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Diesel and Alternative Fuels Grants Scheme Amendment Regulations 2002 (No. /)¹

Statutory Rules 2002 No. ²

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I, PETER JOHN HOLLINGWORTH, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Diesel and Alternative Fuels Grants Scheme Act 1999*.

Dated 14 MAR 2002 2002

PETER HOLLINGWORTH

Governor-General

By His Excellency's Command

HELEN COONAN

Minister for Revenue and Assistant Treasurer

1 Name of Regulations

These Regulations are the *Diesel and Alternative Fuels Grants Scheme Amendment Regulations 2002* (No. *✓*). /

2 Commencement

These Regulations commence on the commencement of item 13 of Schedule 1 to the *Fuel Legislation Amendment (Grant and Rebate Schemes) Act 2001*.

3 Amendment of *Diesel and Alternative Fuels Grants Scheme Regulations 2000*

Schedule 1 amends the *Diesel and Alternative Fuels Grants Scheme Regulations 2000*.

Schedule 1 Amendments

(regulation 3)

[1] After regulation 6

insert

6A Methods for working out eligible use of fuel (Act s 10B)

- (1) For subsection 10B (1) of the Act, the methods set out in Schedule 6A are prescribed.
- (2) The Schedule sets out the following methods:
 - (a) the full entitlement method;
 - (b) the complete records method and its variation;
 - (c) the percentage use method and its variations;
 - (d) the industry standard method;
 - (e) the small claimants estimation method.

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- (3) The Schedule sets out the circumstances in which the methods and variations may be used.
- (4) If you are entitled to a fuel grant for the use of a particular type of fuel in a vehicle during a grant period, you must use only 1 method to work out the quantity of that type of fuel used by the vehicle during the grant period.

[2] After Schedule 6

insert

Schedule 6A Methods for working out eligible use of fuel

(regulation 6A)

Part 1 Interpretation — total quantity of fuel

1.1 Total quantity of fuel — complete records method and its variation

- (1) If you use the complete records method (set out in Part 3) to work out the quantity of a particular type of fuel used by a vehicle during a grant period, you must use this clause to work out the total quantity of the fuel.
- (2) The total quantity of the fuel is:

tank fuel — stationary use

where:

stationary use is:

- (a) if more than 20% of the tank fuel is used during the grant period while the vehicle is stationary — the amount so used; and

- (b) in any other case — 0.

tank fuel is the amount of the fuel, other than unused fuel:

- (a) that you purchased or imported into Australia; and
- (b) that is placed in a fuel tank of the vehicle during the grant period.

unused fuel is the amount of tank fuel that is not used in the vehicle during the grant period, other than fuel that remains in a fuel tank of the vehicle, because the fuel is:

- (a) sold or otherwise disposed of for use in another vehicle; or
- (b) lost because of accident, theft or any other reason known to you; or
- (c) kept for a later use.

1.2 Total quantity of fuel — other methods

- (1) If you use the full entitlement method, percentage use method or any of its variations, industry standard method or small claimants estimation method (set out in Parts 2, 4, 5 and 6 respectively) to work out the quantity of a particular type of fuel used by a vehicle during a grant period, you must use this clause to work out the total quantity of the fuel.
- (2) The total quantity of the fuel is the amount of tank fuel as defined in subclause 1.1 (2).

Part 2 Full entitlement method

2.1 Can I use this method?

You may use the method set out in this Part only if:

- (a) you are entitled to a fuel grant for all of the use of a particular type of fuel in a vehicle during a grant period; and

- (b) for a vehicle other than an emergency vehicle — no more than 20% of that type of fuel used in the vehicle during the grant period is used while the vehicle is stationary.

2.2 Method

The full entitlement method of working out the quantity of that type of fuel used in the vehicle during the grant period is to work out the total quantity of fuel under clause 1.2.

Part 3 Complete records method and its variation

3.1 Can I use this method?

You may use the method and its variation set out in this Part only if you are entitled to a fuel grant for all or part of the use of a particular type of fuel in a vehicle during a grant period.

3.2 Method

- (1) The complete records method of working out the quantity of that type of fuel used in the vehicle during the grant period is:

$$\text{total quantity of the fuel} \times \frac{\text{eligible use}}{\text{total use}}$$

where:

eligible use is a measure of the extent to which the vehicle is used during the grant period, using the fuel, in circumstances that would entitle you to a fuel grant.

total quantity of the fuel is the total quantity of the fuel worked out under clause 1.1.

total use is a measure (using the same unit as for eligible use) of the extent to which the vehicle is used during the grant period (whether or not in circumstances that would entitle you to a fuel grant) using the fuel.

Examples of how to measure eligible use and total use of a vehicle

- 1 Kilometres actually travelled by the vehicle (taken from odometer readings).
- 2 If the vehicle operates on fixed routes, route distances (instead of kilometres actually travelled).
- 3 Hours travelled by the vehicle.

Example of how to measure eligible use of a vehicle

If the vehicle operates between a point outside the metropolitan area and a point inside a metropolitan area, using the deeming method set out in 'Deeming method for the on-road scheme', document number Nat.4555, published by the Australian Tax Office on 29 October 2001.

