




Fuel Tax Determination

Fuel tax: what is an 'enterprise' for the purposes of the *Fuel Tax Act 2006*?

 From 1 July 2015, the term 'Australia' is replaced in nearly all instances within the Fuel Tax legislation with the term 'indirect tax zone' by the *Tax and Superannuation Laws Amendment (2015 Measures No. 1) Act 2015*. The scope of the new term, however, remains the same as the now repealed definition of 'Australia' used in those Acts. This change was made for consistency of terminology across the tax legislation, with no change in policy or legal effect. For readability and other reasons, where the term 'Australia' is used in this document, it is referring to the 'indirect tax zone' as defined in subsection 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999*.

This publication provides you with the following level of protection:

This publication (excluding appendixes) is a public ruling for the purposes of the *Taxation Administration Act 1953*. A public ruling is an expression of the Commissioner's opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes. If you rely on this ruling, we must apply the law to you in the way set out in the ruling (or in a way that is more favourable for you if we are satisfied that the ruling is incorrect and disadvantages you, and we are not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any overpaid net fuel amount, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.

[Note: This is a consolidated version of this document. Refer to the Tax Office Legal Database (<http://law.ato.gov.au>) to check its currency and to view the details of all changes.]

Ruling

1. The term 'enterprise' is defined in section 110-5 of the *Fuel Tax Act 2006* (FT Act). That definition states, 'enterprise' has the meaning given by section 9-20 of *A New Tax System (Goods and Services Tax) Act 1999*.
2. The Commissioner's views on the meaning of 'enterprise' for the purposes of the FT Act are the same as those expressed in Goods and Services Tax Determination GSTD 2006/6.¹
3. GSTD 2006/6 in turn adopts, for Good and Services Tax purposes, the Commissioner's views set out in Miscellaneous Taxation Ruling MT 2006/1 The New Tax

¹ Goods and Services Tax Determination GSTD 2006/6 Goods and services tax: does MT 2006/1 have equal application to the meaning of 'entity' and 'enterprise' for the purposes of *A New Tax System (Goods and Services Tax) Act 1999*?

FTD 2006/3

System: the meaning of entity carrying on an enterprise for the purposes of entitlement to an Australian Business Number.

Class of entities

4. This Determination applies to the class of entities who are entitled to a fuel tax credit for taxable fuel acquired or manufactured in, or imported into, Australia, to the extent that they do so for use in carrying on their enterprise.

Date of effect

5. This Determination applies from 1 July 2006.² However, the Determination does not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of issue of the Determination.

6. If a taxpayer has a more favourable private ruling (which is legally binding), the taxpayer can rely on that private ruling if the income year to which it relates has ended or has commenced but not yet ended. However if the scheme covered by the private ruling has not commenced, and the period to which it relates has not yet commenced, this Determination applies to the taxpayer to the extent of the inconsistency only.

Note: the Addendum to this Determination that issued on 15 August 2007 explains our view of the law as it applied on and from 13 December 2006.

Commissioner of Taxation

9 August 2006

² The FT Act commenced on the 1 July 2006.

References

Previous draft:

Not previously issued as a draft

Related Rulings/Determinations:

FTD 2006/2; FTD 2010/1; GSTD 2006/6;
MT 2006/1

Subject references:

- Australian Business Number
- carrying on an enterprise
- enterprise

- fuel tax credit

Legislative references:

- ANTS(GST)A 1999 9-20
- FT Act 2006
- FT Act 2006 110-5
- TAA 1953

Other references:

- Law Administration Practice Statement PS
LA 2010/3

ATO references

NO: 2006/3597
ISSN: 1833-9662
ATOlaw topic: Fuel Tax