

EXC 2009/3 - Explanatory statement -



Excise (Volume of Fuels- Temperature Correction) Determination 2009 (No. 1)

Explanatory Statement

General Outline of Instrument

1. This Explanatory Statement is provided in accordance with section 26 of the *Legislative Instruments Act 2003*.
2. Under section 65 of the *Excise Act 1901* the CEO may make rules for determining the volume of excisable goods. Paragraphs 2.37 to 2.42 of the Explanatory Memorandum to the amending Bills provide commentary on the intended operation of section 65.
3. This instrument is made under section 65 of the Excise Act. It provides rules for working out the excisable volume of fuel that is being entered for home consumption, and for the purposes of working out the amount of excise duty payable on such fuel.
4. The method for determining the volume of fuel is currently administered by placing a condition on a permission issued pursuant to section 61C of the Excise Act.

Date of effect

5. The determination will have effect from 1 July 2009.

Effect of this instrument:

6. The determination specifies the methods available for determining the volume of excisable fuel.
7. The determination also specifies the types of fuel and aggregated clearances as factors that permit the use of a particular method.

The rules

8. The volume of fuel must be determined at the time of delivery for home consumption using one of the permissible methods.
9. Pursuant to Method 1, a person whose excise licensed establishment has aggregated clearances of transport fuels exceeding 50,000 litres per accounting period must use the American Society for Testing and Materials (ASTM) volume correction factors to convert the volume of fuel at ambient temperature to volume of fuel at 15 degrees Celsius.

Example: If 1 litre of diesel has a density of 840 kg/m³ at 15° Celsius, then 30,000 litres of diesel at 30° Celsius would need to be adjusted by the volume correction

factor of 0.9873 m³ (as per the ASTM Petroleum Measurement Tables) to determine its volume at 15° Celsius. Application of the relevant factor would result in an adjusted volume of 29,619 litres. Excise duty is then calculated on 29,619 litres for a person whose excise licensed establishment has aggregated clearances of transport fuels exceeding 50,000 litres per accounting period.

10. A person whose excise licensed establishment does not have aggregated clearances of transport fuels exceeding 50,000 litres per accounting period may either correct the volume of fuel to 15 degrees Celsius (Method 1) or use the measured volume of fuel at ambient temperature (Method 2).

Example: Following on from the example at paragraph 9, if that person's aggregated clearances of transport fuels are less than 50,000 litres per accounting period, that person may either correct the volume of fuel to 15° Celsius (i.e. 29,619 litres) or use the measured volume of fuel at ambient temperature (i.e. 30,000 litres).

11. Aggregated clearances means the volume of fuel delivered for home consumption in an accounting period of 12 months from all excise licensed establishment/s based on historical data or the volume of fuels reasonably expected to be delivered for home consumption in an accounting period if no historical data is available.
12. The period adopted for the calculation of aggregated clearances is the accounting period adopted for income tax purposes as provided in section 18 of the *Income Tax Assessment Act 1936*.
13. A person may not change the method for determining the volume of fuel within an accounting period.
14. Transport fuels are defined as gasoline (including that used in an aircraft), diesel, kerosene (for use in an aircraft), fuel oil and blends consisting primarily of gasoline or diesel.

Consultation

15. Consultations took place with major industry representatives through the Petroleum Corporate Consultative Forum in September 2007 and since that time through direct contact with 12 second tier entities. None of the industry consultation drew any comments that would indicate the proposals in the draft determination should not proceed.
16. The legislative instrument is expected to have a low compliance impact comprised of low implementation costs and a minor reduction in ongoing compliance costs in relation to a very small number of taxpayers.

Tim Dyce
Deputy Commissioner and Delegate of the Commissioner of Taxation
22 June 2009

Related Rulings/Determinations:

Previous Rulings/Determinations:

Subject references:

Excise

Excisable goods

Excise Duty

Legislative references:

Excise Act 1901 section 65

Excise Laws Amendment (Fuel Tax Reform and Other Measures) Act 2006

Excise Tariff Amendment (Fuel Tax Reform and Other Measures) Act 2006

Case references:

Other references:

ATO references

NO:

ISSN: