

# ***LI 2023/33 - Explanatory statement -***



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## Explanatory Statement

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### Fuel Tax (Correcting Fuel Tax Errors) Determination 2023

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#### General outline of instrument

1. This instrument is made under subsection 60-10(1) of the *Fuel Tax Act 2006* (Fuel Tax Act).
2. This instrument allows you, when you are working out your net fuel amount for a tax period, to correct fuel tax errors made in an earlier tax period in specified circumstances.
3. This instrument replaces *Fuel Tax: Correcting Fuel Tax Errors Determination 2013*.
4. The instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.
5. Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws) the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

#### Date of effect

6. This instrument commences the day after it is registered on the Federal Register of Legislation.

#### Effect of this instrument

7. This instrument allows an error that has been made in working out a net fuel amount for an earlier tax period to be corrected by including the amount of the error in working out the net fuel amount for a later tax period.
8. Where the circumstances in the instrument are met, you may choose to correct an error by including the error amount in a fuel tax return in a later tax period instead of requesting the Commissioner to amend the relevant assessment for the earlier tax period.
9. This instrument:
  - (a) only applies to errors relating to an amount of fuel tax credit or an adjustment under the Fuel Tax Act, and
  - (b) does not apply to errors that were made in working out a net fuel amount for a tax period that started before 1 July 2012.

#### Compliance cost assessment

10. Compliance cost impact: Minor – There will be no additional regulatory impacts as the instrument is minor and machinery in nature OIA23-05251.

#### Background

11. Generally, when you make an error that results in your assessed net fuel amount for a tax period being incorrect, you will need to request an amendment to the assessment to correct the error.

12. This instrument provides an alternative mechanism to allow errors made in earlier periods to be corrected in a fuel tax return lodged in a later tax period.

### **What is an error?**

13. An error is a mistake you have made in working out your net fuel amount for a tax period that would, if it was the only mistake made, have resulted in your assessed net fuel amount for that tax period being overstated or understated. However, to the extent a mistake involves underclaiming a fuel tax credit for which you have lost an entitlement under the 4-year time limit in section 47-5 of the Fuel Tax Act, this will not be an error for the purposes of the instrument.

14. An error must result in the assessed net fuel amount for the relevant tax period being incorrect.

#### **Example 1**

On 15 April 2023, Noodle Developments discovers it has not correctly accounted for fuel tax credits on acquisitions made for the tax period ended 31 December 2020, for which a fuel tax return was lodged on 21 January 2021. It engages an accounting firm to review its accounts.

On 18 July 2023, the accounting firm finalises the review for Noodle Developments and identifies that an error was made in calculating a fuel tax credit for an acquisition of fuel attributable to the December 2020 tax period. Instead of claiming a fuel tax credit of \$10,000 Noodle Developments had only claimed \$5,000. The accounting firm ascertains that the error has not been corrected via amendment of the assessment for that tax period or via inclusion – in whole or part – in any subsequent fuel tax return. Therefore, this is an error that the instrument might apply to.

15. Where there are multiple errors made in working out a net fuel amount for a tax period, each individual error must be examined to determine whether it is a debit or credit error. The errors may then be corrected in working out your net fuel amount for a later tax period if the conditions in the instrument are met.

16. Debit error means a mistake you made in working out your net fuel amount for an earlier tax period that would, if it was the only mistake made in the tax period, have resulted in your assessed net fuel amount for that earlier tax period being understated. In practice, this would result in your amount payable being understated or your refund being overstated. Examples of debit errors include:

- (a) overstating fuel tax credit claims, for example, double-counting fuel tax credits for an acquisition, and
- (b) omitting or understating an increasing fuel tax adjustment or overstating a decreasing fuel tax adjustment.

17. Credit error means a mistake you made in working out your net fuel amount for an earlier tax period that would, if it was the only mistake made in the tax period, have resulted in your assessed net fuel amount for that earlier tax period being overstated. In practice this would result in your amount payable being overstated or your refund being understated. Examples of credit errors include:

- (a) underclaiming a fuel tax credit for an acquisition of taxable fuel, or
- (b) omitting or understating a decreasing fuel tax adjustment or overstating an increasing fuel tax adjustment.

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

18. If you have not claimed a fuel tax credit in its entirety in 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. Accordingly, you can

attribute an unclaimed fuel tax credit in a fuel tax return for a subsequent tax period, subject to the time limits in Division 47 of the Fuel Tax Act, without relying on this instrument.

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 to the extent it has not been included in an assessment of your net fuel amount within 4 years after the day on which you were required to give to the Commissioner a fuel tax return for the tax period or fuel tax return period to which the fuel tax credit would otherwise have been attributable under subsections 65-5(1), (2) or (3).

20. If you take a fuel tax credit into account in a particular tax period but incorrectly calculate the amount, this is an error. This is because you have attributed the credit but you have made a mistake in the calculation of the amount of the credit. Assuming that it is the only mistake made in the tax period, it results in the assessed net fuel amount being overstated or understated.

#### **Example 2**

Before lodging her monthly fuel tax return for the September 2023 tax period, Tess discovers that she made a mistake in her fuel tax return for the August 2023 tax period. Tess only reported a fuel tax credit of \$10,000 for an acquisition of fuel of \$15,000.

The \$5,000 underclaimed fuel tax credit is a credit error because Tess has attributed the credit but reported the incorrect amount, resulting in her assessed net fuel amount for the August 2023 tax period being incorrect.

Tess can correct this error by taking the \$5,000 into account in her fuel tax return for the September 2023 tax period.

If, on the other hand, Tess had not claimed any of the \$15,000 fuel tax credit in her fuel tax return for the August 2023 tax period, the attribution of the fuel tax credit is deferred in accordance with subsection 65-5(4) of the Fuel Tax Act and Tess is permitted to claim the credit in her fuel tax return for the September 2023 tax period or any subsequent tax period subject to the time limits in Division 47 of the Fuel Tax Act, without needing to rely on this instrument.

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

21. If you claim a fuel tax credit in a tax period, and in a subsequent tax period you become aware of an increasing or decreasing adjustment arising under Division 44 of the Fuel Tax Act you have not made an error in that earlier tax period. An example is where your actual use of fuel differs from your intended use of that fuel and your fuel tax credit, if it had been calculated based on your actual use of the fuel, would have been different from the fuel tax credit you claimed based on your intended use. Section 65-10 of the Fuel Tax Act provides that an adjustment is attributable to the tax period in which you become aware of it.

22. However, where you become aware of an adjustment in a tax period but fail to include it in your fuel tax return for that tax period, or include an incorrect amount, you have made an error because it is a mistake that would, had it been the only mistake made in the tax period, have resulted in the assessed net fuel amount for that tax period being overstated or understated. You can correct the error in a subsequent tax period subject to the rules set out in the instrument.

### **When an error may be corrected**

23. Section 6 of the instrument provides that an error made in working out the net fuel amount for an earlier tax period may only be corrected in a later tax period if:

- (a) the error relates to an amount of fuel tax credit or any adjustments under the Act
- (b) the earlier tax period started on or after 1 July 2012
- (c) you lodge the fuel tax return for the later tax period within the period of review for the assessment of the net fuel amount of the earlier tax period

- (d) at the time of lodging your fuel tax return for the tax period the error does not relate to a matter that is subject to a compliance activity, unless the Commissioner has notified you in writing that the error can be corrected under the instrument
- (e) you have not corrected that error, to any extent, in working out your net fuel amount for another tax period
- (f) where the error is a debit error, the conditions in section 7 are met, and
- (g) you are registered for GST.

### **Period of review**

24. To maintain the integrity of the time limits for amending assessments, you cannot correct an error made in an earlier tax period in a fuel tax return for a later tax period unless the fuel tax return for the later tax period is lodged within the period of review for the assessment of the net fuel amount for the earlier tax period.

25. Under subsection 155-32(2) in Schedule 1 to the *Taxation Administration Act 1953* (TAA), the period of review starts on the day the Commissioner gives you a notice of assessment and ends 4 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 fuel tax return. The fuel tax return is taken to be the notice of assessment given on the same day.

#### **Example 3**

ABC Ltd, a monthly lodger, made an error in the September 2023 tax period that resulted in its assessed net fuel amount for that tax period being overstated. As that fuel tax return was lodged and the net fuel amount assessed on 1 October 2023, ABC Ltd may only correct that error in a later tax period where the fuel tax return for that later tax period is lodged on or before 2 October 2027 (that is, within the period of review for the assessment made on 1 October 2023).

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

26. Generally, you cannot correct an error if, at the time of lodging the fuel tax return, the error relates to a matter or tax period (or both) that is being subject to compliance activity. However, you may still correct errors that do not relate to either the matter or tax period subject to the compliance activity.

27. However, even where the error cannot otherwise be corrected because it relates to a compliance activity, the Commissioner can notify you in writing that despite the compliance activity you can use the instrument to correct the error. The Commissioner may do this in circumstances where the compliance activity is of such a nature that it would still be appropriate for you to have the choice to apply this instrument.

#### **Example 4**

In June 2024, 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 Construction Co. cannot correct the errors by applying the determination.

#### **Example 5**

In June 2023, 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 2022 to 31 January 2023. Broome Agriculture Co. also conducts its own review and discovers an error made in working out its net fuel amount for the tax period that ended on 31 December 2021. 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.

28. 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 either the Commissioner gives you a notice of assessment or an 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 mediums of communication including by email or phone.

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

29. While the instrument allows you to correct errors made in an earlier tax period in working out a net fuel amount in a later tax period, you are not obliged to do so. You can instead choose to correct the error by requesting the Commissioner to amend an assessment for the earlier tax period in which the error was made. If you do this, paragraph 6(e) clarifies that you cannot also apply the instrument to correct the error in another tax period.

30. Paragraph 6(e) ensures that you cannot apply the instrument more than once to correct an error. Once you have corrected an error to any extent in working out your net fuel amount for another tax period (that is, by applying the instrument to correct an error), you cannot apply the instrument to make further corrections in respect of the same error.

31. If you have partially but not fully corrected an error through reliance on the instrument (for example, you understated your entitlement to a fuel tax credit for an acquisition of fuel and then only included half the understated amount in a subsequent fuel tax return), you will need to seek amendment to the assessment for the tax period in which the original error occurred to claim the remaining credit. Your ability to claim the remaining amount by amending your assessment for this earlier tax period is subject to the 4-year time limit in section 47-5 of the Fuel Tax Act and the period of review for the assessment. The requirement to seek amendment of the assessment for the tax period in which the original error occurred also applies to debit errors. Where you have made a debit error in an earlier tax period that is able to be corrected in a later tax period under the instrument, but you only partially correct the debit error in a later tax period, you must seek amendment of the assessment for the original tax period to correct the remaining part of the debit error.

#### **Example 6**

In your June 2023 quarterly fuel tax return you incorrectly recorded your fuel tax credit entitlement for an acquisition of fuel as being \$10 when it was in fact \$1,000. In your September 2023 fuel tax return you attempted to correct the error, but claimed a further \$90 (bringing the total claim to \$100) leaving \$900 of your original error unclaimed. You realise you have not fully corrected the error in January 2024. As you have already corrected the original error in part you would need to seek an amendment of the assessment for the June 2023 quarter to claim the additional \$900. Your ability to claim the remaining credit in this way would be subject to both the period of review for the June 2023 assessment and the 4-year time limit for claiming fuel tax credits in section 47-5. Note, the partial correction of \$90 remains in the September 2023 assessment.

