

FTR 2006/1W - Fuel tax: fuel tax credits for taxable fuel acquired or manufactured in, or imported into Australia for use in carrying on an enterprise involving 'agriculture' as defined in section 22 of the Energy Grants (Credit) Scheme Act 2003

⚠ This cover sheet is provided for information only. It does not form part of *FTR 2006/1W - Fuel tax: fuel tax credits for taxable fuel acquired or manufactured in, or imported into Australia for use in carrying on an enterprise involving 'agriculture' as defined in section 22 of the Energy Grants (Credit) Scheme Act 2003*

⚠ This document has changed over time. This is a consolidated version of the ruling which was published on *1 July 2012*



Fuel Tax Ruling

Fuel tax: fuel tax credits for taxable fuel acquired or manufactured in, or imported into Australia for use in carrying on an enterprise involving 'agriculture' as defined in section 22 of the *Energy Grants (Credit) Scheme Act 2003*

ⓘ 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 underpaid tax, 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.

Withdrawal

1. This Ruling is withdrawn and ceases to have effect on 1 July 2012. The Ruling continues to apply, in respect of the fuel tax law ruled upon, to all taxpayers within the specified class who acquire, manufacture in, or import into Australia, taxable fuel before 1 July 2012. Thus, the Ruling continues to apply to those taxpayers, even following its withdrawal, who acquire taxable fuel prior to the withdrawal of the Ruling (see paragraph 46 of TR 2006/10).

Commissioner of Taxation
4 October 2006

References

Previous draft:

Not previously issued as a draft

Related Rulings/Determinations:

PGBR 2004/1; PGBR 2005/1;
 PGBR 2005/2; PGBR 2005/3;
 TR 97/11; TR 97/11ER;
 TR 2006/10; GSTR 2006/3;
 GSTR 2006/4; FTD 2006/2;
 FTD 2006/3; MT 2006/1;
 FTR 2006/3; FTR 2006/4

Subject references:

- acquire
- acquire, or manufacture in, or import into, Australia
- apportionment
- apportionment of fuel
- business
- business purposes
- carrying on your enterprise
- agricultural activities
- agricultural construction activity
- agricultural property
- agricultural soil/water activity
- agricultural waste activity
- apiculture
- apportionment of fuel
- carrying out of earthworks for use in a core agricultural activity
- claims
- core agricultural activity
- cultivation of the soil
- cultivation or gathering in of crops
- diesel fuel
- eligible use
- energy grant
- energy grants (credits) scheme
- gathering in
- grants
- horticulture
- in
- live-stock activity
- off-road credits scheme
- off-road diesel fuel
- off-road scheme
- on-road credits scheme
- pasturage
- person who carries on a core agricultural activity
- place adjacent to an agricultural property
- public road

- rearing of live-stock
- road vehicle
- solely
- status of contractors and subcontractors
- sundry agricultural activity
- viticulture

Legislative references:

- ANTS(GST)A 1999
- ANTS(GST)A 1999 9-20
- ANTS(GST)A 1999 Div 23
- ANTS(GST)A 1999 184-1
- ANTS(GST)A 1999 195-1
- EGCSA 2003
- EGCSA 2003 4
- EGCSA 2003 Pt 2 Div 3 Subdiv C
- EGCSA 2003 21
- EGCSA 2003 22
- EGCSA 2003 22(1)
- EGCSA 2003 22(1)(a)
- EGCSA 2003 22(1)(b)
- EGCSA 2003 22(1)(c)
- EGCSA 2003 22(1)(d)
- EGCSA 2003 22(1)(e)
- EGCSA 2003 22(1)(f)
- EGCSA 2003 22(1)(g)
- EGCSA 2003 22(1)(h)
- EGCSA 2003 22(1)(i)
- EGCSA 2003 22(2)
- EGCSA 2003 22(2)(a)
- EGCSA 2003 22(2)(b)
- EGCSA 2003 23
- EGCSA 2003 23(1)
- EGCSA 2003 23(1)(a)
- EGCSA 2003 23(1)(b)
- EGCSA 2003 23(1)(c)
- EGCSA 2003 23(1)(d)
- EGCSA 2003 23(2)
- EGCSA 2003 24
- EGCSA 2003 24(a)
- EGCSA 2003 24(b)
- EGCSA 2003 24(c)
- EGCSA 2003 24(d)
- EGCSA 2003 24(e)
- EGCSA 2003 25
- EGCSA 2003 25(a)
- EGCSA 2003 25(b)
- EGCSA 2003 25(c)
- EGCSA 2003 25(d)
- EGCSA 2003 25(e)
- EGCSA 2003 26
- EGCSA 2003 26(a)

