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# Fuel Tax: Correcting Fuel Tax Errors Determination 2013

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## Explanatory Statement

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### General Outline of Determination

1. The Determination is made under subsection 60-10(1) of the *Fuel Tax Act 2006*.
2. The Determination allows you to correct fuel tax errors, made in an earlier tax period, in a later tax period in the specified circumstances.
3. The Determination is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

### Application

4. The Determination commences the day after its registration (the commencement date). It applies in working out a net fuel amount for a tax period for which you give the Commissioner a return on or after the commencement date.
5. The relevant date is the date you give the Commissioner a return for a tax period in which you correct the error that was made in an earlier tax period. If that date is on or after the commencement date the Determination applies to you, subject to paragraph 6 below.
6. As section 60-10 was inserted with effect from 1 July 2012, it does not apply in working out a net fuel amount for a tax period that started before 1 July 2012.

#### Example 1

In preparing its return for the quarterly tax period ending 31 March 2013, Carlene's Cookies realises, 5 days after the commencement date of the Determination, it made an error in working out its net amount for the December 2011 quarter.

As Carlene's Cookies is giving its return for the quarterly tax period ending 31 March 2013 on or after the commencement date, the Determination applies to Carlene's Cookies even though the error was made in an earlier tax period and corrected in a tax period that ended before the commencement date.

However, the Determination would not apply if Carlene's Cookies wanted to correct the error in a return for a tax period that started before 1 July 2012.

### Object and purpose of the Determination

7. The Determination's purpose, as stated in Clause 4, is to specify the circumstances in which you may, in working out your net fuel amount for a tax period, correct errors that were made in working out your net fuel amount for an earlier tax period.
8. In specifying the circumstances in which the Determination applies, the Commissioner took into account the integrity of the attribution rules, revenue impacts (through general interest charges foregone), compliance and administrative savings.

## What is the effect of the Determination

9. In practical terms, you correct the error made in an earlier tax period by taking into account in the next return you lodge with the Commissioner.
10. You can choose to apply the Determination instead of revising the return or requesting the Commissioner to amend the relevant assessment, for the earlier tax period. This minimises your compliance costs and any liability you may have to the general interest charge or administrative penalties. The Commissioner's administrative costs are also minimised as applying the Determination will result in reduced costs in processing revised returns or requests for amendments.
11. The compliance cost is expected to be low. An assessment of the compliance cost indicates that the Determination will have minor effect at implementation and no change in ongoing compliance costs.

## What is an error?

12. An **error** is a mistake you made in working out your net fuel amount for a tax period that would, if it was the only mistake made in the tax period, have resulted in your net fuel amount or assessed net fuel amount being overstated or understated. Thus, an error must result in the net fuel amount or assessed net fuel amount for the relevant tax period being incorrect (i.e. it must be quantified).

### Example 2

On 15 April 2013, Noodle Developments discovers it has not correctly accounted for fuel tax credits on acquisitions made for the tax period ended 31 December 2012, for which a return was lodged on 21 January 2013. However, it is unable to quantify the amounts and decides to engage an accounting firm to review its accounts.

On 18 July 2013, the accounting firm finalises the review for Noodle Developments and determines the amount of the unreported fuel tax credit (\$5,000) that relates to the December 2012 tax period. As the mistake has now been quantified, it is an error that the Determination might apply to.

13. You can make either a debit or credit error. The Determination focuses on the particular error and its effect on the net fuel amount or assessed net fuel amount in the earlier tax period, as if it was the only mistake made in that earlier tax period. Where there are multiple errors made in working out a net fuel amount for an earlier tax period, each individual error must be examined to determine whether it is a debit or credit error. The Determination then prescribes the circumstances under which each error may be corrected in working out your net fuel amount for the tax period.
14. A **debit error** is a mistake you made in working out your net fuel amount for a tax period that would, if it was the only mistake made in the tax period, have resulted in the net fuel amount or assessed net fuel amount being understated.
15. Examples of debit errors include:
  - overstating fuel tax credit claims, for example, including fuel tax credits for an acquisition twice; and
  - omitting or understating an increasing fuel tax adjustment or overstating a decreasing fuel tax adjustment.
16. A **credit error** is a mistake you made in working out your net fuel amount for a tax period that would, if it was the only mistake made in the tax period, have resulted in the net fuel amount or assessed net fuel amount being overstated.
17. Examples of credit errors include:
  - under claiming a fuel tax credit for an acquisition of taxable fuel; or

- omitting or understating a decreasing fuel tax adjustment or overstating an increasing fuel tax adjustment.

