



# ***PS LA 2010/3 (Withdrawn) - Apportioning fuel for tax credits***

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 Law Administration Practice Statement PS LA 2010/3 is withdrawn as PCG 2016/8 now covers apportioning fuel for tax credits.

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# PS LA 2010/3

## Apportioning fuel for tax credits

Law Administration Practice Statement PS LA 2010/3 is withdrawn as PCG 2016/8 now covers apportioning fuel for tax credits.

**This Law Administration Practice Statement outlines what will satisfy the ‘fair and reasonable’ requirement for apportioning fuel use for tax credit entitlements.**

*This practice statement is an internal ATO document, and is an instruction to ATO staff.*

*Taxpayers can rely on this practice statement to provide them with protection from interest and penalties in the following way. If a statement turns out to be incorrect and taxpayers underpay their tax as a result, they will not have to pay a penalty. Nor will they have to pay interest on the underpayment provided they reasonably relied on this practice statement in good faith. However, even if they don't have to pay a penalty or interest, taxpayers will have to pay the correct amount of tax provided the time limits under the law allow it.*

### 1. What this practice statement is about

In Fuel Tax Determination FTD 2010/1 it is explained that entities may need to use a ‘fair and reasonable’ apportionment method to calculate the extent of their entitlement to a fuel tax credit (FTC).

This practice statement outlines the methods accepted as ‘fair and reasonable’ commonly used to calculate entitlements to FTCs.

A glossary of terms used in this practice statement is provided in an Attachment to this practice statement.

### 2. Apportionment – general principles

You can accept the use of methods other than those set out in this practice statement, but they must be fair and reasonable according to the circumstances. To that end, a methodology should be reviewed to see whether there were any extraordinary acquisitions or uses of taxable fuel, which may distort the results in a particular year.

The methodology used must also be applied consistently by the entity throughout the tax period. Inconsistent methods will deliver unreliable results. However, an entity may use more than one calculation method if it acquires different types of fuel for different activities.

Entities can also either apportion everything in a single step (that is, work out the entitlement as well as the FTC in one process) or take discrete steps – for example, work out first if they are entitled to an FTC and then calculate what the amount is; or work out the amount of fuel a particular vehicle or piece of equipment uses when it performs a specific function and then calculate the apportionment and FTC

accordingly.<sup>1</sup> Either way, the entitlement amount should be the same.

### 3. Commonly used methods which will be considered ‘fair and reasonable’

The following are examples of methods of apportionment which you can consider to be fair and reasonable.

- **Constructive** – based on actual or planned use – where all the eligible quantities of each fuel type that attract the same FTC rate are added up.
- **Deductive** – based on actual or planned use – where the ineligible fuels, such as fuel used in light vehicles on a public road, are subtracted from the total fuel acquired.
- **Percentage use** – where a reliable percentage of eligible fuel usage for a sample period is applied over a number of tax periods.
- **Estimate use** – where the quantity of fuel acquired for use in an eligible activity in a tax period is estimated.

Apportionment may also require determining the amount of fuel used to power any auxiliary equipment of a heavy vehicle, and the method for doing this must also be fair and reasonable and suit the circumstances. Such methods can be based on, for example:

- meter readings (generally, the hourly use)
- engine monitoring systems
- fuel consumption trials, and
- driver refuelling records.

<sup>1</sup> See the Flowchart at section 16.

#### 4. Constructive method

In the **actual use** constructive method the entity adds up all the taxable fuel that it actually used in an eligible activity.

In the **planned use** constructive method the entity adds up the quantities of fuel that it acquired and intended to use in an eligible tax period.

##### *Example 1 – constructive method – actual use*

IM Company uses gravel in road construction. It transports the gravel from its depot to road construction sites using tipper trucks. IM apportions the quantity of fuel used for the tipper trucks between that used for travelling and that used to power the tipper mechanism. IM also uses graders in road construction.

IM is entitled to FTCs for:

- fuel used in the tipper trucks for travelling on public roads (reduced by the road user charge)
- fuel used to power the auxiliary equipment (the tipping mechanism) on the tipper trucks
- fuel used in the graders.

Each time it refuels a tipper truck or a grader, IM records the date, the vehicle and quantity of fuel taken.

In working out its FTC entitlement for the fuel used in the tipper trucks, IM adds up the number of litres of diesel used in the trucks for travelling on public roads and multiplies the result by the FTC rate that is reduced by the road user charge.

From the amount of fuel used in the tipper trucks, IM Company then works out its FTC entitlement for the fuel used to power the auxiliary equipment of the trucks. IM determines, in a fair and reasonable way, the amount of fuel used to power the auxiliary equipment and then it multiplies the result by the full FTC rate.

To work out the FTC entitlement for the fuel used in the graders, IM adds up the number of litres of diesel used in the graders and multiplies the result by the full FTC rate.

