



# **Fuel Tax Act 2006**

**No. 72, 2006 as amended**

**Compilation start date:** 16 October 2014

**Includes amendments up to:** Act No. 110, 2014

Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### **This compilation**

This is a compilation of the *Fuel Tax Act 2006* as in force on 16 October 2014. It includes any commenced amendment affecting the legislation to that date.

This compilation was prepared on 23 October 2014.

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of each amended provision.

### **Uncommenced amendments**

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in the endnotes.

### **Application, saving and transitional provisions for provisions and amendments**

If the operation of a provision or amendment is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### **Modifications**

If a provision of the compiled law is affected by a modification that is in force, details are included in the endnotes.

### **Provisions ceasing to have effect**

If a provision of the compiled law has expired or otherwise ceased to have effect in accordance with a provision of the law, details are included in the endnotes.

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# **An Act about fuel tax and fuel tax credits, and for related purposes**

## **Chapter 1—Introduction**

### **Part 1-1—Preliminary**

#### **Division 1—Preliminary**

##### **Table of Subdivisions**

1-A Preliminary

##### **Subdivision 1-A—Preliminary**

##### **Table of Sections**

1-5 Short title  
1-10 Commencement  
1-15 States and Territories are bound by the fuel tax law

##### **1-5 Short title**

This Act may be cited as the *Fuel Tax Act 2006*.

##### **1-10 Commencement**

This Act commences on 1 July 2006.

##### **1-15 States and Territories are bound by the fuel tax law**

The \*fuel tax law binds the Crown in right of each of the States, of the Australian Capital Territory and of the Northern Territory. However, it does not make the Crown liable to be prosecuted for an offence.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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**Chapter 1** Introduction

**Part 1-1** Preliminary

**Division 1** Preliminary

**Section 1-15**

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Note: For the application of this Act to the Commonwealth, see section 95-10.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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## **Part 1-2—Using this Act**

### **Division 2—Overview and purpose of the fuel tax law**

#### **Table of Subdivisions**

2-A Overview and purpose of the fuel tax law

#### **Subdivision 2-A—Overview and purpose of the fuel tax law**

##### **Table of Sections**

2-1 Overview and purpose of the fuel tax law

#### **2-1 Overview and purpose of the fuel tax law**

This Act provides a single system of fuel tax credits. Fuel tax credits are paid to reduce or remove the incidence of fuel tax levied on taxable fuels, ensuring that, generally, fuel tax is effectively only applied to:

- (a) fuel used in private vehicles and for certain other private purposes; and
- (b) fuel used on-road in light vehicles for business purposes.

Liability for fuel tax currently arises under the *Excise Act 1901*, the *Excise Tariff Act 1921*, the *Customs Act 1901* and the *Customs Tariff Act 1995*.

The administrative aspects of this Act (such as your rights, obligations and payment arrangements) are aligned as closely as possible to the administrative aspects of other indirect taxes (primarily, the GST), and other taxes administered by the Commissioner, to reduce your compliance costs.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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## Division 3—Explanation of the use of defined terms

### Table of Subdivisions

3-A Explanation of the use of defined terms

### Subdivision 3-A—Explanation of the use of defined terms

#### Table of Sections

3-1 When defined terms are identified  
3-5 When terms are *not* identified  
3-10 Identifying the defined term in a definition

#### 3-1 When defined terms are identified

- (1) Many of the terms used in the \*fuel tax law are defined.
- (2) Most defined terms in this Act are identified by an asterisk appearing at the start of the term: as in “\*enterprise”. The footnote that goes with the asterisk contains a signpost to the Dictionary definitions at section 110-5.

#### 3-5 When terms are *not* identified

- (1) Once a defined term has been identified by an asterisk, later occurrences of the term in the same subsection are *not* usually asterisked.
- (2) Terms are *not* asterisked in the non-operative material contained in this Act.

Note: The non-operative material is described in Division 4.

- (3) The following basic terms used throughout the Act are *not* identified with an asterisk.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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<b>Common definitions that are not asterisked</b>	
<b>Item</b>	<b>This term:</b>
1	Australia
2	Commissioner
3	entity
4	fuel tax
5	fuel tax credit
6	taxable fuel
7	you

### **3-10 Identifying the defined term in a definition**

Within a definition, the defined term is identified by *bold italics*.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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## **Division 4—Status of Guides and other non-operative material**

### **Table of Subdivisions**

4-A Status of Guides and other non-operative material

### **Subdivision 4-A—Status of Guides and other non-operative material**

#### **Table of Sections**

4-1 Non-operative material  
4-5 Guides  
4-10 Other material

#### **4-1 Non-operative material**

In addition to the operative provisions themselves, this Act contains other material to help you identify accurately and quickly the provisions that are relevant to you and to help you understand them.

This other material falls into 2 main categories.

#### **4-5 Guides**

The first is the “Guides”. A \*Guide consists of sections under a heading indicating that what follows is a Guide to a particular Subdivision, Division etc.

\*Guides form part of this Act but are kept separate from the operative provisions. In interpreting an operative provision, a Guide may only be considered for limited purposes. These are set out in section 105-10.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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#### **4-10 Other material**

The other category consists of material such as notes and examples. These also form part of the Act. Generally, they are distinguished by type size from the operative provisions, but are not kept separate from them.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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## **Chapter 3—Fuel tax credits**

### **Part 3-1—Basic rules**

#### **Division 40—Object of this Chapter**

##### **Table of Subdivisions**

40-A Object of this Chapter

##### **Subdivision 40-A—Object of this Chapter**

##### **Table of Sections**

40-5 Object of this Chapter

#### **40-5 Object of this Chapter**

- (1) The object of this Chapter is to provide a single system of fuel tax credits to ensure that, generally, fuel tax is effectively only applied to:
  - (a) fuel used in private vehicles and for certain other private purposes; and
  - (b) fuel used on-road in light vehicles for business purposes.
- (2) To do this, a fuel tax credit is provided to reduce or remove the incidence of fuel tax applied to:
  - (a) fuel used in \*carrying on your \*enterprise (other than fuel used on-road in light vehicles); and
  - (b) fuel used for domestic heating and domestic electricity generation; and
  - (c) fuel packaged for use other than in an internal combustion engine; and
  - (d) fuel supplied into certain kinds of tanks.

Note: However, other provisions of this Act might affect your entitlement to a fuel tax credit.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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## **Division 41—Fuel tax credits for business taxpayers and non-profit bodies**

### **Table of Subdivisions**

	Guide to Division 41
41-A	Entitlement rules for fuel tax credits
41-B	Disentitlement rules for fuel tax credits

### **Guide to Division 41**

#### **41-1 What this Division is about**

Fuel tax credits are provided under Subdivision 41-A to business taxpayers who are registered, or required to be registered, for GST (and to some non-profit bodies) in 2 situations.

The first situation is where you acquire, manufacture or import fuel to use in carrying on your enterprise (whether the fuel is used as fuel or otherwise).

The second situation is where you acquire, manufacture or import fuel to:

- (a) make a taxable supply to a private user for domestic heating; or
- (b) package the fuel for the purpose of making a taxable supply of it for use other than in an internal combustion engine; or
- (c) make a taxable supply of LPG into certain kinds of tanks.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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**Chapter 3** Fuel tax credits

**Part 3-1** Basic rules

**Division 41** Fuel tax credits for business taxpayers and non-profit bodies

Section 41-5

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However, fuel tax credits are denied under Subdivision 41-B if:

- (a) another person is already entitled to a fuel tax credit in respect of the fuel; or
- (b) the fuel is for use on-road in light vehicles; or
- (c) the fuel is for use in vehicles that do not meet certain environmental criteria; or
- (d) the fuel is for use in aircraft.