### ***Errors and fuel tax credits***

18. If you delay attributing a fuel tax credit and take it into account in a later tax period, instead of the tax period to which it would otherwise be attributable, you have not made an error. This is because subsection 65-5(4) of the Fuel Tax Act provides for a later attribution of a fuel tax credit if you have not taken it into account, subject to the time limits prescribed by Division 47 of the Fuel Tax Act.
19. Division 47 of the Fuel Tax Act provides that, subject to certain exceptions, your entitlement to a fuel tax credit for the acquisition, importation or manufacture of taxable fuel ceases unless you include them in your net fuel amounts within 4 years set out in section 47-5 of the Fuel Tax Act.
20. If you take a fuel tax credit into account in a particular tax period but incorrectly calculate the amount, this is an error because you have made a mistake. Assuming that it is the only mistake made in the tax period, it results in the net fuel amount or the assessed net fuel amount being overstated or understated.

#### **Example 3**

Before lodging her monthly return for the September 2013 tax period, Tess discovers that she made a mistake. She only reported fuel tax credits of \$10,000 instead of \$15,000 in the return she lodged for the August 2013 tax period.

The \$5,000 under claim of the fuel tax credits is a credit error because it resulted in her assessed net fuel amount for the August 2013 tax period being overstated.

Tess can correct this error by taking the \$5,000 into account in her return for the September 2013 tax period.

If, on the other hand, Tess met all the requirements to attribute the \$15,000 fuel tax credits to the August 2013 tax period, but did not attribute the entire \$15,000 until the September 2013 tax period, she has not made an error in the August 2013 tax period. Rather, the attribution of the fuel tax credits was delayed in accordance with subsection 65-5(4) of the Fuel Tax Act.

### ***Errors and adjustments***

21. If a change to an amount you have taken into account in an earlier tax period results in an adjustment in a later tax period under the Fuel Tax Act, you have not made an error in that earlier tax period. For example, an adjustment that arises because of a change in the extent of use of taxable fuel by operation of Division 44 of the Fuel Tax Act, and attributed in accordance with section 65-10 of the Fuel Tax Act in a later tax period is not an error.
22. However, where you omit an adjustment or incorrectly work out, you have made an error because it is a mistake that would, have if it was the only mistake made in the tax period, resulted in the net fuel amount for the earlier tax period being overstated or understated.

### **Circumstances that apply to correcting an error**

#### ***Error must relate to an amount of fuel tax credit, or adjustment***

23. Clause 5(a) provides that the error must relate to an amount of fuel tax credit or any adjustment under the Fuel Tax Act.

### ***Time limits still apply in considering whether an error can be corrected***

24. Clause 5(b) provides that an error made in working out the net fuel amount for an earlier tax period that started on or after 1 July 2012, may only be corrected in a tax period that starts during the four-year period of review for the assessment of the net amount for that earlier tax period.
25. The period of review starts on the day the Commissioner gives you a notice of assessment and ends four years from the day after the notice of assessment is given. An assessment of your net fuel amount is generally made on the day you lodge your return. The return is taken to be the notice of assessment given on the same day.

#### **Example 4**

ABC Ltd, a monthly lodger, made an error in the September 2013 tax period that resulted in its assessed net fuel amount for that tax period being overstated. As that return was lodged and the net fuel amount assessed on 1 October 2013, ABC Ltd may only correct that error in working out a net fuel amount for a tax period that starts between 1 October 2013 and 2 October 2017.

26. Similarly, Clause 5(c) provides that you cannot correct an error made in a tax period that started on or before 30 June 2012 if it relates to an amount to which the four year time limits in sections 105-50 (time limit on recovery by the Commissioner) and 105-55 (time limit on refunds etc. from the Commissioner) in Schedule 1 to the *Taxation Administration Act 1953* (TAA) apply to cease the liability of a payment or an entitlement to a refund or credit.
27. The four year time limit in section 105-55 does not apply if the Commissioner notifies your or you notify the Commissioner of your entitlement to the refund, other payment or credit in respect of a tax period within four years after the end of that tax period.