##### *Example 2 – constructive method – planned use*

Allegra Company runs a wet hire business. It uses front end loaders of a similar make and model with a GVM greater than 4.5 tonnes to carry out work in agricultural and building construction activities. The front end loaders do not travel on public roads.

Allegra buys diesel fuel in bulk to use in its equipment, including in its front end loaders. It is entitled to an FTC for the diesel fuel it uses in its agricultural and building construction activities.

Allegra lodges its BAS monthly and, at the start of every month, plans the operating hours for the front end loaders according to the expected work load for the coming month.

Allegra adds up the number of litres of diesel fuel acquired for use in each activity to apportion its FTC entitlement for the month.

#### 5. Deductive method

To work out how much taxable fuel was **actually used**, an entity deducts the quantity of disqualified fuel from all the fuel used in the tax period. ('Disqualified fuel' is the taxable fuel for which there is no FTC entitlement and the fuel that isn't taxable.)

**Planned use:** To work out how much taxable fuel was acquired 'for use' – that is, that the entity *planned to use* – the entity would deduct the proposed quantity of disqualified fuel from the total amount of fuel acquired.

##### *Example 3 – deductive method – actual use: where different fuels and rates are used*

Jackson Company operates a forestry business. It buys diesel fuel in bulk to use in its heavy vehicles and some of its light vehicles to make deliveries of timber from its sawmills to customers (via public roads). The heavy vehicles do not have auxiliary equipment. The company also buys petrol in bulk to use in its other light vehicles travelling on public roads and in its forklifts to move the timber around the business premises.

Jackson is entitled to:

- an FTC reduced by the road user charge for diesel fuel used in the heavy vehicles
- a full FTC for petrol used in the forklifts.

Jackson is not entitled to:

- an FTC for diesel fuel used in the light vehicles travelling on public roads.

Jackson decides to use the deductive method to calculate the quantity of diesel fuel and petrol for which it is entitled to FTCs.

Each time it refuels a light vehicle, Jackson records the date, the vehicle and quantity of diesel fuel taken. The company lodges its BAS monthly, so every month it adds up the number of litres of diesel fuel used in the light vehicles to calculate the amount of diesel fuel for which it is **not** entitled to an FTC. It then subtracts this amount from the total amount of diesel fuel acquired for the month to calculate the amount of diesel fuel for which it **is** entitled to an FTC.

Jackson also records each time it refuels a light vehicle with petrol. As with diesel, once a month it adds up the number of litres of petrol used in the light vehicles,

subtracting this amount from the total amount of petrol acquired for the month to calculate the amount of petrol used in the forklifts, for which it is entitled to an FTC.

#### **Example 4 – deductive method – planned use: where part of the fuel is not eligible**

Nugget runs a farm and buys diesel fuel in bulk to use in his agricultural activities and in a four wheel drive light vehicle. Nugget is entitled to an FTC for diesel fuel used for agricultural activities but is not entitled to an FTC for diesel fuel used in the light vehicle when it is travelling on public roads. Nugget chooses the deductive method to calculate the amount of taxable fuel used in the light vehicle for which he is **not** entitled to an FTC.

Nugget uses the light vehicle to collect provisions from town twice a week. Using odometer readings, he has worked out that each trip uses 5 litres of diesel fuel. Nugget claims his FTC entitlement monthly, so he works out how many litres of fuel he acquired to use (planned use) in the light vehicle to calculate the amount of taxable fuel for which he is not entitled to an FTC (eight trips x five litres per trip = 40 litres) and subtracts this amount from the total amount of fuel he acquired for the month. This gives him the amount of taxable fuel for which he is entitled to an FTC.

## **6. Percentage use method**

If an entity uses about the same amount of fuel on eligible activities over a number of tax periods, it may prove 'fair and reasonable' for it to use the percentage use method to calculate the apportionment. Separate percentage calculations should be used for each type of fuel acquired.

The entity must keep detailed records over a sample period – say, four weeks – and use those records to calculate (using either the constructive or deductive method) the taxable fuel actually used in a given eligible activity in that sample period. Then the entity can calculate the percentage of all fuels used in eligible activities by using the following formula:

$$\text{Percentage rate} = \frac{\text{Taxable fuel used in an activity}}{\text{Total taxable fuel purchased}} \times \frac{100}{1}$$

('taxable fuel used in an activity' and 'total taxable fuel used' refer to usage during the sample period.)

Depending on the size of the entity's fleet of vehicles or equipment, they may find it expedient to employ statistical sampling to help them calculate the percentage of taxable fuel used in a given activity.

#### **Example 5 – percentage use – where there is more than one activity**

Raj Heavy Enterprises runs a delivery business for a major distributor. It has a long-term contract to deliver goods to a fixed number of outlets three times a week. It uses 10 heavy vehicles and five 4WD light vehicles. The heavy vehicles all have auxiliary equipment used to load and unload the vehicles. The vehicles only travel on public roads.