- EGCSA 2003 26(b)
- EGCSA 2003 27
- EGCSA 2003 27(a)
- EGCSA 2003 27(b)
- EGCSA 2003 27(c)
- EGCSA 2003 27(d)
- EGCSA 2003 27(e)
- EGCSA 2003 27(f)
- EGCSA 2003 27(g)
- EGCSA 2003 27(g)(ii)
- EGCSA 2003 27(g)(iii)
- EGCSA 2003 27(h)
- EGCSA 2003 27(i)
- EGCSA 2003 27(j)
- EGCSA 2003 28(1)
- EGCSA 2003 28(2)
- EGCSA 2003 28(2)(a)
- EGCSA 2003 28(2)(b)
- EGCSA 2003 28(2)(c)
- EGCSA 2003 28(2)(d)
- EGCSA 2003 30
- EGCSA 2003 31
- EGCSA 2003 32
- EGCSA 2003 33
- EGCSA 2003 34
- EGCSA 2003 35
- EGCSA 2003 51(2)
- EGCSA 2003 52
- EGCSA 2003 53
- EGCSA 2003 53(1)
- EGCSA 2003 53(2)
- EGCSA 2003 53(3)
- EGCSA 2003 53(6)
- EGCSA 2003 53(7)
- EGCSA 2003 55
- EGCSA 2003 55A
- EGCS Regulations 2003
- FTA 2006
- FTA 2006 41-5
- FTA 2006 41-5(1)
- FTA 2006 41-5(2)
- FTA 2006 41-15
- FTA 2006 41-20
- FTA 2006 41-25
- FTA 2006 Subdiv 41-B
- FTA 2006 42-5
- FTA 2006 Div 43
- FTA 2006 43-10
- FTA 2006 43-10(4)
- FTA 2006 Div 44
- FTA 2006 44-5(3)
- FTA 2006 Subdiv 45-A
(repealed as of 1 July 2009)
- FTA 2006 45-5 (repealed as of
1 July 2009)
- FTA 2006 45 5(2) (as at 30 June
2009)
- FTA 2006 Div 60
- FTA 2006 60-5
- FTA 2006 60-5(1)
- FTA 2006 61-15
- FTA 2006 61-20
- FTA 2006 Div 65
- FTA 2006 65-5(1)
- FTA 2006 65-5(2)
- FTA 2006 65-5(3)
- FTA 2006 65-5(4)
- FTA 2006 65 5(5) (as at 30 June
2009)
- FTA 2006 95-5
- FTA 2006 110-5
- FT (Consequential and Transitional
Provisions) Act 2006
- FT (Consequential and
Transitional Provisions) Act 2006
Sch 3
- FT (Consequential and
Transitional Provisions) Act 2006
Sch 3 9
- FT (Consequential and
Transitional Provisions) Act 2006
Sch 3 9(3)
- FT (Consequential and
Transitional Provisions) Act 2006
Sch 3 10
- FT (Consequential and
Transitional Provisions) Act 2006
Sch 3 10(5)(b)
- FT (Consequential and
Transitional Provisions) Act 2006
Sch 3 11
- FT (Consequential and
Transitional Provisions) Act 2006
Sch 3 11(5)(b)
- FT (Consequential and
Transitional Provisions) Act 2006
Sch 3 11(6)
- FT (Consequential and
Transitional Provisions) Act 2006
Sch 3 11(7)
- FT (Consequential and
Transitional Provisions) Act 2006
Sch 3 12
- FT (Consequential and
Transitional Provisions) Act 2006
Sch 3 12A
- FT (Consequential and
Transitional Provisions) Act 2006
Sch 3 12A(1)(c)(i)
- FT (Consequential and
Transitional Provisions) Act 2006
Sch 3 12A(1)(e)(i)

