA 2000 15(2)(db)
 - PGBAA 2000 15(2A)
 - Customs Act 1901
 - Customs Act 1901 164
 - Customs Act 1901 164(7)
 - Customs Act 1901 164(7)(a)
 - Customs Act 1901 164(7)(b)
 - Customs Act 1901 164(7)(c)
 - Customs Act 1901 164(7)(ca)
 - Customs Act 1901 164(7)(d)
 - Customs Act 1901 164(7)(w)
 - Customs Act 1901 164(7)(z)
 - Customs and Excise Legislation Amendment Act 1995
 - Customs Tariff Act 1995
 - Customs Tariff Act 1995 9
 - Excise Act 1901
 - Excise Act 1901 78A
 - Excise Tariff Act 1921
 - AIA 1901 21(b)
 - ITAA 1936 51(1)
 - TAA 1953
 - TAA 1953 Sch 1 105-55
 - Local Government Act 1928-1941 (Vic) 249(5)
 - Local Government Act 1999 (SA) 208(1)
 - Main Roads Act 1930 (WA) 13
 - Petroleum (Submerged Lands) Act 1967
 - Roads Act 1993 (NSW) 13
 - Roads and Jetties Act 1935 (Tas) 7
 - Real Property Act 1886 (SA)
 - Tax Laws Amendment (2009 Measures No. 2) Act 2009 Sch 7 item 3
 - Tax Laws Amendment (2009 Measures No. 2) Act 2009 Sch 7 16(4)
 - Transport Act 1983 (Vic) Sch 2
 - Transport Infrastructure Act 1994 (Qld) 23
- Case references:*
- Abbott Point Bulk Coal Pty Ltd & Anor v. Collector of Customs (1992) 35 FCR 371; (1992) 15 AAR 365
 - Re Adelaide Brighton Cement Ltd and Chief Executive Officer of Customs [2002] AATA 688; (2002) 50 ATR 1123
 - Attorney-General; Ex rel Australian Mutual Provident Society v. Corporation of the City of Adelaide [1931] SASR 217
 - Attorney-General for the Northern Territory v. Minister for Aboriginal Affairs (NSW G235 of 1988) unreported 3 August 1988
 - Attorney-General for the Northern Territory of Australia v. Minister for Aboriginal Affairs and Others (1989) 23 FCR 536
 - Australian National Railways Commission v. Collector of Customs (SA) (1985) 8 FCR 264; (1985) 69 ALR 367
 - Barker v. R (1983) 153 CLR 338; (1983) 47 ALR 1; (1983) 57 ALJR 426
 - Re BHP Australia Coal Ltd and Collector of Customs Q91/446 AATA No. 9266; (1994) 32 ALD 773
 - Re BHP Billiton Petroleum Pty Ltd and Chief Executive Officer of Customs (2002) 69 ALD 453; (2002) 50 ATR 1156; [2002] AATA 705
 - BHP Billiton Petroleum Pty Ltd v. Chief Executive Officer of Customs [2003] FCAFC 61; (2003) 52 ATR 491
 - Re BHP Petroleum Pty Ltd and Collector of Customs (1987) 11 ALD 413; (1987) 6 AAR 245
 - Brodie and Anor v. Singleton Shire Council (2001) 206 CLR 512; (2001) 180 ALR 145
 - Re Central Norseman Gold Corporation Limited and