**Subdivision 41-A—Entitlement rules for fuel tax credits**

**Table of Sections**

41-5	Fuel tax credit for fuel to be used in carrying on your enterprise
41-10	Fuel tax credit for fuel supplied for domestic heating, packaged for supply or transferred into tanks

**41-5 Fuel tax credit for fuel to be used in carrying on your enterprise**

- (1) You are entitled to a fuel tax credit for taxable fuel that you acquire or manufacture in, or import into, Australia to the extent that you do so for use in \*carrying on your \*enterprise.

Note 1: Other provisions can affect your entitlement to the credit. (For example, see Subdivision 41-B.)

Note 2: Fuel is taken to have been used if it is blended as specified in a determination made under section 95-5.

*Registration for GST*

- (2) However, you are only entitled to the fuel tax credit if, at the time you acquire, manufacture or import the fuel, you are \*registered for GST, or \*required to be registered for GST.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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- (3) Subsection (2) does not apply if, at the time you acquire, manufacture or import the fuel:
- (a) you are a non-profit body; and
  - (b) you acquire, manufacture or import the fuel for use in a vehicle (or vessel) that:
    - (i) provides emergency services; and
    - (ii) is clearly identifiable as such.

**41-10 Fuel tax credit for fuel supplied for domestic heating, packaged for supply or transferred into tanks**

*Certain fuels supplied for domestic heating*

- (1) You are entitled to a fuel tax credit for taxable fuel that you acquire or manufacture in, or import into, Australia to the extent that:
- (a) you do so to make a \*taxable supply of the fuel to an entity; and
  - (b) the fuel is kerosene, heating oil or any other fuel prescribed by the regulations; and
  - (c) you have a reasonable belief that the entity:
    - (i) will not use the fuel in \*carrying on an \*enterprise; but
    - (ii) will use the fuel for domestic heating.

*Certain fuels packaged for supply*

- (2) You are entitled to a fuel tax credit for taxable fuel that you acquire or manufacture in, or import into, Australia to the extent that:
- (a) you do so to package the fuel, in accordance with the regulations, for the purpose of making a \*taxable supply of the fuel for use other than in an internal combustion engine; and
  - (b) the fuel is kerosene, mineral turpentine, white spirit or any other fuel prescribed by the regulations.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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**Chapter 3** Fuel tax credits

**Part 3-1** Basic rules

**Division 41** Fuel tax credits for business taxpayers and non-profit bodies

Section 41-10

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*LPG supplied into certain kinds of tanks*

- (3) You are entitled to a fuel tax credit for taxable fuel that is \*LPG that you acquire or manufacture in, or import into, Australia to the extent that:
- (a) you do so for making a \*taxable supply of the LPG; and
  - (b) the supply involves transferring the LPG to a tank; and
  - (c) the tank is not for use in a system for supplying fuel to an internal combustion engine of either a \*motor vehicle or a vessel, either directly or by filling another tank connected to such an engine; and
  - (d) any of the following apply to the tank:
    - (i) the tank has a capacity of not more than 210 kilograms of LPG;
    - (ii) the tank is at \*residential premises and is not for use in \*carrying on an \*enterprise;
    - (iii) the tank is for use in a system for supplying fuel to at least 2 residential premises (whether or not the system also supplies fuel to premises other than residential premises).
- (4) Paragraph (3)(c) does not apply to a \*motor vehicle that:
- (a) is designed merely to move goods with a forklift and is for use primarily off public roads; or
  - (b) is of a kind prescribed by the regulations for the purposes of this paragraph.

**Subdivision 41-B—Disentitlement rules for fuel tax credits**

**Table of Sections**

41-15	No fuel tax credit if another entity was previously entitled to a credit
41-20	No fuel tax credit for fuel to be used in light vehicles on a public road
41-25	No fuel tax credit for fuel to be used in motor vehicles that do not meet environmental criteria
41-30	No fuel tax credit for fuel to be used in an aircraft

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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**41-15 No fuel tax credit if another entity was previously entitled to a credit**

- (1) You are not entitled to a fuel tax credit (under this Division or Division 42) for taxable fuel if it is reasonable to conclude that another entity has previously been entitled to a fuel tax credit (under this Division or Division 42), or a \*decreasing fuel tax adjustment, for the fuel.
- (2) However, subsection (1) does not apply if it is also reasonable to conclude that another entity had, in respect of the credit, an \*increasing fuel tax adjustment of the \*amount of the credit.

**41-20 No fuel tax credit for fuel to be used in light vehicles on a public road**

You are not entitled to a fuel tax credit for taxable fuel to the extent that you acquire, manufacture or import the fuel for use in a vehicle with a gross vehicle mass of 4.5 tonnes or less travelling on a public road.

**41-25 No fuel tax credit for fuel to be used in motor vehicles that do not meet environmental criteria**

- (1) You are not entitled to a fuel tax credit for taxable fuel to the extent that you acquire, manufacture or import the fuel for use in a \*motor vehicle, unless the vehicle meets one of the following criteria:
  - (a) it is manufactured on or after 1 January 1996;
  - (b) it is registered in an audited maintenance program that is accredited by the \*Transport Secretary;
  - (c) it meets Rule 147A of the Australian Vehicle Standards Rules 1999;
  - (d) it complies with a maintenance schedule that is endorsed by the Transport Secretary.
- (2) Subsection (1) does not apply to a \*motor vehicle:
  - (a) that is used:

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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**Chapter 3** Fuel tax credits

**Part 3-1** Basic rules

**Division 41** Fuel tax credits for business taxpayers and non-profit bodies

Section 41-30

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- (i) in carrying on a \*primary production business; and
- (ii) primarily on an agricultural property; or
- (b) that is not powered by a diesel engine; or
- (c) that is not used on a public road.

**41-30 No fuel tax credit for fuel to be used in an aircraft**

You are not entitled to a fuel tax credit for taxable fuel that you acquire, manufacture or import for use as fuel in aircraft if the fuel was entered for home consumption for that use (within the meaning of the *Excise Act 1901* or the *Customs Act 1901*, as the case requires).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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## **Division 42—Fuel tax credit for non-business taxpayers**

### **Table of Subdivisions**

- Guide to Division 42
- 42-A Fuel tax credit for non-business taxpayers

### **Guide to Division 42**

#### **42-1 What this Division is about**

Fuel tax credits are provided under this Division to non-business taxpayers. Currently, a credit is only provided for fuel to be used by you for generating electricity for domestic use.

### **Subdivision 42-A—Fuel tax credit for non-business taxpayers**

#### **Table of Sections**

- 42-5 Fuel tax credit for fuel to be used in generating electricity for domestic use

#### **42-5 Fuel tax credit for fuel to be used in generating electricity for domestic use**

You are entitled to a fuel tax credit for taxable fuel that you acquire or manufacture in, or import into, Australia to the extent that you do so for use by you in generating electricity for domestic use.

Note: If you are carrying on an enterprise, you might be entitled to a credit under section 41-5.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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**Chapter 3** Fuel tax credits

**Part 3-1** Basic rules

**Division 43** Working out your fuel tax credit

Section 43-1

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**Division 43—Working out your fuel tax credit**

**Table of Subdivisions**

Guide to Division 43

43-A Working out your fuel tax credit

**Guide to Division 43**

**43-1 What this Division is about**

The amount of your credit for taxable fuel is the amount of fuel tax that was payable on the fuel, reduced to take account of certain grants and subsidies that were payable in respect of the fuel (as the grants or subsidies reduced the amount of fuel tax that effectively applied to the fuel).

For taxable fuel that is a blend of fuels, there are additional rules for working out the amount of your credit.

In some cases, the credit is reduced so that some of the fuel tax can be retained to fund cleaner fuel grants and as a road user charge.

**Subdivision 43-A—Working out your fuel tax credit**

**Table of Sections**

43-5 Working out your fuel tax credit

43-7 Working out the effective fuel tax for fuel blends

43-10 Reducing the amount of your fuel tax credit

**43-5 Working out your fuel tax credit**

- (1) The \*amount of your tax fuel credit for taxable fuel is the amount of \*effective fuel tax that is payable on the fuel.

Note: The amount of the credit may be reduced under section 43-10.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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*Amount of effective fuel tax*

- (2) The \*amount of **effective fuel tax** that is payable on the fuel is the amount (but not less than nil) worked out using the formula:

Fuel tax amount – Grant or subsidy amount

where:

**fuel tax amount** means the \*amount of fuel tax that was or would be payable on the fuel at the rate in force on the day worked out using the table in subsection (2A).

**grant or subsidy amount** means the \*amount of any grant or subsidy, except a grant specified in subsection (3), that was or would be payable in respect of the fuel by the Commonwealth at the rate in force on the day worked out using the table in subsection (2A).

Note: Section 43-7 affects how this subsection applies to blends.

*Day for rate of fuel tax, grant or subsidy*

- (2A) Work out the day using the table:

<b>Day for rate of fuel tax, grant or subsidy</b>	
<b>If:</b>	<b>The day is:</b>
1 You: (a) acquired or imported the fuel after 30 November 2011 and before 1 July 2015; and (b) are *registered for GST or *required to be registered for GST	The day you acquired or imported the fuel
2 You: (a) manufactured the fuel; and (b) entered the fuel for home consumption (within the meaning of the <i>Excise Act 1901</i> ) after	The day you entered the fuel for home consumption (within the meaning of the <i>Excise Act 1901</i> )

\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

**Chapter 3** Fuel tax credits

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<b>Day for rate of fuel tax, grant or subsidy</b>	
<b>If:</b>	<b>The day is:</b>
30 November 2011 and before 1 July 2015; and (c) are *registered for GST or *required to be registered for GST	
3 You: (a) acquired, manufactured or imported the fuel after 30 June 2015; and (b) are *registered for GST or *required to be registered for GST	The first day of the *tax period to which the credit is attributable
4 You are neither *registered for GST nor *required to be registered for GST	The day the Commissioner receives your return relating to the fuel

Note: Division 65 sets out which tax period a credit is attributable to.

*Exclusions from grant or subsidy amount*

- (3) In applying subsection (2), the following grants are disregarded:
- (a) a grant under the Biofuels Capital Grants Program;
  - (c) a grant for petrol or diesel under the *Energy Grants (Cleaner Fuels) Scheme Act 2004*;
  - (d) a benefit under the *Product Stewardship (Oil) Act 2000*.

**43-7 Working out the effective fuel tax for fuel blends**

*Certain blends containing ethanol*

- (1) The **effective fuel tax** for taxable fuel that:
- (a) is a blend of ethanol and one or more other kinds of fuel; and
  - (b) meets the requirements prescribed by the regulations;
- is worked out under subsection 43-5(2) as if the fuel were entirely petrol.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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*Certain blends containing biodiesel*

- (2) The **effective fuel tax** for taxable fuel that:
- (a) is a blend of \*biodiesel and one or more other kinds of fuel;  
and
  - (b) meets the requirements prescribed by the regulations;
- is worked out under subsection 43-5(2) as if the fuel were entirely diesel.

*Other blends for which there is evidence of fuel proportions*

- (3) The **effective fuel tax** for taxable fuel:
- (a) that is a blend of more than one kind of fuel; and
  - (b) to which neither subsection (1) nor (2) applies; and
  - (c) for which you have documentary evidence that satisfies the Commissioner of the actual proportions of the kinds of fuel in the blend;
- is worked out under subsection 43-5(2) in accordance with those proportions.
- (4) The Commissioner may determine, by legislative instrument, the kinds of documentary evidence that are able to satisfy the Commissioner for the purposes of paragraph (3)(c).
- (5) If:
- (a) you acquire or manufacture in, or import into, Australia a taxable fuel that is a blend of either of the following (whether or not the blend includes other substances other than fuel):
    - (i) petrol and one other kind of fuel;
    - (ii) diesel and one other kind of fuel; and
  - (b) none of subsections (1), (2) or (3) apply to the fuel; and
  - (c) you acquire, manufacture or import the fuel on terms and conditions that specify or require that the blend contains a minimum percentage by volume of petrol or diesel (as the case requires);
- then the **effective fuel tax** for the fuel is worked out under subsection 43-5(2) as if:

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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**Chapter 3** Fuel tax credits

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Section 43-7

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- (d) the fuel contains that minimum percentage of petrol or diesel (as the case requires); and
- (e) the remaining percentage by volume of the fuel consists of the other kind of fuel contained in the blend.

*Rules for working out fuel tax in other cases of blends*

- (6) For the purposes of working out under subsection 43-5(2) the \*effective fuel tax payable on taxable fuels that are blends other than blends to which any of subsections (1), (2), (3) or (5) of this section apply, the Commissioner may determine, by legislative instrument, rules for working out the proportions of one or more of the constituents of the blends.

Note: The rules may make different provision for different blends or different classes of blends (see subsection 33(3A) of the *Acts Interpretation Act 1901*).

*Working out the fuel tax for certain fuels containing ethanol*

- (7) Work out the \*effective fuel tax under subsection 43-5(2) for taxable fuel:
  - (a) that you acquired, manufactured or imported; and
  - (b) that is a blend containing ethanol; and
  - (c) to which neither subsection (1) nor (2) of this section applies;as if a grant under a funding agreement with the Commonwealth connected with a program called the Ethanol Production Grants Program was payable for all the ethanol.

Note: As you may not know whether the ethanol contained in the blend is imported or produced domestically, subsection (7) requires you to work out the effective fuel tax assuming that the ethanol was produced domestically and had attracted the payment of a grant.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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### **43-10 Reducing the amount of your fuel tax credit**

#### *Cleaner fuel grants*

- (1) The \*amount of your fuel tax credit for taxable fuel is reduced to the extent, determined by the Minister, that fuel tax is imposed on the fuel to fund a cleaner fuel grant.
- (2) For the purposes of subsection (1), the Minister must determine, by legislative instrument, the \*amount of the fuel tax imposed that will fund a cleaner fuel grant.

#### *Road user charge*

- (3) To the extent that you acquire, manufacture or import taxable fuel to use, in a vehicle, for travelling on a public road, the \*amount of your fuel tax credit for the fuel is reduced by the amount of the road user charge for the fuel.

Note: Only certain motor vehicles whose gross vehicle mass is more than 4.5 tonnes are entitled to any credit (see sections 41-20 and 41-25).

- (4) However, the \*amount is not reduced under subsection (3) if the vehicle's travel on a public road is incidental to the vehicle's main use.

#### *Working out the amount of the reduction*

- (6) The \*amount by which a fuel tax credit for taxable fuel is reduced under subsection (1) or (3) is worked out by reference to the rate of fuel tax or road user charge in force:
  - (a) if you are \*registered for GST, or \*required to be registered for GST—at the beginning of the \*tax period to which the credit is attributable; and
  - (b) if you are not registered for GST, nor required to be registered for GST—on the day on which the Commissioner receives your return relating to the fuel.

Note: Division 65 sets out which tax period a credit is attributable to.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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**Chapter 3** Fuel tax credits

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*Determining the rate of road user charge*

- (7) The \*amount of road user charge for taxable fuel is worked out using the following rate:
- (a) if no rate has been determined by the \*Transport Minister—21 cents for each litre of the fuel;
  - (b) otherwise—the rate determined by the Transport Minister.
- (8) For the purposes of subsection (7), the \*Transport Minister may determine, by legislative instrument, the rate of the road user charge.
- (9) Before the \*Transport Minister determines an increased rate of road user charge, the Transport Minister must:
- (a) make the following publicly available for at least 60 days:
    - (i) the proposed increased rate of road user charge;
    - (ii) any information that was relied on in determining the proposed increased rate; and
  - (b) consider any comments received, within the period specified by the Transport Minister, from the public in relation to the proposed increased rate.
- (10) However, the \*Transport Minister may, as a result of considering any comments received from the public in accordance with subsection (9), determine a rate of road user charge that is different from the proposed rate that was made publicly available without making that different rate publicly available in accordance with that subsection.
- (11) In determining the road user charge, the \*Transport Minister must not apply a method for indexing the charge.
- (12) The \*Transport Minister must not make more than one determination in a financial year if the effect of the determination would be to increase the road user charge more than once in that financial year.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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## **Division 44—Increasing and decreasing fuel tax adjustments**

### **Table of Subdivisions**

	Guide to Division 44
44-A	Increasing and decreasing fuel tax adjustments

### **Guide to Division 44**

#### **44-1 What this Division is about**

Your entitlement to a fuel tax credit for taxable fuel is worked out on the basis of what the fuel is intended for when you acquire, manufacture or import the fuel.

If you use or supply the fuel differently, or you do not use or supply the fuel at all, you have an increasing or decreasing fuel tax adjustment.

Fuel tax adjustments are included in working out your net fuel amount under Division 60. (Your assessed net fuel amount determines how much you owe the Commissioner or the Commissioner owes you.)

### **Subdivision 44-A—Increasing and decreasing fuel tax adjustments**

#### **Table of Sections**

44-5	Increasing and decreasing fuel tax adjustments for change of circumstances
44-10	Increasing fuel tax adjustment for failure to use or make a taxable supply of fuel

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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#### **44-5 Increasing and decreasing fuel tax adjustments for change of circumstances**

- (1) You have a \*fuel tax adjustment if you use fuel, or make a \*taxable supply of fuel, in circumstances where, if you had originally acquired, manufactured or imported the fuel to use or make a taxable supply in those circumstances, the \*amount of the fuel tax credit to which you would have been entitled would have been different from the amount to which you are or were entitled.
- (2) The \*amount of the adjustment is the difference between the 2 amounts.

Note: Division 65 sets out which tax period or fuel tax return period the fuel tax adjustment is attributable to.

##### *Decreasing fuel tax adjustments*

- (3) The \*fuel tax adjustment is a ***decreasing fuel tax adjustment*** if the \*amount to which you would have been entitled is greater than the amount to which you are or were entitled.

##### *Increasing fuel tax adjustments*

- (4) The \*fuel tax adjustment is an ***increasing fuel tax adjustment*** if the \*amount to which you are or were entitled is greater than the amount to which you would have been entitled.

Example: You acquire taxable fuel to use in a harvester in carrying on your farming enterprise, so you are paid a fuel tax credit for the fuel. Later on, you use the fuel to transport wheat in a vehicle of more than 4.5 tonnes travelling on a public road. As your fuel tax credit would have been reduced by the amount of the road user charge, you have an increasing fuel tax adjustment of the difference between the 2 amounts.

#### **44-10 Increasing fuel tax adjustment for failure to use or make a taxable supply of fuel**

You have an ***increasing fuel tax adjustment*** if:

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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- (a) you are or were entitled to a fuel tax credit for taxable fuel;  
and
- (b) you have no reasonable prospect of using, or making a  
\*taxable supply of, the fuel.

The \*amount of the adjustment is the amount of the credit that you are or were entitled to.

Example: You acquire taxable fuel to use in a harvester in carrying on your farming enterprise, so you are paid a fuel tax credit for the fuel. Later on, the fuel is stolen. You have an increasing fuel tax adjustment of the amount of the credit.

Note: Division 65 sets out which tax period or fuel tax return period the fuel tax adjustment is attributable to.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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## Part 3-3—Special rules

### Division 46—Instalment taxpayers

#### Table of Subdivisions

	Guide to Division 46
46-A	Instalment taxpayers

#### Guide to Division 46

##### 46-1 What this Division is about

If you are a GST instalment taxpayer, you work out and claim your fuel tax credits for GST instalment quarters, instead of the annual tax period you use for the GST. However, you can choose not to give a return for the first 3 GST instalment quarters in a financial year (but if you have an increasing fuel tax adjustment, you must give a return for the last quarter in the year).

#### Subdivision 46-A—Instalment taxpayers

##### Table of Sections

46-5	Instalment taxpayers
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##### 46-5 Instalment taxpayers

- (1) If you are a \*GST instalment payer, you must treat each \*GST instalment quarter as if it were a \*tax period.

*GST instalment quarters to be treated as tax periods*

- (2) For the purposes of working out under subsection 65-5(1) which \*GST instalment quarter a fuel tax credit is attributable to, you

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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must treat each GST instalment quarter as if, in the \*GST Act, the quarter were a \*tax period.

*Choice to give a return for first 3 quarters*

- (3) You may choose whether to give the Commissioner a return for any of the first 3 \*GST instalment quarters in a \*financial year. If you do so, you must give the Commissioner your return on or before the day on which you are, or would be, required to pay your \*GST instalment to the Commissioner for the quarter (disregarding section 162-80 of the \*GST Act).

Note: Section 162-80 of the GST Act allows certain entities to pay only 2 GST instalments for a financial year.

- (4) If you choose not to give a return for any of those quarters, then any fuel tax credit or \*fuel tax adjustment that is attributable to that quarter:
- (a) ceases to be attributable to that quarter; and
  - (b) becomes attributable to the first quarter for which you give the Commissioner a return.

Note: See subsection 65-5(4) if your return for a quarter does not include a fuel tax credit that is attributable, under this subsection, to the quarter.

*Requirement to give a return for final quarter*

- (5) If you have an \*increasing fuel tax adjustment that is (or, under subsection (4), would be) attributable to the last \*GST instalment quarter in the \*financial year, you must give the Commissioner a return for that quarter on or before the day on which you are, or would be, required to pay your \*GST instalment to the Commissioner for the quarter (disregarding section 162-80 of the \*GST Act).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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Section 47-1

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## Division 47—Time limit on entitlements to fuel tax credits

### Table of Subdivisions

Guide to Division 47

47-A Time limit on entitlements to fuel tax credits

### Guide to Division 47

#### 47-1 What this Division is about

Your entitlements to fuel tax credits cease unless they are included in your assessed net fuel amounts within a limited period (generally 4 years).

However, this time limit does not apply in certain limited cases.

#### Subdivision 47-A—Time limit on entitlements to fuel tax credits

##### Table of Sections

47-5 Time limit on entitlements to fuel tax credits

47-10 Exceptions to time limit on entitlements to fuel tax credits

#### 47-5 Time limit on entitlements to fuel tax credits

- (1) You cease to be entitled to a fuel tax credit to the extent that it has not been taken into account, in an \*assessment of a \*net fuel amount of yours, during the period of 4 years after the day on which you were required to give to the Commissioner a return for the tax period or fuel tax return period to which the fuel tax credit would be attributable under subsection 65-5(1), (2) or (3).
- (2) Without limiting subsection (1), you also cease to be entitled to a fuel tax credit for taxable fuel you acquire, manufacture or import, to the extent that you did not give to the Commissioner under

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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Section 47-10

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section 61-15 during the period of 4 years after the day on which the acquisition, manufacture or importation occurred a return that takes the fuel tax credit into account.

Note: Section 47-10 sets out circumstances in which your entitlement to the fuel tax credit does not cease under this section.