- FT (Consequential and Transitional Provisions) Act 2006 Sch 3 12A(1)(e)(ii)
- FT (Consequential and Transitional Provisions) Act 2006 Sch 3 12A(1)(f)
- FT (Consequential and Transitional Provisions) Act 2006 Sch 3 12A(2)
- FT (Consequential and Transitional Provisions) Act 2006 Sch 3 12A(3)(a)
- FT (Consequential and Transitional Provisions) Act 2006 Sch 3 12A(3)(b)
- PGBA Act 2000
- PGBA Act 2000 9
- PGBA Act 2000 15(2)(db)
- PGBA Act 2000 15(2A)
- Customs Act 1901
- Customs Act 1901 164
- Customs Act 1901 164(7)
- Customs Act 1901 164(7)(c)
- Customs Act 1901 164(7)(ca)
- Customs Act 1901 164(7)(s)
- Customs Tariff Act 1995 9
- Excise Act 1901
- Excise Act 1901 78A
- Excise Tariff Act 1921
- ITAA 1936 51(1)
- Real Property Act 1886
- Sales Tax (Exemptions and Classifications) Act 1935 Sch 1 14
- TAA 1953
- TAA 1953 Sch 1 105 55
- Tax Laws Amendment (2009 Measures No. 2) Act 2009 Sch 7 16(4)
- Tax Laws Amendment (2009 Measures No. 2) Act 2009 Sch 7 16(5)
- Town and Country Planning Act 1947 119(1)
- Local Government Act 1928-1941 (Vic) 249(5)
- Local Government Act 1999 (SA) 208(1)
- Main Roads Act 1930 (WA) 13
- Roads Act 1993 (NSW) 13
- Roads and Jetties Act 1935 (Tas) 7
- Transport Act 1983 (Vic) Sch 2
- Transport Infrastructure Act 1994 (Qld) 23
- Attorney-General; Ex rel Australian Mutual Provident Society v. Corporation of the City of Adelaide [1931] SASR 217
- Attorney-General for the Northern Territory v. Minister for Aboriginal Affairs (NSW G 235 of 1988), unreported decision, 3 August 1988
- Attorney-General for the Northern Territory of Australia v. Minister for Aboriginal Affairs and Others (1989) 23 FCR 536
- Australian National Railways Commission v. Collector of Customs SA (1985) 8 FCR 264; (1985) 69 ALR 367
- Australian Native Landscapes Pty Ltd v. Collector of Customs [1997] 81 FCA (21 February 1997); (1997) 24 AAR 353; (1997) 44 ALD 531
- Barker v. R (1983) 153 CLR 338; (1983) 47 ALR 1; (1983) 57 ALJR 426
- Belmont Farm v. Minister of Housing and Local Government (1962) 13 P & CR 417
- Brodie and Anor v. Singleton Shire Council (2001) 206 CLR 512; (2001) 180 ALR 145
- Case 21/98 (1998) ATC 263; (1998) 40 ATR 1166; AAT No. 13,430 [1998] AATA 874
- Chief Executive Officer of Customs v. WMC Resources Ltd (as agent for East Spar Alliance) (1998) 158 ALR 241; (1998) 87 FCR 482
- Clean Investments Pty Ltd v. Commissioner of Taxation [2001] FCA 80 14 February 2001; (2001) 105 FCR 248; (2001) 184 ALR 314; (2001) 46 ATR 248
- Cohns Industries Pty Ltd v. Deputy Federal Commissioner of Taxation (Cth) (1979) 37 FLR 508; (1979) 24 ALR 658
- Collector of Customs v. Pozzolanic Enterprises Pty Limited (1993) 43 FCR 280; (1993) 115 ALR 1
- Collector of Customs v. Reg Russell and Sons Pty Ltd No. WAG 95 of 1994 FED No. 421/95