32. The instrument does not apply to entities that are neither registered for GST nor required to be registered and acquire fuel for non-business use. There are some uses of fuel that give rise to fuel tax credits for non-business users. Paragraph 6(g) specifies that you cannot correct an error in accordance with the instrument unless you are registered for GST. If you are not registered for GST and you have made an error in lodging your fuel tax return for a fuel tax return period, you will need to seek an amendment to the assessment for that fuel tax return period to correct the error. Your entitlement to claim a fuel tax credit (in whole or part) in this manner will be subject to the 4-year rule in section 47-5 of the Fuel Tax Act and the period of review which applies to the assessment.

## **Debit errors**

33. While paragraphs 6(a) to (e) and 6(g) apply to all errors, the additional conditions in section 7 also need to be met before correcting a debit error (see paragraph 6(f)).

34. A debit error can 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 the debit error time limit that corresponds with your current GST turnover specified in the table in section 7, 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 specified in the table in section 7.

35. Paragraphs 7(b) and 7(c) place time and value limits on the correction of debit errors. The time and value limits are the same as those that apply in *A New Tax System (Goods and Services Tax) (Correcting GST Errors) Determination 2023*. This provides for consistent limits across the regimes so as to not increase your compliance costs, and for simplicity in meeting your fuel tax obligations.

36. The additional conditions in section 7 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 conditions must be met. If any of the conditions are not met (for example, because the error is not corrected within the relevant debit error time limit), the debit error cannot be corrected by applying the instrument. In working out whether you can correct a debit error in a current tax period by relying on this instrument, it is the net sum of the debit errors that must be below the limit, not the amount of an individual debit error.

## ***Recklessness or intentional disregard***

37. The terms 'recklessness' and 'intentional disregard' have the same meaning as used in Subdivision 284-B in Schedule 1 to the TAA.

38. The Commissioner's published views on the terms 'recklessness' and 'intentional disregard' are contained in Miscellaneous Taxation Ruling MT 2008/1 *Miscellaneous tax: Penalty relating to statements: meaning of reasonable care, recklessness and intentional disregard*.

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

39. If your current GST turnover is less than \$20 million, a debit error can only be corrected in a fuel tax return that is lodged within 18 months after the due date of the fuel tax 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.

40. The term 'current GST turnover' for the purposes of the instrument has the meaning given in the *A New Tax System (Goods and Services Tax) Act 1999*. 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. The value of all the supplies in the definition refers to their GST-exclusive value.

41. Requiring a debit error to be corrected in a fuel tax return that is lodged within 12 or 18 months of the due date for lodging the fuel tax 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 fuel tax return is lodged on time or not.

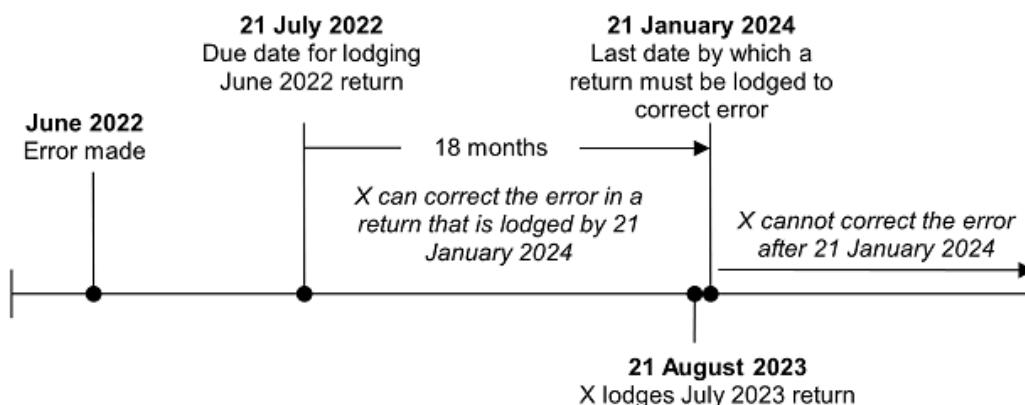
42. By contrast, if the time limit commenced from the date of the assessment of net fuel amount for the tax period in which the error was made, taxpayers who lodged late would effectively gain further time in which to correct their debit errors.