**47-10 Exceptions to time limit on entitlements to fuel tax credits**

*Commissioner has notified you of excess or refund etc.*

- (1) You do not cease under section 47-5 to be entitled to a fuel tax credit to the extent that:
  - (a) the fuel tax credit arises out of circumstances that also gave rise to the whole or a part of:
    - (i) an amount, or an amount of an excess, in relation to which paragraph 105-50(3)(a) in Schedule 1 to the *Taxation Administration Act 1953* applies; or
    - (ii) a refund, other payment or credit in relation to which paragraph 105-55(1)(b) or (3)(b) in Schedule 1 to that Act applies; and
  - (b) the Commissioner gave to you the notice referred to in that paragraph not later than 4 years after the end of the \*tax period, or \*fuel tax return period, to which the credit would be attributable under subsection 65-5(1), (2) or (3) of this Act.

Note 1: Section 105-50 in Schedule 1 to the *Taxation Administration Act 1953* deals with the time limit within which the Commissioner can recover indirect tax amounts, and section 105-55 in Schedule 1 to that Act deals with the time limit within which you can claim amounts relating to indirect tax.

Note 2: Sections 105-50 and 105-55 in Schedule 1 to the *Taxation Administration Act 1953* only apply in relation to tax periods and fuel tax return periods starting before 1 July 2012.

Note 3: This subsection will be repealed on 1 January 2017 (see Part 2 of Schedule 1 to the *Indirect Tax Laws Amendment (Assessment) Act 2012*).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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**Chapter 3** Fuel tax credits

**Part 3-3** Special rules

**Division 47** Time limit on entitlements to fuel tax credits

**Section 47-10**

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*Excess relates to amount avoided by fraud or evaded*

- (2) You do not cease under section 47-5 to be entitled to a fuel tax credit to the extent that the fuel tax credit arises out of circumstances that also gave rise to:
- (a) the whole or a part of an amount in relation to which paragraph 105-50(3)(b) in Schedule 1 to the *Taxation Administration Act 1953* applies; or
  - (b) an amount of an excess, in relation to which that paragraph applies.

Note 1: Section 105-50 in Schedule 1 to the *Taxation Administration Act 1953* deals with the time limit within which the Commissioner can recover indirect tax amounts.

Note 2: Section 105-50 in Schedule 1 to the *Taxation Administration Act 1953* only applies in relation to tax periods and fuel tax return periods starting before 1 July 2012.

Note 3: This subsection will be repealed on 1 January 2017 (see Part 2 of Schedule 1 to the *Indirect Tax Laws Amendment (Assessment) Act 2012*).

*You have notified the Commissioner of refund etc.*

- (3) You do not cease under section 47-5 to be entitled to a fuel tax credit to the extent that:
- (a) the fuel tax credit arises out of circumstances that also gave rise to the whole or a part of a refund, other payment or credit in relation to which paragraph 105-55(1)(a) or (3)(a) in Schedule 1 to the *Taxation Administration Act 1953* applies; and
  - (b) you gave to the Commissioner the notice referred to in that paragraph not later than 4 years after the end of the \*tax period, or \*fuel tax return period, to which the credit would be attributable under subsection 65-5(1), (2) or (3) of this Act.

Note 1: Section 105-55 in Schedule 1 to the *Taxation Administration Act 1953* deals with the time limit within which you can claim amounts relating to indirect tax.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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Section 47-10

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Note 2: Section 105-55 in Schedule 1 to the *Taxation Administration Act 1953* only applies in relation to tax periods and fuel tax return periods starting before 1 July 2012.

Note 3: This subsection will be repealed on 1 January 2017 (see Part 2 of Schedule 1 to the *Indirect Tax Laws Amendment (Assessment) Act 2012*).

*Request to treat document as tax invoice*

- (4) If:
- (a) you requested the Commissioner to treat a document under subsection 29-70(1B) of the \*GST Act as a tax invoice (within the meaning of that Act) for the purposes of attributing an \*input tax credit for fuel to a \*tax period; and
  - (b) you made the request before the end of the 4-year period mentioned in subsection 47-5(1) of this Act in relation to the tax period; and
  - (c) the Commissioner agrees to the request after the end of the 4-year period;
- you do not cease under subsection 47-5(1) to be entitled to a fuel tax credit for the fuel to the extent that, had the Commissioner agreed to the request before the end of the 4-year period, you would not cease under that subsection to be entitled to the credit.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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## Chapter 4—Common rules

### Part 4-1—Net fuel amounts

#### Division 60—Net fuel amounts

##### Table of Subdivisions

	Guide to Division 60
60-A	Net fuel amounts

##### Guide to Division 60

###### 60-1 What this Division is about

Your net fuel amount reflects how much you or the Commissioner must pay. A positive net fuel amount reflects how much you must pay the Commissioner. A negative net fuel amount reflects how much the Commissioner must pay you.

Your net fuel amount is worked out for each tax period (or fuel tax return period if you are not registered, nor required to be registered, for GST).

###### Subdivision 60-A—Net fuel amounts

##### Table of Sections

60-5	Working out your <i>net fuel amount</i>
60-10	Determinations relating to how to work out net fuel amounts

###### 60-5 Working out your *net fuel amount*

Your *net fuel amount* for a \*tax period or a \*fuel tax return period is worked out using the following formula:

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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$$\text{Total fuel tax} - \text{Total fuel tax credits} + \text{Total increasing fuel tax adjustments} - \text{Total decreasing fuel tax adjustments}$$

where:

**total decreasing fuel tax adjustments** is the sum of all \*decreasing fuel tax adjustments that are attributable to the period.

Note: Division 65 sets out which tax periods or fuel tax return periods fuel tax adjustments are attributable to.

**total fuel tax** is nil.

Note: Fuel tax is currently assessed under the *Excise Act 1901*, the *Excise Tariff Act 1921*, the *Customs Act 1901* and the *Customs Tariff Act 1995*.

**total fuel tax credits** is the sum of all fuel tax credits to which you are entitled that are attributable to the period.

Note: Division 65 sets out which tax periods or fuel tax return periods fuel tax credits are attributable to.

**total increasing fuel tax adjustments** is the sum of all \*increasing fuel tax adjustments that are attributable to the period.

Note: Division 65 sets out which tax periods or fuel tax return periods fuel tax adjustments are attributable to.

### **60-10 Determinations relating to how to work out net fuel amounts**

- (1) The Commissioner may make a determination that, in the circumstances specified in the determination, a \*net fuel amount for a \*tax period or a \*fuel tax return period may be worked out to take account of other matters in the way specified in the determination.
- (2) The matters must relate to correction of errors:
  - (a) that were made in working out \*net fuel amounts to which subsection (3) or (4) applies; and
  - (b) that do not relate to amounts:

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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- (i) that have ceased to be payable by you because of section 105-50 in Schedule 1 to the *Taxation Administration Act 1953*; or
- (ii) to which, because of section 105-55 in that Schedule, you are not entitled.

Note: Paragraph (2)(b) will be repealed on 1 January 2017 (see Part 2 of Schedule 1 to the *Indirect Tax Laws Amendment (Assessment) Act 2012*).