Case references:

- Collector of Customs v. Rottneest Island Authority (1994) 119 ALR 406; (1994) 48 FCR 177
- Collector of Customs (Tas) v. Davis (1989) 23 FCR 378; (1989) 10 AAR 439
- Collector of Customs, Tasmania v. Flinders Island Community Association (1985) 7 FCR 205; 60 ALR 717
- Commissioner of Taxation v. Chubb Australia Ltd (1995) 128 ALR 489; (1995) 56 FCR 557; (1995) 95 ATC 4186; (1995) 30 ATR 285
- Commissioner of Taxation v. Sherwood Overseas Pty Ltd (1985) 85 ATC 4267; (1985) 75 FLR 474; 16 ATR 473
- Cowell v. Rosehill Racecourse Co Ltd (1937) 56 CLR 605; (1937) 11 ALJR 32 - HCA - 22/04/1937; [1937] ALR 273
- Cuisenaire v. Reed (1962) 5 FLR 180; [1963] VR 719
- Deputy Commissioner of Taxation v. Stewart (1984) 154 CLR 385; (1984) 52 ALR 253; 15 ATR 387; (1984) 84 ATC 4146
- Deputy Commissioner of Taxation (NSW) v. Newbound & Co Pty Ltd (1952) 26 ALJR 386; (1952) 10 ATD 59
- Diethelm Manufacturing Pty Ltd v. Commissioner of Taxation (1993) 44 FCR 450; (1993) 116 ALR 420; (1993) 93 ATC 4703; (1993) 26 ATR 465
- Esso Australia Ltd v. Chief Executive Officer of Customs [1998] AATA 366
- Federal Commissioner of Taxation v. BHP Minerals Ltd (1983) 51 ALR 166; 14 ATR 389; 83 ATC 4407
- Federal Commissioner of Taxation v. Hammersley Iron Pty Ltd (1980) 33 ALR 251
- Federal Commissioner of Taxation v. Payne (2001) HCA 3; 46 ATR 228; 2001 ATC 4027; (2001) 202 CLR 93; (2001) 177 ALR 270; (2001) 75 ALJR 442
- Hemens (Valuation Officer) v. Whitsbury Farm and Stud Ltd and other appeals [1987] 1 All ER 430
- Hygienic Lily Ltd v. Deputy Commissioner of Taxation (1987) 71 ALR 441; (1987) 13 FCR 396; 18 ATR 619; (1987) 87 ATC 4327
- ICI Australia Operations Pty Ltd v. Deputy Commissioner of Taxation (Vic) (1987) 87 ATC 5110; (1987) 19 ATR 647
- In the Estate of Nicholas [1955] VLR 291; [1955] ALR 817
- Kentucky Fried Chicken Pty Ltd v. Federal Commissioner of Taxation (1986) 86 ATC 4701; (1986) 17 ATR 1039
- Kiosses v. Corporation of the City of Henley and Grange (1971) 6 SASR 186; (1971) 33 LGRA 286
- Lincoln Hunt Australia Pty Ltd v. Willesee (1986) 4 NSWLR 457 - NSWSC - 13/02/1986
- Lippett v. Robertson [1953] SASR 13
- Marsal Pty Ltd & Ors v. Comptroller of Stamps (Vic) (1982) 82 ATC 4536
- OR Cormack Pty Ltd v. Federal Commissioner of Taxation (1992) 23 ATR 151; (1992) 92 ATC 4121
- Permanent Trustee Company of New South Wales Ltd v. Campbelltown Municipal Council (1960) 105 CLR 401; [1961] ALR 164; (1960) 6 LGRA 340
- President of the Shire of Narracan v. Leviston (1906) 3 CLR 846; (1906) 12 ALR 294
- Proserpine Co-operative Sugar Milling Association v. Commissioner of Taxation (1996) 96 ATC 5016; (1996) 34 ATR 129
- Randwick Municipal Council v. Rutledge (1959) 102 CLR 54
- Re BHP Billiton Petroleum Pty Ltd and Chief Executive Officer of Customs [2002] AATA 705; 50 ATR 1156; (2002) 69 ALD 453
- Re BHP Petroleum and Collector of Customs (1987) 11 ALD 413; 6 AAR 245
- Re Central Norseman Gold Corporation Limited and Collector of Customs, Western Australia AAT No. W84/118; (1985) 8 ALN N288
- Re City of Nunawading and Comptroller-General of Customs