**Example 7**

While preparing its July 2023 fuel tax return, X Pty Ltd (a monthly lodger with a current GST turnover below \$20 million) discovers a debit error of \$5,000 in its fuel tax return lodged for the June 2022 tax period.

The error can only be corrected in a fuel tax return that is lodged within 18 months of the due date for lodging the fuel tax return for the tax period in which the error was made. The due date for lodging the fuel tax return in which the error was made was 21 July 2022. Eighteen months from that date is 21 January 2024.

If X Pty Ltd lodges its July 2023 fuel tax return on or before the due date (21 August 2023), assuming the debit error meets the other requirements in sections 6 and 7, X Pty Ltd can correct the \$5,000 error in that return. This is because the lodgment date of 21 August 2023 is within 18 months from the due date of the fuel tax return for the June 2022 tax period (that is, 21 July 2022), and the error is within the debit error value limit.

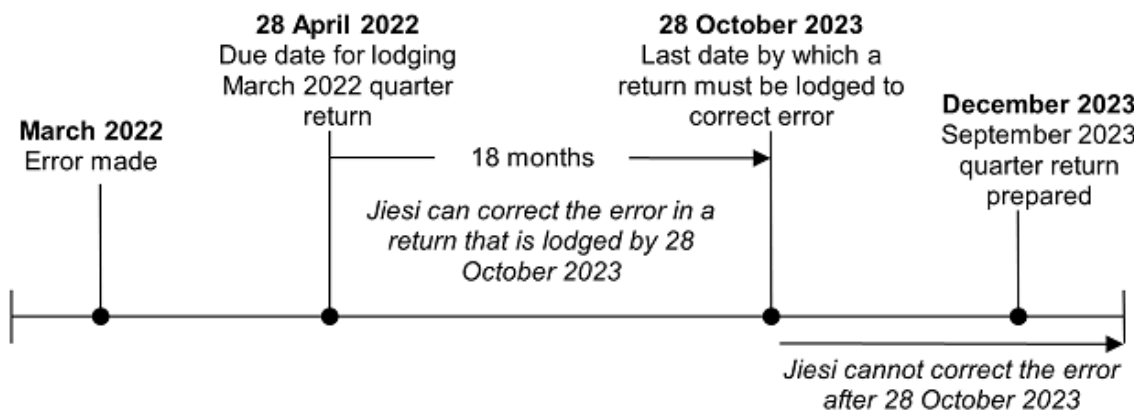


**Example 8**

Jiesi has a current GST turnover of less than \$20 million and lodges her fuel tax returns quarterly. While preparing her fuel tax return for the September 2023 tax period in December 2023, she discovers a debit error made in her fuel tax return for the March 2022 tax period. The September 2023 return is being lodged late as it should have been lodged by 28 October 2023.

The error can only be corrected in a fuel tax return that is lodged within 18 months of the due date for lodging the fuel tax return for the tax period in which the error was made. The due date for lodging the fuel tax return in which the error was made was 28 April 2022. Eighteen months from that date is 28 October 2023.

As it is already December 2023, it is too late for Jiesi to correct the debit error in her fuel tax return for the September 2023 quarter or any later fuel tax returns. Jiesi will need to seek an amendment to her assessment for the March 2022 tax period to correct the debit error.





### **Debit error value limit**

43. A debit error can only be corrected 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.
44. The net sum of the debit errors is defined as the sum of any debit errors made in earlier tax periods less the sum of any credit errors made in earlier tax periods that you seek to correct in the tax period.
45. Where the net sum of the debit errors 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 you seek to correct in a tax period exceeds the sum of your debit errors), you satisfy the condition in paragraph 7(c).
46. Where the net sum of the debit errors exceeds the debit error value limit, you will only be able to correct the debit errors up to the relevant debit error value limit. If the net sum of debit errors is greater than the relevant debit value limit, you must request that the Commissioner amend the assessment for the earlier tax period to correct the balance of your debit errors in the tax period or periods in which they were made.
47. While there are no restrictions on your ability to correct credit errors, other than those prescribed in paragraphs 6(a) to 6(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 fuel tax return for the tax period in which you are correcting the relevant debit errors.
48. While paragraph 7(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 paragraph 7(c).

#### **Example 9**

Tim's Auto Pty Ltd has a current GST turnover of \$5 million and lodges its fuel tax returns quarterly. As part of its year-end review for the 2024 income year (conducted at the end of August 2024), it identifies 2 debit errors made in the previous year:

- (a) an error of \$7,000 that occurred in the June 2023 tax period, and
- (b) a second error of \$8,000 that occurred in the September 2023 tax period.

The requirements of paragraphs 7(a) and (b) are satisfied. However, as the net sum of the debit errors (\$7,000 + \$8,000 = \$15,000) exceeds the relevant debit error value limit of \$12,500, Tim's Auto Pty Ltd can only correct the debit errors up to \$12,500 in the current tax period. Tim's Auto Pty Ltd decides to correct the first error of \$7,000 and \$5,500 (out of the \$8,000) of the second error.

The balance of \$2,500 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 2023 tax period to increase its assessed net fuel amount by \$2,500.

Alternatively, Tim's Auto Pty Ltd may choose not to apply this instrument (and therefore not attempt to correct any part of the errors in its current tax period) and instead request the Commissioner to amend its assessments for both the June 2023 and September 2023 tax periods to increase the assessed net fuel amounts by \$7,000 and \$8,000 respectively.

#### **Example 10**

Mikaela's Trucking Pty Ltd lodges quarterly fuel tax returns and has a current GST turnover of \$10 million. On 11 October 2025, while preparing her fuel tax return for the September 2025 quarter, Mikaela's Trucking Pty Ltd discovers the following errors:

<b>Tax period</b>	<b>Error</b>	<b>Debit error</b>	<b>Credit error</b>
December 2022	Transcription error		\$10,000

September 2024	Over claimed fuel tax credits (but not through intentional disregard or recklessness)	\$13,000	
December 2024	Transcription error		\$5,000
March 2025	Became aware of increasing fuel tax adjustment but failed to include it (but not through intentional disregard or recklessness)	\$6,000	
	<b>Total</b>	<b>\$19,000</b>	<b>\$15,000</b>

The credit errors meet the conditions in section 6. Mikaela's Trucking Pty Ltd can correct the credit errors by taking them into account in the fuel tax return for the September 2025 quarter.

The debit errors also meet the conditions in section 7. 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 (\$12,500), Mikaela's Tea House can also correct both the debit errors by taking them into account in the September 2025 fuel tax return (that is, the over claimed fuel tax credits of \$13,000 and the increasing fuel tax adjustment of \$6,000).

#### Example 11

While preparing its monthly fuel tax return for the August 2024 tax period, Ozco Ltd, which has a current GST turnover above \$1 billion, discovers 2 errors made in working out its net fuel amount for earlier tax periods. One is a credit error for \$1.6 million and the other a debit error for \$1 million.

Both errors meet the conditions in section 6 and, in the case of the debit error, the additional conditions in section 7. That is, the net sum of the debit errors is within the debit error value limit of \$560,000.

Ozco Ltd includes the credit error in its fuel tax return for the August 2024 tax period. As the net sum of the debit errors is *minus* \$600,000 (\$1 million debit errors less \$1.5 million credit errors), it is within the debit error value limit of \$560,000 which applies to Ozco Ltd. Accordingly, Ozco Ltd can also correct the debit error of \$1 million in its fuel tax return for the August 2024 tax period.