- Collector of Customs, Western Australia AAT No. W84/118; (1985) 8 ALN N288
- Chief Executive Officer of Customs v. Adelaide Brighton Cement Ltd [2004] FCAFC 183
- Chief Executive Officer of Customs v. WMC Resources Ltd (as agent for East Spar Alliance) (1998) 87 FCR 482; (1998) 158 ALR 241
- Collector of Customs v. BHP Australia Coal Ltd (1994) 53 FCR 499
- Collector of Customs v. Cliffs Robe River Iron Associates (1985) 7 FCR 271; (1985) 7 ALN N269a
- Collector of Customs v. Pozzolanic Enterprises Pty Limited (1993) 43 FCR 280; (1993) 115 ALR 1
- Collector of Customs v. Rottneest Island Authority (1994) 119 ALR 406; (1994) 48 FCR 177
- Collector of Customs, Tasmania v. Flinders Island Community Association (1985) 7 FCR 205; (1985) 60 ALR 717
- Commissioner of Taxation v. Ostwald Bros Civil Pty Ltd [2008] FCAFC 99; (2008) 167 FCR 588; (2008) 70 ATR 893
- Cowell v. Rosehill Racecourse Co Ltd (1937) 56 CLR 605; [1937] ALR 273; (1937) 11 ALJR 32 - HCA - 22/04/1937
- Dawson Rockwater Joint Venture between Dawson Engineering Pty Ltd and Brown & Root Pty Ltd v. Chief Executive Officer of Customs [1998] FCA 1010
- Energy Resources of Australia v. Chief Executive Officer of Customs (1998) 81 FCR 139; (1998) 97 LGERA 405; (1998) 26 AAR 487
- Re Esso Australia Ltd and Chief Executive Officer of Customs V96/1393 V96/1394 AAT No. 12919; [1998] AATA 366
- Federal Commissioner of Taxation v. BHP Minerals Ltd (1983) 51 ALR 166; (1983) 14 ATR 389; 83 ATC 4407
- Federal Commissioner of Taxation v. Imperial Chemical Industries Australia (1972) 127 CLR 529; (1972) 3 ATR 321; 72 ATC 4213
- Federal Commissioner of Taxation v. Payne [2001] HCA 3; (2001) 46 ATR 228; 2001 ATC 4027; (2001) 202 CLR 93; (2001) 177 ALR 270; (2001) 75 ALJR 442
- Re Freight Rail Corporation and Anor and Chief Executive Officer of Customs [2000] AATA 175, N98/1352 & 1353; (2000) 44 ATR 1028
- Freight Rail Corporation v. Chief Executive Officer of Customs (2000) 107 FCR 15; [2000] FCA 1796
- Re Goodyear Australia Ltd and Others and Chief Executive Officer of Customs AAT No. 13035; [1998] AATA 488
- Re Hampton Transport Services Pty Ltd and Chief Executive Officer of Customs (2000) 34 AAR 130; (2001) 49 ATR 1005; [2001] AATA 894
- Kiosses v. Corporation of the City of Henley and Grange (1971) 6 SASR 186; (1971) 33 LGRA 286
- Lincoln Hunt Australia Pty Ltd v. Willesee (1986) 4 NSWLR 457 - NSWSC - 13/02/1986
- Re McDermott Industries and others and Chief Executive Officer of Customs (7 July 1997) W96/238 AAT No. 12014; (1997) 47 ALD 134
- North Australian Cement Ltd v. Federal Commissioner of Taxation (1969) 119 CLR 353; (1969) 1 ATR 225; 69 ATC 4077
- Permanent Trustee Company of New South Wales Ltd v. Campbelltown Municipal Council (1960) 105 CLR 401; [1961] ALR 164; (1960) 6 LGRA 340
- President of the Shire of Narracan v. Leviston (1906) 3 CLR 846; (1906) 12 ALR 294

- Randwick Municipal Council v. Rutledge (1959) 102 CLR 54
- Ronpibon Tin NL v. FC of T (1949) 78 CLR 47
- Sisters of Mercy Property Association v. Newtown and Chilwell (1944) 69 CLR 369
- State Rail Authority (NSW) v. Collector of Customs (1991) 33 FCR 211; 14 AAR 307
- Vickery v. Municipality of Strathfield (1911) 11 SR (NSW) 354; (1911) 28 WN (NSW) 107 - NSWSC - 31/08/1911
- Re Wandoo Alliance Pty Ltd and Chief Executive Officer of Customs [2001] AATA 801; (2001) 34 AAR 98
- Re Water Administration Ministerial Corporation and Chief Executive Officer of Customs (13 August 1997) N96/1212 AAT No. 12111
- Re Western Mining Corporation Ltd and Collector of Customs [1984] AAT W83/13 (Unreported, 30 March 1984)

Other references:

- Customs and Excise Legislation Amendment Bill 1995
- Explanatory Memorandum to the Customs and Excise Legislation Amendment Bill 1995
- Revised Explanatory Memorandum to the Fuel Tax Bill 2006 and Fuel Tax (Consequential and Transitional Provisions) Bill 2006
- Second Reading Speech, Customs and Excise Legislation Amendment Bill 1995
- Supplementary Explanatory Memorandum to the Customs and Excise Legislation Amendment Bill 1995
- The Macquarie Dictionary, 2001, rev. 3rd edn, The Macquarie Library Pty Ltd, NSW

ATO references

NO: 2006/11198

ISSN:

ATOlaw topic: Fuel Tax