Raj buys diesel fuel and stores it in a bulk fuel tank for use in both its heavy and the light vehicles.

Raj has:

- an FTC reduced by the road user charge for the diesel fuel used in the heavy vehicles for travelling on public roads
- a full FTC for the diesel fuel used in the auxiliary equipment of the heavy vehicles
- no FTC for the diesel fuel used in the light vehicles.

Raj needs to show that its diesel fuel usage for which it claims FTCs reflects the proportion of diesel fuel used in the trucks, compared to the total amount of diesel fuel that it acquires. To do this, it uses maintenance records to verify equipment usage and establish fuel consumption rates for its vehicles. It also keeps a record of the number and type of vehicles, including those with auxiliary equipment, as well as the journeys for which the vehicles are used.

Raj decides that its heavy and light vehicles show a reasonably steady diesel fuel usage pattern, so it will calculate a percentage for the diesel fuel used in the trucks and use that percentage in future to work out the amount of diesel fuel for which it is entitled to a FTC.

Raj buys 5,000 litres of diesel fuel and records all fuel usage for a sample six week period. The records for the six week period showed that it used 4,000 litres for eligible uses. The percentage is therefore calculated as follows:

$$\text{Percentage rate} = \frac{4,000}{5,000} \times \frac{100}{1} = 80\%$$

In future, when making bulk purchases of diesel fuel, Raj will be entitled to an FTC (reduced by the road user charge) for 80% of the diesel fuel that it purchases, provided that this percentage continues to provide a fair and reasonable basis of apportionment.

Raj must further apportion the fuel between that used in the vehicle, for travelling, and that used to power the vehicle's auxiliary equipment.

### **Example 6 – percentage use – where the percentage method is not ‘fair and reasonable’**

Roger Company runs a wet hire business and provides bobcat services for various landscaping, agricultural and construction activities in a rural area. The company also uses 4WD light vehicles, which travel on public roads. The bobcats are only used off public roads.

Roger buys diesel fuel in bulk to use in the bobcats and the 4WD light vehicles. Roger is entitled to a full FTC for diesel fuel used in the agricultural, landscaping and construction activities, but it is not entitled to an FTC for the fuel used in the light 4WD vehicles.

The way the vehicles are used varies, depending on the flow and type of work.

Roger decides to apply the percentage method to calculate the amount of diesel fuel it acquires to use in its enterprise. Roger chooses a 12-week sample period and records the diesel fuel usage in each activity for that 12 weeks. The FTC entitlement will depend on the activity for which the fuel is used, so the company calculates a separate percentage rate for diesel fuel used in each activity. It determines that in the 12 week period 50% of the total diesel fuel it has acquired is used in agricultural activities, 25% in landscaping activities, 15% in construction activities and 10% in the 4WD light vehicles. This equates to a full FTC for 90% of the diesel fuel (used in the bobcats) and nil FTC for the remaining 10% (used in the 4WD light vehicles).

But because the bobcats have a variable pattern of use, it is not ‘fair and reasonable’ to use the percentage method to calculate the company’s FTC entitlement – that is, the percentage method doesn’t genuinely represent the fuel usage over the tax period because the vehicle use varies, depending on the workflow.

## **7. Estimate method**

Using the estimate method, the entity is required to estimate fairly and reasonably how much taxable fuel it acquires or actually uses in a tax period.

### **Example 7 – estimate use**

Attilo Enterprises operates a construction business and buys diesel fuel in bulk to use in their fleet of vehicles comprising 10 graders, 10 bobcats, 10 front end loaders and 10 4WD light vehicles that travel on public roads. Each type of vehicle is a similar make and model.

Based on the nature of its operations, Attilo is entitled to a full FTC for fuel used in the graders, bobcats and

front end loaders in off-road construction activities and an FTC (reduced by the road user charge) for fuel used in the graders, bobcats, and front end loaders travelling on public roads to get to and from worksites. It is not entitled to FTCs for the fuel used in the light vehicles travelling on public roads.

The vehicle usage varies across tax periods because the flow of work varies. Accordingly, Attilo decides to use the estimate use method to calculate its FTC entitlement.

Attilo has established the average hourly fuel consumption for each type of vehicle. To apportion diesel fuel between a full FTC, an FTC reduced by the road user charge and no FTC, the company uses the relevant average hourly fuel consumption to work out the quantity of diesel fuel acquired for use in each activity, based on its planned activities for the tax period.

## **8. Measuring for calculating the amount of taxable fuel**

Examples of known reliable measures for calculating the amount of taxable fuel acquired for use in an eligible activity include:

- odometer readings of kilometres actually travelled
- route distances if a vehicle operates on fixed routes
- kilowatt hours of electricity generated
- hours of operation of vehicle or equipment, and
- average hourly fuel consumption of vehicle or equipment.

