

FTR 2006/3W - Fuel tax: fuel tax credits for taxable fuel acquired or manufactured in, or imported into Australia for use in carrying on an enterprise involving 'forestry' as defined in section 35 of the Energy Grants (Credit) Scheme Act 2003

⚠ This cover sheet is provided for information only. It does not form part of *FTR 2006/3W - Fuel tax: fuel tax credits for taxable fuel acquired or manufactured in, or imported into Australia for use in carrying on an enterprise involving 'forestry' as defined in section 35 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 'forestry' as defined in section 35 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. This Ruling is withdrawn and ceases to have effect on 1 July 2012.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:

PGBR 2004/1; PGBR 2005/1;
PGBR 2005/2; PGBR 2005/3;
TD 2003/12; MT 2006/1;
FTD 2006/2; FTD 2006/3;
GSTR 2006/3; GSTR 2006/4;
TR 2006/10

Subject references:

- acquire
- acquire, manufacture in, or import into, Australia
- apportionment
- carry on an enterprise
- chipmill
- commercial undertaking
- contractors
- diesel fuel
- eligible use
- energy grant
- energy Grants (Credits) Scheme
- enterprise
- in
- in the course of
- felling standing trees
- forest
- forestry, meaning of
- grants
- maintaining roads
- making roads
- meaning of forestry
- mill
- milling of timber
- plantation
- planting or tending of trees
- processing of timber
- public road
- road vehicle
- sawmill
- tending of trees
- thinning of standing timber
- transporting of timber
- timber
- use

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 21
- EGCSA 2003 22
- EGCSA 2003 34
- EGCSA 2003 35
- EGCSA 2003 35(a)
- EGCSA 2003 35(b)
- EGCSA 2003 35(c)
- EGCSA 2003 35(d)
- EGCSA 2003 35(e)
- EGCSA 2003 35(f)
- 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 41-15
- 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(3)
- FTA 2006 65-5(4)
- FTA 2006 65-5(5)
- 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(1)(f)
- 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)
- PGBA Act 2000
- PGBA Act 2000 9
- PGBA Act 2000 15(2A)
- PGBA Act 2000 15(2)(db)
- AIA 1901 21
- AIA 1901 21(b)
- Acts Interpretation Amendment Act 2011
- Customs Act 1901
- Customs Act 1901 164
- Customs Act 1901 164(7)
- Customs Act 1901 164(7)(d)
- Customs Tariff Act 1995
- Customs Tariff Act 1995 9
- Diesel Fuel Taxes Legislation Amendment Act 1982
- Excise Act 1901
- Excise Act 1901 78A
- Excise Tariff Act 1921
- Interstate Road Transport Regulations 1986 2
- ITAA 1936 51(1)
- ITAA 1936 82KZMG
- ITAA 1997 43-72(1)
- TAA 1953
- TAA 1953 Sch 1 105-55
- Tax Laws Amendment (2009 Measures No. 2) Act 2009 Sch 7 16(4)
- Tax Laws Amendment (2009 Measures No. 2) Act 2009 Sch 7 16(5)
- Forest Products Act 2000 (WA)
- Forestry Act 1916 (NSW)
- Forestry Act 1916 (NSW) 8A(1)(a)
- Forestry Act 1916 (NSW) 11(1)(e)
- Forestry Act 1920 (Tas)
- Forests Act 1958 (Vic)
- Forests Act 1958 (Vic) 20
- Forestry Practices Code (Tas) Ch B
- Local Government Act 1999 (SA) 208(1)
- Main Roads Act 1930 (WA) 13
- Real Property Act 1886 (SA)
- Roads Act 1993 (NSW)
- Roads Act 1993 (NSW) 7
- Roads Act 1993 (NSW) 12
- Roads Act 1993 (NSW) 13
- Roads and Jetties Act 1935 (Tas) 7
- Sales Tax (Exemptions and Classifications) Act 1935 Sch 1 14
- Transport Act 1983 (Vic)
- Transport Act 1983 (Vic) 16
- Transport Act 1983 (Vic) Sch 2
- Transport Act 1983 (Vic) Sch 5 1