- (3) This subsection applies to a \*net fuel amount for a \*tax period (the ***earlier tax period***) if:
  - (a) the earlier tax period precedes the tax period mentioned in subsection (1); and
  - (b) if the earlier tax period started on or after 1 July 2012—the tax period mentioned in subsection (1) starts during the \*period of review for the \*assessment of the net fuel amount.
- (4) This subsection applies to a \*net fuel amount for a \*fuel tax return period (the ***earlier fuel tax return period***) if:
  - (a) the earlier fuel tax return period precedes the fuel tax return period mentioned in subsection (1); and
  - (b) if the earlier fuel tax return period started on or after 1 July 2012—the fuel tax return period mentioned in subsection (1) starts during the \*period of review for the \*assessment of the net fuel amount.
- (5) If the circumstances mentioned in subsection (1) apply in relation to a \*tax period or a \*fuel tax return period applying to you, you may work out your \*net fuel amount for the tax period or fuel tax return period in that way.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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## **Division 61—Returns, refunds and payments**

### **Table of Subdivisions**

	Guide to Division 61
61-A	Returns, refunds and payments

### **Guide to Division 61**

#### **61-1 What this Division is about**

You must give the Commissioner a return for each tax period (or fuel tax return period if you are not registered, nor required to be registered, for GST) by a specified time.

If the Commissioner assesses you as having a positive net fuel amount, you must pay the Commissioner that amount. If the Commissioner assesses you as having a negative net fuel amount, the Commissioner must pay you that amount.

Note: For the assessment of the net fuel amount (including self-assessment), see Division 155 in Schedule 1 to the *Taxation Administration Act 1953*.

### **Subdivision 61-A—Returns, refunds and payments**

#### **Table of Sections**

61-5	Entitlement to a refund
61-7	When entitlement arises
61-10	Requirement to pay an assessed net fuel amount
61-15	When you must give the Commissioner your return
61-17	Returns treated as being duly made
61-20	Fuel tax return periods

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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Section 61-5

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**61-5 Entitlement to a refund**

- (1) If your \*assessed net fuel amount for a \*tax period or \*fuel tax return period is less than zero, the Commissioner must, on behalf of the Commonwealth, pay that \*amount (expressed as a positive amount) to you.

Note 1: See Division 3A of Part IIB of the *Taxation Administration Act 1953* for the rules about how the Commissioner must pay you. Division 3 of Part IIB of that Act allows the Commissioner to apply the amount owing as a credit against tax debts that you owe to the Commonwealth.

Note 2: Interest is payable under the *Taxation (Interest on Overpayments and Early Payments) Act 1983* if the Commissioner is late in paying the amount.

- (2) However, if:
- (a) the Commissioner amends the \*assessment of your \*net fuel amount for a \*tax period or \*fuel tax return period; and
  - (b) your \*assessed net fuel amount before the amendment was less than zero; and
  - (c) the \*amount that, because of the assessment, was:
    - (i) paid; or
    - (ii) applied under the *Taxation Administration Act 1953*; exceeded the amount (including a nil amount) that would have been payable or applicable had your assessed net fuel amount always been the later assessed net fuel amount;you must pay the excess to the Commissioner as if:
    - (d) the excess were an assessed net fuel amount for that period; and
    - (e) that assessed net fuel amount were an amount greater than zero and equal to the amount of the excess; and
    - (f) despite section 61-10, that assessed net fuel amount became payable, and due for payment, by you at the time when the amount was paid or applied.

Note: Treating the excess as if it were an assessed net fuel amount has the effect of applying the collection and recovery rules in Part 3-10 in Schedule 1 to the *Taxation Administration Act 1953*, such as a liability

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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to pay the general interest charge under section 105-80 in that Schedule.

### **61-7 When entitlement arises**

Your entitlement to be paid an \*amount under section 61-5 arises when the Commissioner gives you notice of the \*assessment of your \*net fuel amount for the \*tax period or \*fuel tax return period.

Note: In certain circumstances, the Commissioner is treated as having given you notice of the assessment when you give to the Commissioner your return (see section 155-15 in Schedule 1 to the *Taxation Administration Act 1953*).

### **61-10 Requirement to pay an assessed net fuel amount**

You must pay your \*assessed net fuel amount for a \*tax period to the Commissioner by the day on which you are required under section 46-5 or 61-15 to give to the Commissioner your return for the tax period, if your assessed net fuel amount is greater than zero.

### **61-15 When you must give the Commissioner your return**

- (1) If you are \*registered for GST, or \*required to be registered for GST, you must give the Commissioner your return for a \*tax period on or before the day on which you are required to give the Commissioner your \*GST return for the tax period.

Note 1: For the penalties for failing to comply with these obligations, see the *Taxation Administration Act 1953*.

Note 2: If you lodge your GST return electronically, you must also electronically notify the Commissioner of your net fuel amount (see section 388-80 in Schedule 1 to the *Taxation Administration Act 1953*).

Note 3: Instalment taxpayers may give their returns on a different day (see section 46-5).

- (2) If you are neither \*registered for GST, nor \*required to be registered for GST, you must give the Commissioner your return for a \*fuel tax return period by the 21st day after the end of the fuel tax return period.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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**Chapter 4** Common rules

**Part 4-1** Net fuel amounts

**Division 61** Returns, refunds and payments

Section 61-17

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- (2A) You must, if required by the Commissioner, whether before or after the end of a \*tax period or \*fuel tax return period, give to the Commissioner, within the time required, a return or a further or fuller return for the tax period or fuel tax return period or a specified period, whether or not you have given the Commissioner a return for the tax period or fuel tax return period under subsection (1) or (2).
- (3) You must give the Commissioner your return for a \*tax period or a \*fuel tax return period in the \*approved form.

**61-17 Returns treated as being duly made**

A return purporting to be made or signed by or on behalf of an entity is treated as having been duly made by the entity or with the entity's authority until the contrary is proved.

**61-20 Fuel tax return periods**

- (1) If you are neither \*registered for GST, nor \*required to be registered for GST, your ***fuel tax return period*** is the period specified in the return.
- (2) However, you must end a \*fuel tax return period within 90 days, or any longer period allowed by the Commissioner, after you become aware of an \*increasing fuel tax adjustment under Division 44. If you do not do so, your ***fuel tax return period*** ends at the end of the 90 days, or the longer period allowed by the Commissioner.

Note: You must give your return to the Commissioner by the 21st day after the end of the fuel tax return period (see section 61-15).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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## **Part 4-2—Attribution rules**

### **Division 65—Attribution rules**

#### **Table of Subdivisions**

	Guide to Division 65
65-A	Attribution rules

#### **Guide to Division 65**

##### **65-1 What this Division is about**

Fuel tax credits and fuel tax adjustments are attributed to tax periods (or fuel tax return periods).

Generally, if you are a business taxpayer, your fuel tax credit for taxable fuel is attributed to the same period as your input tax credit for the fuel (to reduce compliance costs). If you are a non-business taxpayer, your fuel tax credit for taxable fuel is attributed to the fuel tax return period in which you acquire, manufacture or import the fuel.

Fuel tax adjustments are attributed to the tax period (or fuel tax return period) in which you become aware of the adjustment.

#### **Subdivision 65-A—Attribution rules**

##### **Table of Sections**

65-5	Attribution rules for fuel tax credits
65-10	Attribution rules for fuel tax adjustments

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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Section 65-5

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**65-5 Attribution rules for fuel tax credits**

*Attribution rules for fuel you acquire or import*

- (1) If you are \*registered for GST, or \*required to be registered for GST, your fuel tax credit for taxable fuel that you acquire or import is attributable to:
  - (a) the same \*tax period that your \*input tax credit for the fuel is attributable to under the \*GST Act; or
  - (b) the same tax period that an input tax credit would have been attributable to under that Act if the fuel had been a \*creditable acquisition or a \*creditable importation.
- (2) If you are neither \*registered for GST, nor \*required to be registered for GST, your fuel tax credit for taxable fuel that you acquire or import is attributable to the \*fuel tax return period in which you acquire or import the fuel.

*Attribution rule for fuel you manufacture*

- (3) Your fuel tax credit for taxable fuel that you manufacture is attributable to the \*tax period or \*fuel tax return period in which the fuel was entered for home consumption (within the meaning of the *Excise Act 1901*).