Other measures may also be suitable.

### **Example 8 – Average hourly consumption**

To determine average hourly fuel consumption, Allegra Company (see example under ‘Constructive method’) uses its sales invoices to itemise actual hours of work completed by each front end loader over two separate four-week periods (one in summer and one in winter) and the quantity of fuel actually used in those periods. By doing so, Allegra establishes that the front end loaders have different average hourly fuel consumption figures for each activity.

To correctly apportion fuel between the activities, Allegra multiplies the front end loaders’ total operating hours for each activity by the respective average hourly fuel consumption figure. The result shows how much diesel fuel was used for each activity.

Apportioning fuel by referring to the front end loaders’ average hourly fuel consumption in various working and climatic conditions would be considered a fair and



reasonable basis for calculating Allegra's entitlement to an FTC for diesel use in agricultural and building construction activities.

### 9. Calculating fuel consumption using the manufacturer's specifications

If an entity is using manufacturer's specifications to calculate fuel consumption, the specifications must suit the facts and circumstances of the actual usage. That is:

- The entity's vehicle or equipment use must align with the usage on which the manufacturer based the fuel consumption indicators.
- The vehicle or equipment's age must fall within the manufacturer's specifications.
- The maintenance performed on the vehicle or equipment must conform to the manufacturer's specifications.
- The entity must use the vehicle or equipment according to the manufacturer's indicators about light, medium or heavy use.

In some cases, an entity may choose to reduce its compliance costs by relying on the manufacturer's specifications, even if those specifications indicate lower fuel consumption than is actually the case. This is acceptable practice.

#### **Example 9 – where actual use is less than the manufacturer's specifications**

Guilia Pty Ltd runs a wet hire business and operates 10 mobile cranes in agricultural and construction activities. The mobile cranes do not travel on public roads. Guilia buys diesel fuel in bulk to use in the mobile cranes.

The manufacturer's specifications for the mobile cranes provide the hourly fuel consumption based on light, medium and heavy load factors. Guilia uses the cranes for different activities under various conditions. These conditions affect the load factors, so the fuel consumed per hour for a mobile crane should be determined according to the relevant load factor in the specifications. In Guilia's case, the load factor is high for agricultural activities and medium for construction activities. Guilia decides to use the high load factor to calculate its fuel use in the mobile cranes for both agricultural and construction activities, even though the construction activities have a medium load factor.

In these circumstances, Guilia's assessment is incorrect: basing the total fuel apportionment on a high load factor would not be fair and reasonable.

Guilia should instead calculate its claim by applying the manufacturer's specifications according to the load

factor for each activity. This will deliver a calculation based on the correct consumption per hour and would be a fair and reasonable apportionment.

### 10. Using statistical sampling

If an entity is using several similar vehicles or equipment in similar ways, it can use statistical sampling to work out what is the best apportionment method. An appropriate statistical sampling has been used where the:

- entity is using an adequate sampling design (for example, grouping vehicles into relatively homogenous groups and then sampling each group)
- entity is confident the sample is reliable and has a tolerable error
- sample is random and representative, and
- data obtained is correct.

The entity must also show that applying the same sample result to a fleet or group of vehicles or a number of pieces of equipment is a reasonable thing to do.

#### **Example 10 – fair and reasonable sampling – percentages**

Bunji Pty Ltd, which runs a mining operation, buys diesel fuel in bulk to use in a fleet of heavy vehicles, equipment and a large number of 4WD light vehicles of a similar make and model. It is entitled to an FTC for diesel fuel used in the light vehicles when they are used for purposes other than travelling on public roads.

Its fuel usage is fairly constant, so Bunji decides to use the percentage method to calculate the amount of taxable fuel for which it is entitled to an FTC.

Given the high number of light vehicles in the fleet and their usage pattern, Bunji uses statistical sampling to establish what quantity of diesel fuel the light vehicles consume when they are used for purposes **other** than travelling on public roads versus when they **are** travelling on public roads. The sample, which is based on a random but representative selection of the light vehicles, delivers a 95% confidence level and a tolerable error of 10%.

Using the sample and log book records, Bunji works out the quantity of diesel fuel acquired for use in the light vehicles over a four-week sample period. It uses this to calculate the percentage of diesel fuel used in its light vehicles for use other than travelling on a public road, for which it is entitled to an FTC.

### **Example 11 – statistical sampling that is not fair and reasonable**

Setzer Mining Company runs a mining operation. It buys diesel fuel in bulk to use in its vehicle fleet, comprising 50 forklifts, 25 front end loaders, 25 graders and 100 4WD light vehicles that travel on public roads.