#### **Example 5**

Sajeev Enterprises lodges quarterly returns and has a current GST turnover of \$4 million. In March 2014, Sajeev Enterprises carries out a review of its past returns and discovers the following errors:

<b>Tax period</b>	<b>Error</b>	<b>Credit error</b>
December 2007	Clerical error in transcribing acquisition of fuel	\$1,000
September 2010	Under claimed fuel tax credits	\$22,000
September 2012	Clerical error	\$18,000
June 2013	Omitted attributing a decreasing fuel tax adjustment	\$2,000
	<b>Total</b>	<b>\$43,000</b>

Sajeev Enterprises lodges its return for the March 2014 tax period on 28 April 2014. Sajeev Enterprises did not give the Commissioner a notification under section 105-55 in Schedule 1 to the TAA in relation to the credit error that was made in the December 2007 tax period. Therefore, the time limit for correcting that error expired on 31 December 2011. As a result, the error cannot be corrected.

The \$22,000 error in the September 2010 tax period can be corrected in the March 2014 return as it was lodged within 4 years from the end of the September 2010 tax period (that is within the time limit prescribed by section 105-55 in Schedule 1 to the TAA).

The September 2012 and June 2013 errors, totalling \$20,000, can also be corrected in the March 2014 return as they are being corrected in a tax period that starts within the four-year period of review.

### ***Compliance activity can impact on correcting an error***

28. Clause 5(d) provides that you can correct an error if, at the time of lodging the return, the error does not relate to a matter that is specified as being subject to compliance activity, and is not made in working out your net fuel amount for an earlier tax period that is subject to compliance activity.
29. By contrast, where an error relates to a matter that is specified as being subject to compliance activity or is made in working out your net fuel amount for an earlier tax period that is subject to compliance activity, you cannot correct that error by applying this Determination. The term 'matter' in this context takes on its ordinary meaning and includes any issue or enquiry that is specified as being subject of the compliance activity.

#### **Example 6**

In June 2014, the ATO notifies Grote Construction Co. that it is conducting a review of its past fuel tax credit claims for the company's on-road activities. In preparation, Grote Construction Co. undertakes its own review of both its on-road and off-road activities. Grote Construction Co. discovers that it made a transposition error when calculating the amount of fuel acquired for its on-road activities. As this error relates to the matter that is specified as being subject to compliance activity, Grote Constructions Co. cannot correct the errors by applying the Determination.

#### **Example 7**

In June 2013, the ATO notifies Broome Agricultural Co. that it is conducting a general review of its fuel tax affairs for each of the monthly tax periods ending 31 January 2012 to 31 January 2013. Broome Agriculture Co. also conducts its own review and discovers an error made in working out its net fuel amount for the tax period ending 31 December 2011 tax period. As the error is made in an earlier tax period that is not subject to compliance activity (and is not related to a matter that is specified as being subject to compliance activity), Broome Agriculture Co. can correct the error by applying the Determination, if the other conditions are satisfied.

30. A ***compliance activity*** is an examination of your fuel tax affairs and includes matters related to reviews, audits, verification checks, record-keeping reviews/audits and other similar activities. Your fuel tax affairs include matters relating to your entitlement to be paid a fuel tax refund, as well as matters relating to fuel tax administrative compliance such as record-keeping, book keeping and lodgment of returns.
31. A compliance activity begins on the day the Commissioner tells you that an examination is to be made of your fuel tax affairs and ends on the day when one of the following occurs: the Commissioner gives you a notice of assessment or amended assessment for the tax periods under examination or tells you that the examination has been finalised. Usually, the Commissioner tells you that the ATO is examining your fuel tax affairs in a letter, but you may also be told through other medium of communication including by e-mail or telephone.

### ***Choosing how to correct an error***

32. While the Determination allows you to correct errors made in an earlier tax period in working out a net fuel amount in another tax period, you are not obliged to do so. You can instead, choose to correct the error by revising the return or requesting the Commissioner to amend an assessment for the earlier tax period in which the error was made. If you do this, Clause 5(e) clarifies that you cannot also apply the Determination to correct the error in another tax period.
33. Clause 5(e) also ensures that you cannot apply the Determination more than once to correct the error. Once you have taken account of that error to any extent in working out your net fuel amount for another tax period (ie by applying the Determination to correct an error), you cannot apply the Determination to correct the same error again.

34. This includes, for example where you partially correct a debit error because the relevant debit error value limit is exceeded, that error has already been taken into account in working out your net fuel amount for another tax period. You cannot apply the Determination to correct any part of that error again.
35. The Determination does not apply to non-business users. Clause 5(g) specifies that you cannot correct the error in accordance with the Determination unless you are registered for GST. There are some uses of fuel that give rise to fuel tax credits for non-business users and therefore those users are not registered or required to be registered for GST. These users have different lodgment requirements from users registered or required to be registered for GST.

## Debit Errors

36. While Clauses 5(a) to 5(e) and 5(g) apply to all errors, an additional clause – Clause 5(f) – provides that the conditions in Clause 6 need to be considered before correcting a debit error.

### ***Additional conditions that apply to correcting a debit error***

37. In working out your net fuel amount for a tax period, Clause 6 provides that a debit error made in working out your net fuel amount for an earlier tax period may only be corrected:
- (a) if the error was not a result of recklessness as to the operation of a fuel tax law or intentional disregard of a fuel tax law;
  - (b) if that error is corrected in a tax period that is within that debit error time limit that corresponds with your current GST turnover in the table below; and
  - (c) to the extent that the ***net sum of the debit errors*** is within the debit error value limit that corresponds with your current GST turnover in the table below.

Current GST turnover	Debit error time limit	Debit error value limit
Less than \$20 million	The error must be corrected in a return that is lodged within 18 months of the due date of the return for the tax period in which the error was made.	Less than \$10,000
\$20 million to less than \$100 million	The error must be corrected in a return that is lodged within 12 months of the due date of the return for the tax period in which the error was made.	Less than \$20,000
\$100 million to less than \$500 million		Less than \$40,000
\$500 million to less than \$1 billion		Less than \$80,000
\$1 billion and over		Less than \$450,000

Note: Clauses 6(b) and 6(c) place a time and value limit to the correction of debit errors. The time and value limit are the same as those applied in the Goods and Services Tax: Correcting GST Errors Determination 2013. This provides for consistent limits across the regimes to so as to not increase your compliance costs, and for simplicity in meeting your fuel tax obligations.

38. The additional conditions in Clause 6 apply to each debit error. In working out whether the relevant debit error can be corrected in the tax period, and to what extent, all three additional circumstances must be met. If any of the conditions are not met (for example,

the error is not within the relevant debit error time limit), the debit error cannot be corrected by applying the Determination. Note that in applying the debit error value limit, it is the net sum of the debit errors that must be below the limit, not the amount of the individual debit error.

### ***Recklessness or intentional disregard of the fuel tax law***

39. Clause 6(a) provides that you can only correct a debit error if the error is not a result of recklessness as to the operation of a fuel tax law or intentional disregard of a fuel tax law.
40. The terms 'recklessness' and 'intentional disregard' have the same meaning as used in Subdivision 284-B in Schedule 1 to the TAA. These concepts describe the behaviour that can give rise to an administrative penalty under that Subdivision.
41. For the Commissioner's interpretation of the terms 'recklessness' and 'intentional disregard', you should refer to the Commissioner's published views of these terms.<sup>1</sup>
42. Taxpayers who deliberately under-report their assessed net fuel amount by making one or more debit errors will not be able to correct those errors by applying this Determination as they will not meet the requirement of Clause 6(a). This is irrespective of whether the debit errors would otherwise meet the requirements of Clauses 6(b) and 6(c).

#### **Example 8**

The Wheat Growing and Bread Bakery Co Pty Ltd acquired fuel to use both in its agriculture and its bakery activities. The fuel is acquired to run the harvester and to power the ovens at the bakery.

Under the Fuel Tax Act the amount of fuel tax credit for fuel used in agriculture (that is the harvester) is not reduced by the carbon charge and the amount of fuel tax credit for fuel used in the ovens is reduced by the carbon charge

The Wheat Growing and Bread Bakery Co Pty Ltd knew it should reduce its fuel tax credit for the fuel used in the bakery. To overcome a temporary cash flow issue they intentionally did not reduce the amount of fuel tax credit by the carbon charge for the fuel acquired for use in the bakery.

As they have intentionally disregarded the Fuel Tax Act in relation to the carbon charge on the fuel tax credit for the fuel use in the bakery, the errors cannot be corrected by applying the Determination.

### ***Debit error time limit***

43. In addition to the time limits prescribed in Clause 5(b) and Clause 5(c) (see paragraphs 24 to 27), Clause 6(b) imposes more stringent time limits to correct a debit error. If your current GST turnover is less than \$20 million, an error must be corrected in a return that is lodged within 18 months of the due date of the return for the tax period in which the error was made. If your current GST turnover is at or above \$20 million, the time limit is 12 months.
44. The term 'current GST turnover' for the purposes of the Determination has the meaning given in the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act). Section 188-15 of that Act provides that your current GST turnover at a time during a particular month is the sum of the values of all the supplies that you have made, or are likely to make, during the 12 months ending at the end of that month, other than supplies that are input-taxed or supplies that are not for consideration or supplies that are not made in connection with an enterprise that you carry on.
45. The value of all the supplies in the definition refers to the GST-exclusive value.

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<sup>1</sup> Miscellaneous Taxation Ruling *MT 2008/1: Miscellaneous tax: Penalty relating to statements: meaning of reasonable care, recklessness and intentional disregard.*

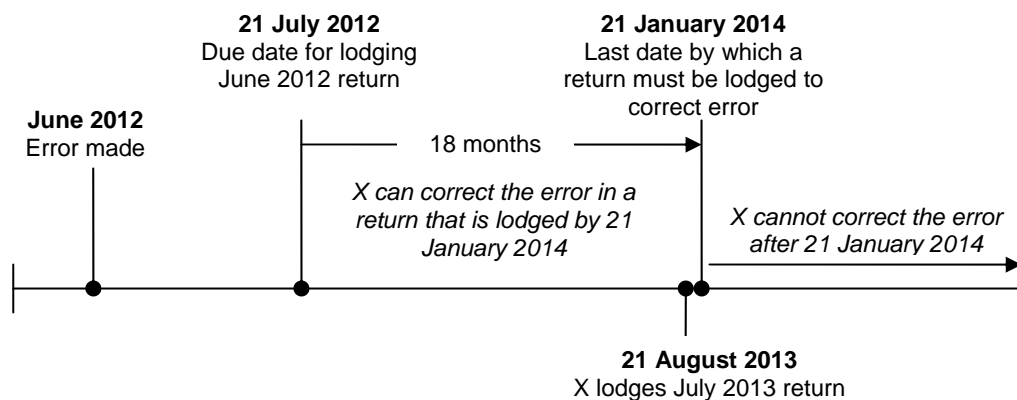
46. Requiring the debit error to be corrected in a return that is lodged within 12 or 18 months of the due date for lodging the return for the tax period in which the error was made ensures that a consistent time limit applies to all taxpayers regardless of whether the relevant return is lodged on time or not.
47. By contrast, if the time limit was based on the start or end of the tax period for a return in which the error is corrected taxpayers who lodged late would effectively extend the time of correction of the error beyond 18 months from which the error was made.

### Example 9

While preparing its July 2013 return, X Pty Ltd (a monthly lodger with a current GST turnover below \$20 million) discovers a debit error of \$5,000 in its return lodged for the June 2012 tax period.

The error can only be corrected in a return that is lodged within 18 months of the due date for lodging the return for the tax period in which the error was made. The due date for lodging the return in which the error was made was 21 July 2012. Eighteen months from that date is 21 January 2014.

If X Pty Ltd lodges its July 2013 return on or before the due date (21 August 2013), assuming the debit error meets the other requirements in Clauses 5 and 6, X Pty Ltd can correct the \$5,000 error in that return. This is because the lodgement date of 21 August 2013 is within 18 months from the due date of the return for the June 2012 tax period (ie 21 July 2012).



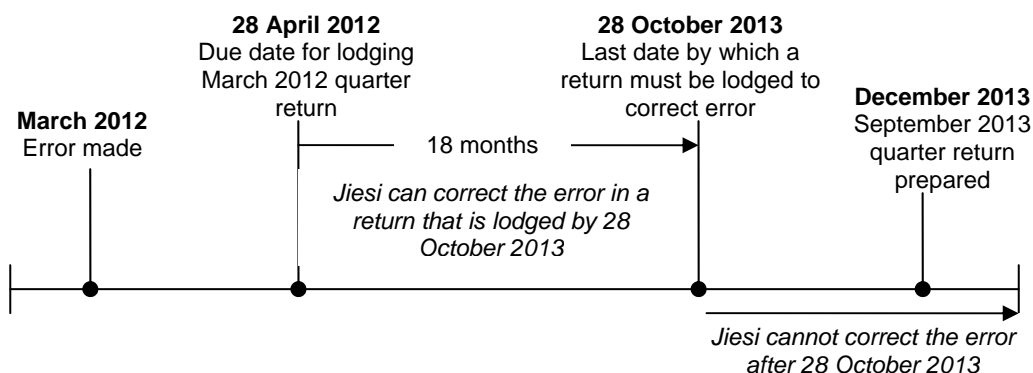
### Example 10

Jiesi has a current GST turnover of less than \$20 million and lodges her returns quarterly. While preparing her return for the September 2013 tax period in December 2013, she discovers a debit error made in her return for the March 2012 tax period. The September 2013 return is being lodged late as it should have been lodged by 28 October 2013.

The error can only be corrected in a return that is lodged within 18 months of the due date for lodging the return for the tax period in which the error was made. The due date for lodging the return in which the error was made was 28 April 2012. Eighteen months from that date is 28 October 2013.

Therefore, Jiesi must correct the debit error in a later return that is lodge on or before 28 October 2013.

Jiesi cannot correct the debit error in her September 2013 quarter return as she is not lodging that return by 28 October 2013, that is, within 18 months from the due date of the return for the March 2012 tax period.



### Debit error value limit

48. Clause 6(c) places a further limit on the circumstances under which a debit error may be corrected in working out your net amount for a tax period. It allows you to correct a debit error which satisfies the requirements of Clauses 6(a) and 6(b), but only to the extent that the **net sum of the debit errors** is within the debit error value limit that corresponds with your current GST turnover in the table.
49. The **net sum of the debit errors** is a defined term for the purposes of the Determination. The **net sum of the debit errors** is the sum of one or more debit errors less the sum of any credit errors which you include in the net fuel amount for the tax period in which you seek to correct the relevant debit error. This formula effectively allows you to offset credit errors against your debit errors for the purposes of working out whether you fall within the relevant debit error value limit.
50. Where the amount determined after applying the formula is less than the relevant debit error value limit (including where it results in a negative value which would occur where the sum of the credit errors exceeds the sum of the debit errors), you satisfy clause 6(c).
51. Where the net sum of the debit errors exceeds the debit error value limit, you will only be able to correct the debit errors that are within the relevant debit error value limit. If the debit error is greater than the relevant debit value limit, you must revise the return for the earlier tax period or request the Commissioner to amend the assessment for the earlier tax period.
52. While there are no restrictions on your ability to correct credit errors, other than those prescribed by Clause 5(a) to Clause 5(g), these errors can be taken into account in working out your debit error value limit. However, in working out **the net sum of the debit errors**, you can only take into account any credit errors that you include in the net fuel amount for the tax period in which you are correcting the relevant debit errors.
53. While Clause 6(c) tests whether **the net sum of the debit errors** exceeds the relevant debit error value limit, it ultimately determines the extent to which the individual debit error made in the earlier tax period can be corrected in the later tax period. That is, once you work out the net sum of the debit errors and whether it is within the relevant debit error value limit, you can determine the extent to which the individual debit error can be corrected under Clause 6(c).

#### Example 11

Tim's Auto Pty Ltd has a current GST turnover of \$5 million and lodges its returns quarterly. As part of its year-end review for the 2014 income year (conducted at the end of August 2014), it identifies two debit errors made in the previous year:

- an error of \$7,000 that occurred in the September 2013 tax period
- a second error of \$5,000 that also occurred in the September 2013 tax period.

The requirements of Clauses 6(a) and (b) are satisfied. However, as the net sum of the debit errors (\$7,000 + \$5,000 = \$12,000) exceeds the relevant debit error value limit of \$10,000, Tim's Auto Pty Ltd can only correct the debit errors up to \$10,000 in the current tax period. Tim's Auto Pty Ltd decides to correct the first error of \$7,000 and \$3,000 (out of the \$5,000) of the second error.

The balance of \$2,000 of the second error must then be corrected in the earlier tax period in which the error was made. That is, Tim's Auto Pty Ltd must request the Commissioner to amend its assessment for the September 2013 tax period to increase its assessed net fuel amount by \$2,000.

Alternatively, Tim's Auto Pty Ltd may choose not to apply this Determination but request the Commissioner to amend its assessment for the September 2013 tax period to increase its assessed net fuel amount by \$12,000.

### Example 12

Mikaela's Tea House lodges quarterly returns and has a current GST turnover of \$10 million. On 11 October 2015, while preparing her return for the September 2015 quarter, Mikaela's Tea House discovers the following errors:

Tax period	Error	Debit error	Credit error
December 2012	Clerical error transcribing error		\$10,000
September 2014	Over claimed fuel tax credits	\$13,000	
December 2014	Clerical error, transcribing error		\$5,000
March 2015	Omitted to include increasing fuel tax adjustment	\$6,000	
	<b>Total</b>	<b>\$19,000</b>	<b>\$15,000</b>

The errors meet the requirements of Clause 5 and for the debit errors, the additional requirements of Clauses 6(a) and (b). Mikaela's Tea House can correct the credit errors by taking them into account in the return for the September 2015 quarter.

The net sum of the debit errors is \$4,000 (that is, \$19,000 - \$15,000). As the net sum of the debit errors is below the relevant debit error value limit (\$10,000), Mikaela's Tea House can also correct both the debit errors by taking them into account in the September 2015 return (that is, the over claimed fuel tax credits of \$13,000 and the increasing fuel tax adjustment of \$6,000).

### Example 13

While preparing its monthly return for the August 2014 tax period, Ozco Ltd, which has a current GST turnover above \$1 billion, discovers two errors made in working out its net fuel amount for earlier tax periods. One is a credit error for \$1.5 million and the other a debit error for \$1 million.

Both errors meet the conditions of Clause 5 and, in the case of the debit error, the additional conditions of Clause 6(a) and (b). The remaining debit error condition is whether clause 6(c) is also satisfied. That is, whether the net sum of its debit errors is within the debit error value limit of \$450,000.

Ozco Ltd includes the credit error in its return for the August 2014 tax period. As the net sum of the debit errors is *minus* \$500,000 (\$1 million debit errors less \$1.5 million credit errors), it is within the debit error value limit of \$450,000 which applies to Ozco Ltd. Accordingly, Ozco Ltd can correct the debit error of \$1 million in its return for the August 2014 tax period.

### Example 14

Broich's Property Pty Ltd is registered for GST and has a current GST turnover of less than \$20 million. While preparing its return for the June 2015 quarterly tax period (being lodged on time), it discovers two errors made in working out its net fuel amount for earlier tax periods.

The first error is a \$15,000 debit error made in working out the net fuel amount for the March 2014 tax period. The error relates to an increasing fuel tax adjustment. Broich's Property Pty Ltd lodged its March 2014 return on 28 April 2014.

The second error is a \$7,000 credit error relating to fuel tax credit which Broich's Property Pty Ltd forgot to take into account in working out its net fuel amount for the June 2013 tax period. Broich's Property Pty Ltd lodged its June 2013 return on 28 July 2013.

Broich's Property Pty Ltd is not subject to any compliance activity at the time of preparing its return for the June 2015 tax period and has not taken the errors into account in working out its net fuel amount for another tax period.

Broich's Property Pty Ltd works out whether it can apply the Determination to correct the errors as follows:

Relevant Determination Clauses summary	Errors made	
	\$7,000 credit error June 2013 quarterly tax period	\$15,000 debit error March 2014 quarterly tax period
Error relates to an amount of fuel tax credit or any adjustments under the Fuel Tax Act [5(a)]?	Yes. fuel tax credit error.	Yes. increasing fuel tax adjustment.
Tax period starts during the period of review for the assessment of the net fuel amount for the earlier tax period [5(b)]?	Yes. June 2015 quarterly tax period starts within period of review for June 2013 tax period [28 July 2013 to 29 July 2017].	Yes. June 2015 quarterly tax period starts within period of review for March 2014 tax period [28 April 2014 to 29 April 2018].
At time of lodging return for the tax period, the error: <ul style="list-style-type: none"> <li>▪ relates to a matter that is not subject to compliance activity, or</li> <li>▪ is made in working out the net fuel amount for an earlier tax period that is not subject to compliance activity [5(d)]?</li> </ul>	Yes.	Yes.
Error not taken into account in working out net fuel amount for another tax period [5(e)]?	Yes.	Yes.
Registered for GST [5g]?	Yes.	Yes.
Not recklessness or intentional disregard [6(a)]?	N/A – credit error.	Yes.
Errors corrected within applicable debit time limit – corrected in a return lodged within 18 months of the due date for lodging the return in which the error was made [6(b)]?	N/A – credit error.	Yes. Lodgement date for the June 2015 return is within 18 months of the due date for lodgement of the March 2014 return (that is within 18 months of 28 April 2014).
Net sum of the debit errors within the applicable debit error value limit [6(c)]?	N/A – credit error.	Yes. Net sum of the debit errors is \$8,000 (\$15,000 less \$7,000), which is below the applicable debit error value limit of \$10,000.

Broich's Property Pty Ltd can correct both errors in its return for the June 2015 quarterly tax period.

54. The debit error value limit applies to the entity that is required to give to the Commissioner a return. For example, it applies to the representative member of the GST group (rather than each individual member) and the GST joint venture operator of a GST joint venture.

## **Record Keeping**

55. If, in working out your net fuel amount for a tax period, you correct an error that was made in an earlier tax period you must keep records in accordance with section 382-5 in Schedule 1 to the TAA. This includes records that explain the correction of the error in accordance with the Determination.

## **Background**

56. This Determination has been developed following the insertion of section 60-10 of the Fuel Tax Act, which came into effect on 1 July 2012. The provision enables the Commissioner to make a Determination to allow errors made in working out a net fuel amount in an earlier tax period, to be taken into account in working out a net fuel amount in a later tax period.
57. This Determination updates and simplifies the Commissioner's policy on correcting fuel tax mistakes outlined in the *Fuel tax credits - making adjustments and correcting mistakes* which ceases to apply from the commencement date of the Determination.

## **Consultation:**

58. A draft determination and explanatory statement were released for public comment on 17 December 2012. Tax practitioners, bookkeepers and industry representatives were invited to comment on the draft determination and explanatory statement. The due date for comments was 19 February 2013.
59. Comments received as part of the public consultation were taken into account in the developing the final determination.

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**James O'Halloran**  
**Deputy Commissioner of Taxation**  
23 April 2013

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### *Legislative references:*

*Fuel Tax Act 2006*

*A New Tax System (Goods and Services Tax) Act 1999*

*Taxation Administration Act 1953*

*Legislative Instruments Act 2003*

## **Statement of Compatibility with Human Rights**

This statement is prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

### **Fuel Tax: Correcting Fuel Tax Errors Determination 2013**

This Determination is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview**

The Determination allows taxpayers to correct fuel tax errors made in a previous return, in a later return if the requirements outlined in the Determination are satisfied. This helps taxpayers to minimise their compliance costs as taxpayers no longer need to revise a return for an earlier tax period to correct certain errors and will not be subject to any general interest charge or penalties.

As part of the consultation process, the Commissioner released a draft of the determination and explanatory statement for public comment. Comments received were taken into account in developing the final Instrument.

#### **Human rights implications**

This Instrument does not engage any of the applicable rights or freedoms. It specifies the circumstances in which a taxpayer may correct errors that were made in working out their net fuel amount for an earlier tax period, in a later tax period.

#### **Conclusion**

This Instrument is compatible with human rights as it does not raise any human rights issues.