*Later attribution rule for fuel tax credits*

- (4) If your return for a \*tax period or \*fuel tax return period does not take into account a fuel tax credit that is attributable to the period mentioned in subsection (1), (2) or (3), then the credit:
  - (a) ceases to be attributable to that period; and
  - (b) becomes attributable to the first period for which you give the Commissioner a return that does take it into account.

Note: For another attribution rule for fuel tax credits, see subsection 46-5(4) (GST instalment taxpayers).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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### **65-10 Attribution rules for fuel tax adjustments**

A \*fuel tax adjustment under Division 44 is attributable to the \*tax period or \*fuel tax return period in which you become aware of the adjustment.

Note: For another attribution rule for fuel tax adjustments, see subsection 46-5(4) (GST instalment taxpayers).

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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## **Part 4-3—Special rules about entities**

### **Division 70—Special rules about entities**

#### **Table of Subdivisions**

	Guide to Division 70
70-A	Special rules about entities and how they are organised
70-B	Government entities

#### **Guide to Division 70**

##### **70-1 What this Division is about**

This Act applies to GST groups, joint ventures, religious practitioners, incapacitated entities, branches, resident agents and non-profit sub-entities in a similar way to the way in which the GST Act applies to those entities.

Government entities that are registered for GST are treated as if they are carrying on an enterprise.

##### **Subdivision 70-A—Special rules about entities and how they are organised**

#### **Table of Sections**

70-5	Application of fuel tax law to GST groups and joint ventures
70-10	Entry and exit history rules
70-15	Consolidating joint venture returns
70-20	Application of fuel tax law to religious practitioners
70-25	Application of fuel tax law to incapacitated entities
70-30	Application of fuel tax law to GST branches, resident agents and non-profit sub-entities

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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## 70-5 Application of fuel tax law to GST groups and joint ventures

- (1) The entities in column 1 of the table are treated as a single entity for the purposes of the \*fuel tax law.
- (2) The entity in column 2 of the table has all the rights, powers and obligations of the single entity under the \*fuel tax law (instead of each entity in column 1 having those rights, powers and obligations).

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### Application of fuel tax law to GST groups and joint ventures

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<b>Item</b>	<b>Column 1</b>	<b>Column 2</b>
	<b>These entities are treated as a single entity for the purposes of the fuel tax law</b>	<b>This entity has all the rights, powers and obligations of the single entity under the fuel tax law</b>
1	The members of a *GST group	The representative member of the group
2	The *participants in a *GST joint venture (to the extent that any relevant fuel is acquired, manufactured or imported in the course of activities for which the joint venture was entered into)	The *joint venture operator of the joint venture

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Note: Sections 444-80 and 444-90 in Schedule 1 to the *Taxation Administration Act 1953* affect the operation of this section.

## 70-10 Entry and exit history rules

### *Entry history rule*

- (1) For the purposes of the \*fuel tax law, from the time when a particular entity starts to be treated as part of a single entity under section 70-5, everything that happened (including because of any previous application of this section) before that time, in relation to any fuel in the hands of the particular entity at that time, is taken to have happened as if the fuel had been in the hands of the single entity.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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Section 70-15

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Example: The single entity is taken to have acquired the fuel for the purposes for which the particular entity acquired the fuel.

*Exit history rule*

- (2) For the purposes of the \*fuel tax law, from the time when a particular entity ceases to be treated as part of a single entity under section 70-5, everything that happened (including because of any previous application of this section) before that time, in relation to any fuel in the hands of the particular entity immediately after that time, is taken to have happened as if the fuel had been in the hands of the particular entity.

Example: The particular entity is taken to have acquired the fuel for the purposes for which the single entity acquired the fuel.

**70-15 Consolidating joint venture returns**

If, under section 51-52 of the \*GST Act, an election is in force to consolidate a \*joint venture operator's \*GST returns relating to its \*GST joint ventures, the operator must consolidate its returns under this Act relating to the joint ventures.

**70-20 Application of fuel tax law to religious practitioners**

The \*fuel tax law applies to \*religious practitioners and religious institutions in the same way as the \*GST Act applies to them under Division 50 of that Act.

**70-25 Application of fuel tax law to incapacitated entities**

The \*fuel tax law applies to an \*incapacitated entity and its representative (within the meaning of the \*GST Act) in the same way as that Act applies to them under Division 58 of that Act.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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**70-30 Application of fuel tax law to GST branches, resident agents and non-profit sub-entities**

While an entity meets the condition in column 1 of the table, the \*fuel tax law applies to:

- (a) the entity; and
- (b) its fuel tax credits, \*net fuel amount, \*assessed net fuel amount and \*fuel tax adjustments;

in a corresponding way to the way in which the \*GST law applies, because of the Division of the \*GST Act mentioned in column 2, to:

- (c) the entity; and
- (d) its \*input tax credits, \*net amount, assessed net amount and \*adjustments.

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**Application of fuel tax law to GST branches, resident agents and non-profit sub-entities**

Item	Column 1 While this condition is met ...	Column 2 the fuel tax law applies in a corresponding way to the way in which the GST law applies to the entity because of this Division of the GST Act ...
1	The entity has a *GST branch	Division 54
2	The entity has a *resident agent	Division 57
3	The entity has a non-profit sub-entity	Division 63

**Subdivision 70-B—Government entities**

**Table of Sections**

70-35 Application of fuel tax law to government entities

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

Section 70-35

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**70-35 Application of fuel tax law to government entities**

A \*government entity that is \*registered for GST is treated, while its registration has effect, as if it were an entity \*carrying on an \*enterprise.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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## **Part 4-4—Anti-avoidance**

### **Division 75—Anti-avoidance**

#### **Table of Subdivisions**

	Guide to Division 75
75-A	Application of this Division
75-B	Commissioner may negate effects of schemes for fuel tax benefits

#### **Guide to Division 75**

##### **75-1 What this Division is about**

The object of this Division is to deter schemes that give entities benefits by reducing fuel tax, increasing refunds or altering the timing of payment of assessed net fuel amounts.

If the dominant purpose or principal effect of a scheme is to give an entity such a benefit, the Commissioner may negate the benefit any entity gets from the scheme by making a declaration stating the entity's net fuel amount for a particular tax period, despite the scheme.

#### **Subdivision 75-A—Application of this Division**

##### **Table of Sections**

75-5	When does this Division operate?
75-10	When does an entity get a <i>fuel tax benefit</i> from a scheme?
75-15	Matters to be considered in determining purpose or effect

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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Section 75-5

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**75-5 When does this Division operate?**

*General rule*

- (1) This Division operates if:
- (a) an entity (the *avoider*) gets a \*fuel tax benefit from a \*scheme; and
  - (b) the fuel tax benefit is not attributable to the making, by any entity, of a choice, election, application or agreement that is expressly provided for by the \*fuel tax law or the \*GST law; and
  - (c) taking account of the matters described in section 75-15, it is reasonable to conclude that either:
    - (i) an entity that (whether alone or with others) entered into or carried out the scheme, or part of the scheme, did so with the sole or dominant purpose of that entity or another entity getting a fuel tax benefit from the scheme; or
    - (ii) the principal effect of the scheme, or of part of the scheme, is that the avoider gets the fuel tax benefit from the scheme directly or indirectly; and
  - (d) the avoider gets the fuel tax benefit from the scheme on or after 1 July 2006.

*Territorial application*

- (2) It does not matter whether the \*scheme, or any part of the scheme, was entered into or carried out inside or outside Australia.