The company is entitled to an FTC for diesel fuel used in the forklifts, front end loaders and graders but is not entitled to an FTC for the diesel fuel used in the light vehicles travelling on public roads.

It decides to use the percentage method to calculate its FTC entitlement.

Setzer has 200 vehicles, so it decides to use statistical sampling to establish how much fuel the vehicles use. The sample uses a random selection of vehicles from its fleet, delivers a 95% confidence level and a tolerable error of 10%.

But given the different types and uses of the vehicles, just randomly selecting from the 200 vehicles without first grouping them into relatively homogenous groups will not provide an adequate sampling design – there would not be a fair and reasonable basis for calculating the percentage rate for fuel used in the various types of vehicles.

Setzer should first group the vehicles – say, by make and model – and then sample each group. If the makes and models are the same or similar and the fuel used in each type of vehicle is fairly constant, it would then be appropriate to select a sample from each group – that is, a sample from a group of 50 forklifts, another from a group of 25 front end loaders, another from the 25 graders and one from the 100 light vehicles. That would constitute a ‘fair and reasonable’ basis.

## **11. Auxiliary equipment**

The FTC for fuel used in the auxiliary equipment of a heavy vehicle is not reduced by the road user charge. Therefore, the fuel used in a heavy vehicle that has auxiliary equipment must be apportioned according to whether it is used in the auxiliary equipment or in the vehicle for travelling on a public road.

PS LA 2013/4 (GA) sets out what percentage we consider is a fair and reasonable apportionment. The entity, however, may choose any methodology – such as one of the constructive, deductive, estimate or percentage methods already discussed – that is fair and reasonable for its circumstances and which takes into account the type and use of the equipment, the usage variables, the mechanisms measuring the fuel usage and the records substantiating the apportionment.

In working out the fuel usage of the vehicle, or the auxiliary equipment of the vehicle, the sample tested must reasonably represent the vehicles and auxiliary equipment used in the enterprise. It must include vehicles of various sizes, ages and configurations. Where the fuel usage of the vehicles and their auxiliary equipment are inconsistent, a larger test sample may be necessary. The entity must be able to demonstrate that it is reasonable to apply the sampling result to the wider fleet or group of vehicles or equipment.

### **What is auxiliary equipment?**

Auxiliary equipment is defined as a mechanism or apparatus that does not propel or operate the functions of the vehicle that are for the purpose of travelling, such as:

- mechanisms for loading and unloading goods
- mixing barrels and the loading and unloading mechanisms of concrete transit vehicles
- bin lifts and compacting mechanisms in garbage vehicles
- waste jetters and vacuum systems used in drain cleaning
- gas pumps in gas tankers
- winches and towing equipment in tow trucks
- elevated platforms (buckets) and snorkels
- truck mounted drilling equipment
- truck loading cranes
- brushing mechanisms in street sweepers
- refrigeration units in refrigerated trailers, and
- air conditioning in commercial buses and coaches.

### **Fuel in auxiliary equipment**

Fuel used to power the auxiliary equipment may be sourced from a separate fuel tank or from the tank that fuels the main engine. The auxiliary equipment may also take power from the main engine through a power take off (PTO), which in turn increases the fuel used by the vehicle while it is travelling, or while the vehicle is idling.

Several variables may affect the amount of fuel consumed by the auxiliary equipment or the associated vehicle:

- the terrain the vehicle travels
- variable distances travelled compared to the intervals between using the auxiliary equipment
- climatic conditions during transportation (including whether the cargo area is thermostatically controlled)
- age and design of the auxiliary equipment

- servicing and maintenance of the auxiliary equipment or vehicle
- weight and capacity of the cargo area
- configuration of the vehicle's cargo area (fully or partially insulated, curtain or solid construction, shipping container)
- Australian standards or statutory requirements to be met in relation to the goods transported, and
- driver influence (for example, conservative driving practices).

These variables in fuel consumption may impact on the methodology used to estimate fuel consumption. The following are some examples of the data that may be used to calculate fuel consumption:

- actual records of fuel supplied to auxiliary equipment, based on the amount of fuel acquired (for example, where the equipment is fuelled from a tank that is separate from the vehicle's main tank)
- manufacturer's specifications
- engine diagnostic downloads  
If the PTO is connected to the module, the running time and fuel consumption will be reported and, generally, the diagnostic will indicate the idle time and fuel consumption of the vehicle with and without the PTO engaged.
- comparison of the vehicle's fuel consumption with and without the auxiliary equipment operating, and
- comparisons of the vehicle's fuel consumption while idling with and without the PTO engaged.

#### **Example 12 – controlled trialling based on litres per hour**

Infrastructure Services operates several heavy vehicles, which vary in size and age. It uses three types of auxiliary equipment – truck mounted drilling rigs, mobile cranes and mobile elevated platforms. The auxiliary equipment also varies in size and age and all are powered through a PTO while the vehicle is idling. Only one type of equipment is attached to a vehicle at any time.