- Transport Infrastructure Act
1994 (Qld) 23

Case references:

- 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 G 235 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
- Brodie and Anor v. Singleton
Shire Council (2001) 206 CLR
512; (2001) 180 ALR 145
- Re Brymay Forests Pty Ltd and
Collector of Customs Victoria No.
V85/305 AAT No. 2496 24
December 1985; (1985) 9 ALN
N177
- Chief Executive Officer of
Customs v. WMC Resources Ltd
(as agent for East Spar Alliance)
(1998) 87 FCR 482; (1998) 158
ALR 241
- CIC Insurance Ltd v. Bankstown
Football Club Ltd (1997) 187 CLR
384
- Re City of Nunawading and
Comptroller-General of Customs
No. V93/540 AAT No. 9758;
(1994) 36 ALD 628
- Clean Investments Pty Ltd v.
Commissioner of Taxation [2001]
FCA 80 14 February 2001; (2001)
105 FCR 248; (2001) 184 ALR
314; 2001 ATC 4068; (2001) 46
ATR 248
- Collector of Customs v.
Pozzolanic Enterprises Pty
Limited (1993) 43 FCR 280;
(1993) 115 ALR 1
- Commissioner of Taxation v.
Chubb Australia Ltd (1995) 128
ALR 489; (1995) 56 FCR 557

- Commissioner of Taxation v.
Sherwood Overseas Pty Ltd
(1985) 85 ATC 4267; (1985) 16
ATR 473; (1985) 75 FLR 474
- Cooper Brooks (Wollongong) Pty
Ltd v. FCT (1981) 147 CLR 297
- OR Cormack Pty Ltd v. Federal
Commissioner of Taxation (1992)
23 ATR 151; (1992) 92 ATC 4121
- Cowell v. Rosehill Racecourse
Co Ltd (1937) 56 CLR 605; [1937]
ALR 273; (1937) 11 ALJR 32 -
HCA - 22/04/1937
- Re TJ Depiazzi and Sons v.
Collector of Customs NSW No.
W92/114 AAT No. 8770, 11 June
1993; (1993) 17 AAR 557
- Deputy Commissioner of
Taxation (NSW) v. Newbound &
Co Pty Ltd (1952) 26 ALJR 386;
(1952) 10 ATD 59
- Deputy Commissioner of
Taxation v. Stewart (1984) 154
CLR 385; (1984) 52 ALR 253
- Diethelm Manufacturing Pty Ltd
v. Commissioner of Taxation
(1993) 44 FCR 450; (1993) 116
ALR 420
- 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
- Hygienic Lily Ltd v. Deputy
Commissioner of Taxation (1987)
13 FCR 396; (1987) 71 ALR 441
- ICI Australia Operations Pty Ltd.
v. Deputy Commissioner of
Taxation (Vic) 87 ATC 5110;
(1987) 19 ATR 647
- Kentucky Fried Chicken Pty Ltd
v. Federal Commissioner of
Taxation (1986) 86 ATC 4701;
(1986) 17 ATR 1039
- 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 MSD Constructions Pty Ltd
and CEO of Customs
(Unreported, AAT, Webster SM,
Davis M, Cunningham M, 11
September 1996) T95/130, Hobart

- 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

- Ronpibon Tin NL v. FC of T (1949) 78 CLR 47

- State Rail Authority of 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

- Wesfi Pty Ltd v. Collector of Customs WA No. W84/46, 20 December 1984; (1984) 7 ALN N8

Other references:

- Explanatory Memorandum to the Energy Grants (Credits) Scheme Bill 2003

- Explanatory Memorandum to the Diesel Fuel Taxes Legislation Amendment Bill 1982

- Diesel Fuel Taxes Legislation Amendment Bill 1982

- Revised Explanatory Memorandum to the Fuel Tax Bill 2006 and Fuel Tax (Consequential and Transitional Provisions) Bill 2006

- The Macquarie Dictionary, 2001, rev. 3rd edn, The Macquarie Library Pty Ltd, NSW

- <<http://www.vicroads.vic.gov.au>>

ATO references

NO: 2006/11197
ISSN:
ATOlaw topic: Fuel Tax