


# ***FTD 2009/1A1 - Addendum - Fuel tax: what is the meaning of 'use' for the purposes of section 41-5 of the Fuel Tax Act 2006?***

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## Addendum

### Fuel Tax Determination

#### Fuel tax: what is the meaning of 'use' for the purposes of section 41-5 of the *Fuel Tax Act 2006*?

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Fuel Tax Determination FTD 2009/1 to make minor changes to take into the account the decision in *Gem Plant Hire Pty Ltd ATF The Condello Family Trust v. Commissioner of Taxation* [2012] AATA 852, and insert a cross reference to Fuel Tax Ruling FTR 2009/1.

#### FTD 2009/1 is amended as follows:

##### 1. Paragraph 19

After the paragraph insert:

19A. The meaning of the term 'use' in section 41-5 was confirmed in *Gem Plant Hire Pty Ltd ATF The Condello Family Trust v. Commissioner of Taxation* [2012] AATA 852 where the Administrative Appeals Tribunal observed at paragraph 14:

The use of fuel contemplated by the legislation is use, or consumption, as a flammable or explosive agent in internal combustion engines or other dealings with the fuel that render it no longer able to be used as fuel.

##### 2. Footnote 20

After the first sentence; insert '*Riviera* also considers when a sale or disposal of fuel occurs. The Commissioner's views on this aspect of the decision are set out in paragraphs 113 to 115 and 125 to 141 of Fuel Tax Ruling FTR 2009/1 *Fuel tax: entitlement to a fuel tax credit under section 41-5 of the Fuel Tax Act 2006 in a vehicle or equipment hire arrangement*, which discuss when there is a 'licence to use' fuel.'

##### 3. Related Rulings/Determinations

Insert 'FTR 2009/1'.

# FTD 2009/1

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## 4. Case References

Insert:

- Gem Plant Hire Pty Ltd ATF The Condello Family Trust v. Commissioner of Taxation [2012] AATA 852

This Addendum applies both before and after its date of issue.

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**Commissioner of Taxation**

8 January 2014

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ATO references

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