Each vehicle travels on a public road to where the auxiliary equipment will be operated. When it is operated the vehicle is stationary on the public road. The fuel used to power the auxiliary equipment is not subject to the road user charge, so Infrastructure Services needs to determine the amount of fuel used to power the auxiliary equipment.

Infrastructure Services selects a sample of each type of auxiliary equipment (and the vehicle to which it is attached) for fuel consumption trialling. The sample includes equipment and vehicles of various ages and

manufacturers and represents the different types of auxiliary equipment Infrastructure Services uses. The equipment is sorted into categories by type and then into subcategories by size and the size of its associated vehicle.

The vehicle is fuelled to capacity. The fuelling site is a short distance from the trialling site, so Infrastructure Services does not take into account the fuel consumed travelling from the fuelling site.

The auxiliary equipment is operated for one hour while the vehicle is idling. The vehicle is then refuelled to capacity at the same fuelling site. Again the fuel consumed travelling to and from the fuelling site is not taken into account.

The amount of fuel needed to refuel the vehicle to capacity after the testing period represents the amount of fuel used to power the auxiliary equipment.

Infrastructure Services determines the operating hours of each type of auxiliary equipment from a sample of the equipment service records. The sample represents the size of that type of equipment. The amount of fuel used by each type of auxiliary equipment is calculated by using the total hours the auxiliary equipment is operated for a period and the fuel usage per operating hour (as determined during the fuel consumption trial).

The percentage of fuel used by each type of auxiliary equipment for the period is derived from the total amount of fuel acquired for the period. The percentage is then apportioned, based on a weighted average to account for the different sizes of each type of auxiliary equipment.

This weighted average percentage is used to apportion the use of fuel in future.

#### **Example 13 – manufacturer specifications**

Grote Logistics is a transportation business that operates several heavy vehicles with auxiliary equipment.

The auxiliary equipment is fuelled from the same tank that fuels the main engine but operated independently from the vehicle and, as such, the vehicle does not need to be idling while the auxiliary equipment is in use.

A meter on the auxiliary equipment measures the hours it operates. This information is used to identify when the equipment is to be serviced.

Grote Logistics refers to the manufacturer specifications to determine the auxiliary equipment's fuel consumption. The specifications state a range of fuel consumption from high level operation to low level operation. The actual consumption in this range



depends on the climatic conditions and the type of goods transported.

Grote Logistics operates throughout the year and throughout Australia, so the auxiliary equipment operates in various climatic conditions. They also transport a range of goods requiring the auxiliary equipment to be operated at different levels. Grote Logistics therefore considers it reasonable to base the fuel consumption on the average fuel consumption of the high and low operation rates.

To apportion the amount of fuel acquired during the tax period to fuel its auxiliary equipment, Grote Logistics uses the number of hours of operation during the tax period multiplied by the average amount of fuel consumed per hour.

## 12. Using a third party's apportionment

Although entities must determine their own fuel apportionment and calculate their own FTCs, it may be fair and reasonable to use a third party's methods and calculations. Where subcontractors perform the same services as the contractor, for example in the cement transport and commercial coach and bus industries, it is reasonable for the subcontractor to apportion fuel use in the same way as their contracting entity if they:

- work exclusively for the entity they are contracted to
- own or lease the vehicle they use under the contract
- operate a vehicle of a similar type, size and age as those typically operated by the contracting entity
- perform journeys under the contract that are identical to those performed by the contracting entity's vehicles, and
- operate their vehicle under the same conditions as that of the contracting entity's vehicles.

## 13. Reviewing the methods

If an entity's circumstances change they should review the apportionment method they use. When you are considering an entity's claim for FTCs, note whether the entity's circumstances have changed and, if so, in what way, and how much time has elapsed since they last reviewed their methodology.

### *Example 14 – when a review is necessary*

Chandra Shine Operations Ltd runs a civil construction business. It uses the percentage use method to work out its FTC entitlement.

Six months into using the percentages, Chandra Shine gets a major long term contract to construct a tunnel. To undertake the new project, it adds new vehicles to its fleet and allocates additional equipment to activities that would ordinarily require less equipment.

These changes result in particular classes of equipment consuming more fuel than previously. Given the changes in fuel consumption and that the tunnel project is long-term, the original basis used to derive the percentages is no longer valid.

To maintain the fair and reasonable basis for apportioning its fuel use, Chandra Shine should now recalculate the percentages.

### *Example 15 – when a review is not necessary*

Luca Company, which runs a mining operation, buys diesel fuel in bulk to use in its heavy vehicles and equipment and in 4WD light vehicles.

Luca is entitled to an FTC for diesel fuel used in mining activities. It is not entitled to an FTC for diesel fuel used in the light vehicles travelling on public roads. Luca decides to use the percentage method to apportion diesel fuel between the different activities, so it calculates different percentage rates for diesel fuel used in each activity.

