

EXC 2006/6 -



Excise concessional spirit approvals guidelines 2006 (No. 1)

Excise Act 1901

Guidelines for approving the use of spirit for the purposes of subitem 3.7 of the Schedule to the *Excise Tariff Act 1921*

I issue these guidelines under subsection 77FF(5) of the *Excise Act 1901* (Excise Act).

Citation

1. This instrument may be cited as the *Excise concessional spirit approvals guidelines 2006 (No. 1)*.

Legislative instrument

2. These guidelines are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Commencement

3. These guidelines commence on 1 July 2006.

Interpretation

4. **CEO** means the Commissioner of Taxation (see subsection 4(1) of the Excise Act).

Object

5. These guidelines are made in accordance with subsection 77FF(5) of the Excise Act.
6. Under that provision, the CEO must develop guidelines that he or she must have regard to when considering whether or not to grant a person an approval under subsection (1) to use spirit for the purposes of subitem 3.7 of the Schedule to the *Excise Tariff Act 1921*.

Guidelines

7. The CEO must have regard to the information provided in the written application form.
8. The written application form may require such information as:
 - the details of the applicant (including ABN where applicable);

- the address at which spirit is to be stored;
 - the quantity of spirit to be used;
 - details of the authorised supplier;
 - the specified industrial, manufacturing, scientific, medical, veterinary or educational purpose; and
 - other matters that the CEO considers relevant to the application.
9. The use of spirit for a specified industrial, manufacturing, scientific, medical, veterinary or educational purpose would ordinarily be a use in the course or furtherance of carrying on an enterprise.
- Note:** the expression 'in the course or furtherance of carrying on an enterprise' is used in the *A New Tax System (Australian Business Number) Act 1999* and has the same meaning in this instrument as in that Act.
10. An industrial, manufacturing, scientific, medical, veterinary or educational purpose does not include:
- 10.1. use of the spirit as a beverage or in the production of a beverage (other than as an incidental input);
 - 10.2. use of the spirit for an intoxicating effect in a product that is not a beverage;
 - 10.3. use of the spirit as a fuel or a component in fuel;
 - 10.4. the on-supply of the spirit to another person (unless expressly permitted by the CEO in an approval granted under subsection 77FF(1)).
11. In granting an approval to a person under subsection 77FF(1), the CEO must be satisfied that:
- 11.1. the person intends to use the spirit for an industrial, manufacturing, scientific, medical, veterinary or educational purpose;
 - 11.2. it is unlikely that the spirit will be used for another purpose, having regard to:
 - 11.2.1. the quantity of spirit specified in the approval under subsection 77FF(2);
 - 11.2.2. conditions (if any) to which the approval may be subject; and
 - 11.2.3. other matters the CEO considers to be relevant in order to reduce risk to the revenue or ensure compliance with the Excise legislation.
12. In determining the likelihood that spirit may be used for another purpose, the CEO may have regard to the tax compliance history of the person within 4 years before the application was made.

Note: A person who receives duty-free spirit under an approval covered by these guidelines may be required to account for its use. If the person fails to account to the satisfaction of the CEO, the person may become liable to pay an amount equal to the duty that would have been payable if the approval had not been made: subsection 77FH(3) of the Excise Act.

Dated this 30th day of June 2006

Signed Paul Southwell

Paul Dennis Southwell

Acting Deputy Commissioner and Delegate of the Commissioner of Taxation