- (2) Subclause (3) sets out a variation of the complete records method.
- (3) If you use 2 or more vehicles in a similar way during a grant period so that it is reasonable to expect that the ratio of eligible use to total use worked out under subclause (1) for each vehicle would be similar, the ratio for 1 of the vehicles may be used as the ratio for each vehicle for the grant period.

Part 4 Percentage use method and its variations

4.1 Can I use this method?

You may use the method and its variations set out in this Part only if:

- (a) you are entitled to a fuel grant for all or part of the use of a particular type of fuel in a vehicle during a grant period; and
- (b) there is no substantial change to the travelling pattern of the vehicle during the grant period.

4.2 Method

- (1) The percentage use method of working out the quantity of that type of fuel used in the vehicle during the grant period is:

$$\text{total quantity of the fuel} \times \text{sample percentage}$$

where:

sample percentage is the sample percentage worked out under subclause (2).

total quantity of the fuel is the total quantity of the fuel worked out under clause 1.2.

- (2) The sample percentage is:

$$\frac{\text{sample eligible fuel}}{\text{sample total quantity of the fuel}} \times \frac{100}{1}$$

where:

sample eligible fuel is a measure of the eligible fuel used in the vehicle during a sample period, worked out using:

- (a) the full entitlement method; or
- (b) the complete records method.

sample total quantity of the fuel is the total quantity of the fuel worked out under clause 1.2 for the sample period.

- (3) Subclauses (4), (5) and (6) set out variations of the percentage use method.
- (4) If you use 2 or more vehicles in a similar way during a grant period so that it is reasonable to expect that the sample percentage worked out under subclause (2) for each vehicle would be similar, the sample percentage for 1 of the vehicles may be used as the sample percentage for each vehicle for the grant period.

- (5) If you claim more than \$2 500 in fuel grants for a relevant financial year, each claim for a fuel grant that you make using the percentage use method for a vehicle and a grant period (half or more of which occurs during the following financial year) must be based on a sample period for the vehicle that begins and ends in that following financial year.
- (6) If you are entitled to a fuel grant for all or part of the use of a particular type of fuel in 2 or more vehicles during a grant period, you may work out the percentage use of the total quantity of that type of fuel used in all the vehicles during the grant period by:

$$\frac{\text{sum of sample eligible fuel for each vehicle}}{\text{sum of sample total quantity of the fuel}} \times \frac{100}{1}$$

where:

sum of sample eligible fuel for each vehicle is the total of the amounts of sample eligible fuel, as defined in subclause (2), used in each vehicle.

sum of sample total quantity of the fuel is the total of the amounts of sample total quantity of the fuel, as defined in subclause (2), used in each vehicle.

- (7) In this clause:

relevant financial year means:

- (a) the 2001–02 financial year; or
- (b) any subsequent financial year.

sample period, for a grant period, means a continuous period of at least 12 weeks when the use of a vehicle is representative of the use of the vehicle during the grant period.

Part 5 Industry standard method

5.1 Can I use this method?

You may use the method set out in this Part only if:

- (a) you are entitled to a fuel grant for all or part of the use of a particular type of fuel in a vehicle during a grant period; and
- (b) more than 20% of that type of fuel used in the vehicle during the grant period is used while the vehicle is stationary.

5.2 Method

The industry standard method of working out the quantity of that type of fuel used in the vehicle during the grant period is:

$$\text{total quantity of the fuel} \times \text{standard}$$

where:

standard is the standard, expressed as a percentage, determined by the Australian Tax Office, and published in the *Gazette*:

- (a) for the class of vehicle to which the vehicle belongs; and
- (b) for a period that includes the last day of the grant period.

total quantity of the fuel is the total quantity of the fuel worked out under clause 1.2.

Part 6 Small claimants estimation method

6.1 Can I use this method?

You may use the method set out in this Part for a claim for a fuel grant for all or part of a financial year only if:

- (a) making the claim would not result in the total amount of fuel grants that you have claimed for the financial year being greater than \$1 000; and
- (b) you are entitled to the fuel grant for all or part of the use of a particular type of fuel in a vehicle during a grant period.

6.2 Method

The small claimants method of working out the quantity of that type of fuel used in the vehicle during the grant period is:

$$\text{total quantity of the fuel} \times \frac{\text{estimated eligible use}}{\text{estimated total use}}$$

where:

estimated eligible use is an estimate of the extent to which the vehicle is used during the grant period, using the fuel, in circumstances that would entitle you to a fuel grant.

estimated total use is an estimate (using the same unit as for eligible use) of the extent to which the vehicle is used during the grant period (whether or not in circumstances that would entitle you to a fuel grant) using the fuel.

total quantity of the fuel is the total quantity of the fuel under clause 1.2.

Notes

1. These Regulations amend Statutory Rules 2000 No. 44, as amended by 2000 Nos. 160 and 318; 2001 Nos. 17 and 200.
2. Notified in the *Commonwealth of Australia Gazette* on 6 2002. 22 March