Fifteen months into using the relevant percentages, five of the light vehicles were used for some unexpected travel on a public road, totalling about 250km each, in place of their normal pattern of use.

Given the unexpected and one-off nature of the use of diesel fuel in the five light vehicles, Luca would not need to review the percentages it has calculated to work out the amount of taxable fuel that it acquires for use in each activity. However Luca will need to make a fuel tax adjustment.

## 14. Adjusting the FTC claim

Entitlement to FTCs is calculated according to what the fuel was going to be used for when it was acquired. If the fuel is actually used for some other purpose, the FTC must be adjusted.

### *Example 16 – when the actual use differs from the planned use*

Luca Company claimed its FTC entitlement on its planned use of light vehicles. But it later realised that five of the light vehicles travelled on public roads more frequently than expected.

Luca Company is not entitled to an FTC for diesel fuel used in the light vehicles travelling on public roads, so it needs to adjust the original FTC claim.

For example, if Luca made a claim based on 90% off-road use for the five light vehicles but the unexpected trips reduce this percentage to 70%, it will need to make an adjustment to reflect the reduced percentage.

- records showing hours of vehicle or equipment operation, and
- records showing type of vehicles with a GVM greater than 4.5 tonnes, machine or equipment.

## 15. Keeping records

Records kept by the entity should support the claims being made and contain the following information:

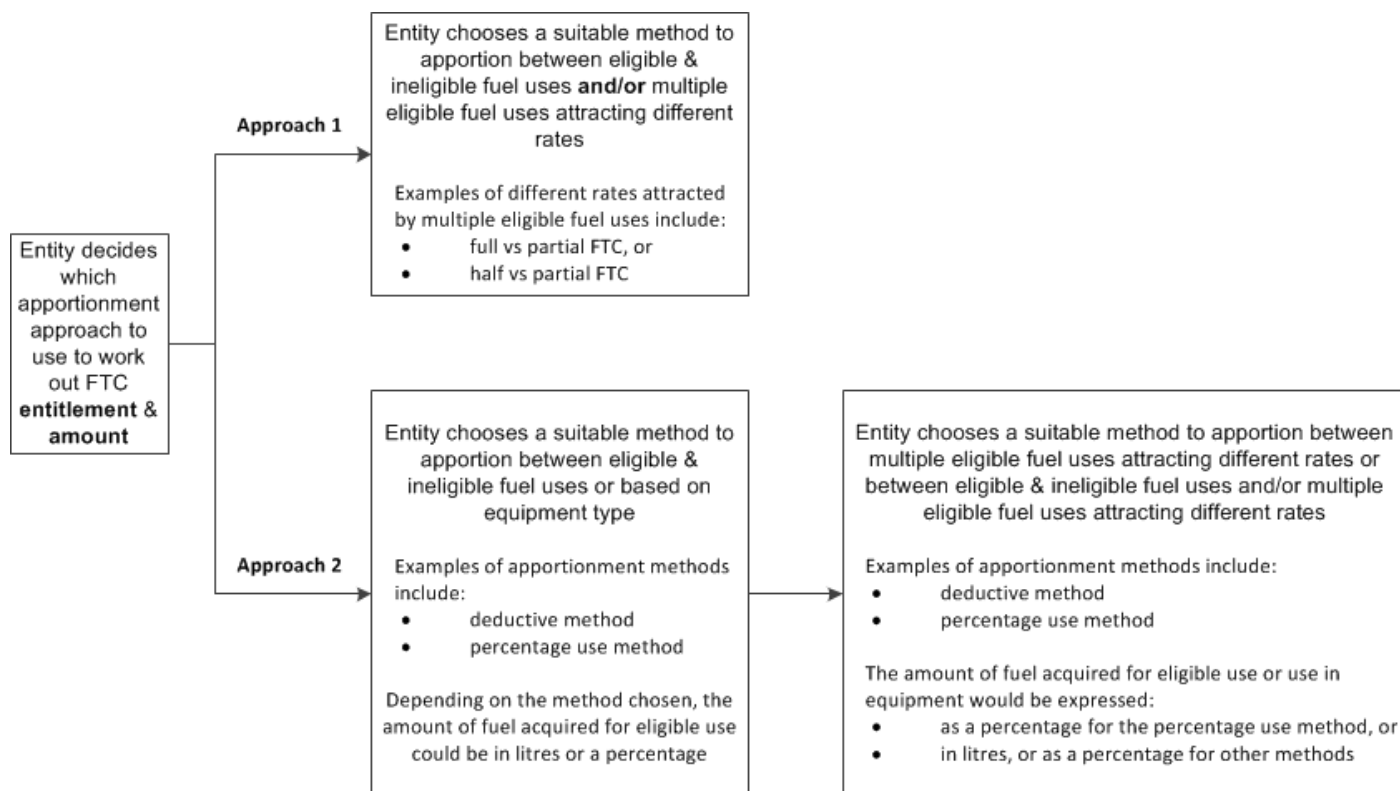
- the quantity of taxable fuel that was *acquired* for use in an eligible activity
- the quantity of taxable fuel that was *actually used* in an eligible activity
- the *total* quantity of taxable fuel acquired for use or actually used in an eligible activity
- each use of taxable fuel in an eligible activity, and
- the methods used to calculate the FTC entitlement.