#### Example 12

Broich's Property Pty Ltd is registered for GST and has a current GST turnover of less than \$20 million. While preparing its fuel tax return for the June 2025 quarterly tax period (being lodged on time), it discovers 2 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 2024 tax period. The error relates to an increasing fuel tax adjustment. Broich's Property Pty Ltd lodged its March 2024 fuel tax return on 28 April 2024.

The second error is a \$7,000 credit error relating to a fuel tax credit which Broich's Property Pty Ltd underclaimed in working out its net fuel amount for the June 2023 tax period. Broich's Property Pty Ltd lodged its June 2023 fuel tax return on 28 July 2023.

Broich's Property Pty Ltd is not subject to any compliance activity at the time of preparing its fuel tax return for the June 2025 tax period and has not taken the errors into account (in whole or part) in working out its net fuel amount for another tax period.

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

Relevant instrument paragraphs summary	\$7,000 credit error June 2023 quarterly tax period	\$15,000 debit error March 2024 quarterly tax period
Error relates to an amount of fuel tax credit or any adjustments under the Fuel Tax Act [Para 6(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 [Para 6(c)]	Yes. June 2025 quarterly tax period starts within period of review for June 2023 tax period [28 July 2023 to 29 July 2027].	Yes. June 2025 quarterly tax period starts within period of review for March 2024 tax period [28 April 2024 to 29 April 2028].
At time of lodging the fuel tax 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 [Para 6(d)]</li> </ul>	Yes.	Yes.
Error not taken into account in working out net fuel amount for another tax period [Para 6(e)]	Yes.	Yes.
Registered for GST [Para 6(g)]	Yes.	Yes.
Not recklessness or intentional disregard [Para 7(a)]	N/A – credit error.	Yes.
Errors corrected within applicable debit time limit – corrected in a fuel tax return lodged within 18 months of the due date for lodging the fuel tax return in which the error was made [Para 7(b)]	N/A – credit error.	Yes. Lodgment date for the June 2025 fuel tax return is within 18 months of the due date for lodgment of the March 2024 fuel tax return (that is, within 18 months of 28 April 2024).
Net sum of the debit errors within the applicable debit error value limit [Para 7(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 \$12,500.

Broich's Property Pty Ltd can correct both errors in its fuel tax return for the June 2025 quarterly tax period.

49. The debit error value limit applies to the entity that is required to give to the Commissioner a fuel tax 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

50. 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 instrument.

## **Consultation**

51. Subsection 17(1) of the *Legislation Act 2003* requires that the Commissioner is satisfied that appropriate and reasonably practicable consultation has been undertaken before they make a legislative instrument.

52. The draft instrument and draft explanatory statement were published to the ATO Legal database. Publication was advertised via the 'What's new' page on that website. Major tax and superannuation publishers and associations monitor these pages and include the details in the daily and weekly alerts and newsletters to their subscribers and members.

53. Public consultation was undertaken from 18 July 2023 until 4 August 2023. No submissions were received during consultation.

## **Legislative references**

*Acts Interpretation Act 1901*

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

*Fuel Tax Act 2006*

*Human Rights (Parliamentary Scrutiny) Act 2011*

*Legislation Act 2003*

*Taxation Administration Act 1953*

## **Statement of compatibility with Human Rights**

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

### **Fuel Tax (Correcting Fuel Tax Errors) Determination 2023**

This legislative instrument 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 of the legislative instrument**

The instrument allows taxpayers to correct fuel tax errors that they made in an earlier tax period in certain circumstances. This will help reduce compliance costs for taxpayers as they will not need to request the Commissioner to amend their assessment for an earlier tax period to correct certain errors in circumstances covered by the instrument. It will also reduce the likelihood of taxpayers being subjected to any related general interest charge or penalties.

#### **Human rights implications**

This instrument does not engage any of the applicable rights or freedoms. It merely 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 without having to request the Commissioner to amend their assessment for that earlier period.

#### **Conclusion**

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