No. V93/540 AAT No. 9758;
(1994) 36 ALD 628
- Re Day and Deputy
Commissioner of Taxation [2004]
ATA 1305 (7 December 2004);
58 ATR 1189
- Re Elf Farm Supplies Pty Ltd
and Chief Executive Officer of
Customs [1998] AATA 929;
(1998) 28 AAR 485
- Re French Island Barge Pty Ltd
and Collector of Customs No.
V92/255 AAT No. 8625
- Re Impast Pty Ltd and Collector
of Customs No. W91/290 AAT No.
8355
- Re LM & TMR Quinlivan and the
Quinlivan Family Trust and the
Chief Executive Officer of
Customs [1997] AATA 11810;
(1997) 25 AAR 142
- Re McDermott Industries and
Chief Executive Officer of
Customs (1997) 47 ALD 134
- Re Proprietary Articles Trade
Association of South Australia Inc.
[1949] SASR 88
- Re Raymond Cedric and Brian
Richard Wallace v. CEO of
Customs AAT No. 13,015 [1998]
AATA 633 (25 June 1998); (1998)
27 AAR 430
- Re Reg Russell and Sons Pty
Ltd and Collector of Customs Nos.
W93/218 and W94/16 AAT No.
9635
- Re Riviera Nautic Pty Ltd and
Federal Commissioner of
Taxation [2002] AATA 657; 50
ATR 1106; 68 ALD 581
- Re Rylane Pty Ltd and Collector
of Customs No. W94/26 AAT No.
9692; [1994] AATA 9692
- Re Vicmint Partners Pty Ltd and
Chief Executive Officer of
Customs (1997) 48 ALD 475
- Re Wandoo Alliance Pty Ltd v.
Chief Executive Officer of

Customs [2001] AATA 801;
(2001) 34 AAR 98
- Re Water Administration
Ministerial Corporation and Chief
Executive Officer of Customs (13
August 1997) N96/1212 AAT No.
12,111
- Ronpibon Tin NL v. FC of T
(1949) 78 CLR 47
- Sisters of Mercy Property
Association v. Newtown and
Chilwell (1944) 69 CLR 369
- Vickery v. Municipality of
Strathfield (1911) 11 SR (NSW)
354; (1911) 28 WN (NSW) 107 -
NSWSC - 31/08/1911
- YZ Finance Co. Pty Ltd v.
Cummings (1963-1964) 109 CLR
395

Other references:

- The Australian Oxford
Dictionary, 1999, Oxford
University Press, Melbourne
- Customs and Excise Legislation
Amendment Bill 1995
- Explanatory Memorandum to the
Customs and Excise Legislation
Amendment Bill 1995
- The Macquarie Dictionary, 2001,
rev. 3rd edn, The Macquarie
Library Pty Ltd, NSW
- New Shorter Oxford English
Dictionary (1993)
- Second Reading Speech,
Customs and Excise Legislation
Amendment Bill 1995
- Supplementary Explanatory
Memorandum to the Customs and
Excise Legislation Amendment
Bill 1995
- Revised Explanatory
Memorandum to the Fuel Tax Bill
2006 and the Fuel Tax
(Consequential and Transitional
Provisions) Bill 2006
- Oxford Dictionary of English
(2003)

ATO references

NO: 2006/11199
ISSN: 1834 1470
ATOlaw topic: Fuel Tax