In addition, entities should retain records relating to any fuel used in equipment trials.

Records that an entity ordinarily keeps as part of carrying on an enterprise may be sufficient to support its claims but, if not, you should consider referring to additional records. Ordinary records might include:

- records of business expenses
- sales and production records
- lease documents for agricultural land or equipment
- share farming contracts
- vehicle and equipment use and maintenance records
- work contracts, or government requirements
- records showing date of acquisition or delivery of taxable fuel
- records showing the type of taxable fuel purchased or delivered
- records showing quantity of taxable fuel delivered
- records showing location or address to which the taxable fuel was delivered
- records showing date and location of each activity
- records showing type of work performed
- records showing quantity of taxable fuel used in each activity
- log books
- odometer readings
- records showing kilowatt hours of electricity generated
- records showing route distances

## 16. Flowchart – approaches to apportionment for fuel tax credits



## 17. More information

For more information, see:

- [FTD 2010/1](#) *Fuel tax: is apportionment used when determining total fuel tax credits in calculating the net fuel amount under section 60–5 of the Fuel Tax Act 2006?*
- [PS LA 2013/4 \(GA\)](#) *Fuel tax credits – Road user charge – apportioning taxable fuel used in a vehicle for powering the auxiliary equipment of the vehicle*
- [Business activity statements – Fuel tax credits \(FTC\)](#)
- [Fuel schemes](#)
- [Fuel tax credit calculator](#)
- [Fuel tax credit eligibility tool](#)

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## Attachment

acquire	'acquire' refers to 'acquire, manufacture in, or import into Australia' in Divisions 41, 42 and 43 of the <i>Fuel Tax Act 2006</i> and to 'acquire manufacture or import taxable fuel' in Items 10 and 11 of Schedule 3 to the <i>Fuel Tax (Consequential and Transitional Provisions) Act 2006</i> .
auxiliary equipment	'auxiliary equipment' means equipment of the vehicle travelling on a public road that is not used to operate the vehicle for propulsion and aspects of the vehicle's function and operation that are for the purposes of travelling on a public road. Examples of such equipment includes the bin lifting and compacting equipment of a garbage compactor, the refrigeration unit of a refrigerated vehicle and the concrete barrel of a concrete transit vehicle and the air conditioning unit of commercial buses and coaches used for passenger comfort.
disqualified fuel	'disqualified fuel' is the taxable fuel for which there is no FTC entitlement and the fuel that is not taxable.
eligible activity	'eligible activity' means an activity conducted in the course of carrying on an enterprise, making a taxable supply of taxable fuel for domestic heating, or for generating electricity for domestic use, for which an entity is entitled to a fuel tax credit.
enterprise	'enterprise' refers to 'enterprise' as defined in section 110-5 of the FT Act.
used in an eligible activity	<p>'used in an eligible activity' covers taxable fuel that an entity acquires:</p> <ul style="list-style-type: none"> <li>• for use in carrying on its enterprise for the purposes of section 41-5 of the <i>Fuel Tax Act 2006</i></li> <li>• to make a taxable supply or packaged in accordance with the requirements of section 41-10 of the <i>Fuel Tax Act 2006</i>, or</li> <li>• for use in generating electricity for domestic use under Division 42 of the <i>Fuel Tax Act 2006</i>.</li> </ul> <p>It includes taking into account the requirements of Divisions 41, 42, 42A and 43 of the <i>Fuel Tax Act 2006</i> and Items 10 and 11 of Schedule 3 to the <i>Fuel Tax (Consequential and Transitional Provisions) Act 2006</i>.</p>
GVM	gross vehicle mass
heavy vehicle	A vehicle with a GVM of more than 4.5 tonnes. Diesel vehicles acquired before 1 July 2006 can equal 4.5 tonnes GVM and are still considered heavy vehicles.
light vehicle	A vehicle with a GVM of 4.5 tonnes or less
planned use	'planned use' is a reference to 'acquired for use' and 'intended for use'.
taxable fuel	'taxable fuel' is a reference to 'taxable fuel' as defined in section 110-5 of the FT Act.
tax period	'tax period' has the meaning given by section 195-1 of the <i>A New Tax System (Goods and Services Tax) Act 1999</i>