**75-10 When does an entity get a *fuel tax benefit* from a scheme?**

- (1) An entity gets a *fuel tax benefit* from a \*scheme if:
- (a) an \*amount that is payable by the entity under this Act apart from this Division is, or could reasonably be expected to be, smaller than it would be apart from the scheme or a part of the scheme; or

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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Section 75-15

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- (b) an amount that is payable to the entity under this Act apart from this Division is, or could reasonably be expected to be, larger than it would be apart from the scheme or a part of the scheme; or
- (c) all or part of an amount that is payable by the entity under this Act apart from this Division is, or could reasonably be expected to be, payable later than it would have been apart from the scheme or a part of the scheme; or
- (d) all or part of an amount that is payable to the entity under this Act apart from this Division is, or could reasonably be expected to be, payable earlier than it would have been apart from the scheme or a part of the scheme.

*Fuel tax benefit can arise even if no economic alternative*

- (2) An entity can get a \*fuel tax benefit from a \*scheme even if the entity or entities that entered into or carried out the scheme, or a part of the scheme, could not have engaged economically in any activities:
  - (a) of the kind to which this Act applies; and
  - (b) that would produce an effect equivalent (except in terms of this Act) to the effect of the scheme or part of the scheme;other than the activities involved in entering into or carrying out the scheme or part of the scheme.

**75-15 Matters to be considered in determining purpose or effect**

- (1) The following matters are to be taken into account under section 75-5 in considering an entity's purpose in entering into or carrying out the \*scheme from which the avoider got a \*fuel tax benefit, and the effect of the scheme:
  - (a) the manner in which the scheme was entered into or carried out;
  - (b) the form and substance of the scheme, including:
    - (i) the legal rights and obligations involved in the scheme; and
    - (ii) the economic and commercial substance of the scheme;

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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Section 75-15

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- (c) the purpose or object (whether or not expressly stated) of any of the following Acts, and any relevant provision of those Acts, so far as they are relevant to this Act:
    - (i) this Act;
    - (ii) the *Excise Act 1901* and the *Excise Tariff Act 1921*;
    - (iii) the *Customs Act 1901* and the *Customs Tariff Act 1995*;
    - (iv) the *Energy Grants (Credits) Scheme Act 2003*;
    - (v) the \*GST Act;
  - (d) the timing of the scheme;
  - (e) the period over which the scheme was entered into and carried out;
  - (f) the effect that this Act would have in relation to the scheme apart from this Division;
  - (g) any change in the avoider's financial position that has resulted, or may reasonably be expected to result, from the scheme;
  - (h) any change that has resulted, or may reasonably be expected to result, from the scheme in the financial position of an entity (a **connected entity**) that has or had a connection or dealing with the avoider, whether the connection or dealing is or was of a family, business or other nature;
  - (i) any other consequence for the avoider or a connected entity of the scheme having been entered into or carried out;
  - (j) the nature of the connection between the avoider and a connected entity;
  - (k) the circumstances surrounding the scheme;
  - (l) any other relevant circumstances.
- (2) Subsection (1) applies in relation to consideration of an entity's purpose in entering into or carrying out a part of a \*scheme from which the avoider gets a \*fuel tax benefit, and the effect of part of the scheme, as if the part were itself the scheme from which the avoider gets the fuel tax benefit.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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## **Subdivision 75-B—Commissioner may negate effects of schemes for fuel tax benefits**

### **Table of Sections**

75-40	Commissioner may make declaration for purpose of negating avoider's fuel tax benefits
75-45	Commissioner may reduce an entity's net fuel amount to compensate
75-50	Declaration has effect according to its terms
75-55	Commissioner may disregard scheme in making declarations
75-60	One declaration may cover several tax periods or fuel tax return periods
75-65	Commissioner must give copy of declaration to entity affected

### **75-40 Commissioner may make declaration for purpose of negating avoider's fuel tax benefits**

- (1) For the purpose of negating a \*fuel tax benefit the avoider gets from the \*scheme, the Commissioner may make a declaration stating the \*amount that is (and has been at all times) the avoider's \*net fuel amount for a specified \*tax period or \*fuel tax return period that has ended.
- (2) A declaration under this section is not a legislative instrument.
- (3) The Commissioner must take such action as he or she considers necessary to give effect to a declaration made under this section.

### **75-45 Commissioner may reduce an entity's net fuel amount to compensate**

- (1) This section operates if:
  - (a) the Commissioner has made a declaration under subsection 75-40(1) to negate the \*fuel tax benefit an entity gets from a \*scheme; and
  - (b) the Commissioner considers that another entity (the *loser*) gets a \*fuel tax disadvantage from the scheme; and
  - (c) the Commissioner considers that it is fair and reasonable that the loser's fuel tax disadvantage be negated or reduced.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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Section 75-45

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- (2) An entity gets a ***fuel tax disadvantage*** from a \*scheme if:
- (a) an \*amount that is payable by the entity under this Act apart from this Division is, or could reasonably be expected to be, larger than it would have been apart from the scheme or a part of the scheme; or
  - (b) an amount that is payable to the entity under this Act apart from this Division is, or could reasonably be expected to be, smaller than it would have been apart from the scheme or a part of the scheme; or
  - (c) all or part of an amount that is payable by the entity under this Act apart from this Division is, or could reasonably be expected to be, payable earlier than it would have been apart from the scheme or a part of the scheme; or
  - (d) all or part of an amount that is payable to the entity under this Act apart from this Division is, or could reasonably be expected to be, payable later than it would have been apart from the scheme or a part of the scheme.
- (3) For the purposes of negating or reducing the loser's \*fuel tax disadvantage from the \*scheme, the Commissioner may make a declaration (under this section) stating the \*amount that is (and has been at all times) the loser's \*net fuel amount for a specified \*tax period or \*fuel tax return period that has ended.
- (4) An \*amount stated in a declaration as the loser's \*net fuel amount must not be less than the net fuel amount would have been apart from the \*scheme, or part of the scheme, and the declaration.
- (5) An entity may give the Commissioner a written request to make a declaration under this section relating to the entity. The Commissioner must decide whether or not to grant the request, and give the entity notice of the Commissioner's decision.
- (6) A declaration under this section is not a legislative instrument.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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**75-50 Declaration has effect according to its terms**

For the purpose of making an \*assessment, a statement in a declaration under this Subdivision has effect according to its terms, despite the provisions of this Act outside of this Division.

**75-55 Commissioner may disregard scheme in making declarations**

For the purposes of making a declaration under this Subdivision, the Commissioner may:

- (a) treat a particular event that actually happened as not having happened; and
- (b) treat a particular event that did not actually happen as having happened and, if appropriate, treat the event as:
  - (i) having happened at a particular time; and
  - (ii) having involved particular action by a particular entity; and
- (c) treat a particular event that actually happened as:
  - (i) having happened at a time different from the time it actually happened; or
  - (ii) having involved particular action by a particular entity (whether or not the event actually involved any action by that entity).

**75-60 One declaration may cover several tax periods or fuel tax return periods**

Statements relating to different \*tax periods or \*fuel tax return periods may be included in a single declaration under this Subdivision.

**75-65 Commissioner must give copy of declaration to entity affected**

- (1) The Commissioner must give a copy of a declaration under this Subdivision to the entity whose \*net fuel amount is stated in the declaration.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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Section 75-65

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- (2) A failure to comply with subsection (1) does not affect the validity of the declaration.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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## **Part 4-5—Miscellaneous**

### **Division 95—Miscellaneous**

#### **Table of Subdivisions**

	Guide to Division 95
95-A	Miscellaneous

#### **Guide to Division 95**

##### **95-1 What this Division is about**

<p>This Division provides for determinations and regulations to be made for the purposes of the fuel tax law.</p>
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#### **Subdivision 95-A—Miscellaneous**

##### **Table of Sections**

95-5	Determination of blends that no longer constitute fuels
95-10	Application of this law to the Commonwealth
95-100	Regulations

##### **95-5 Determination of blends that no longer constitute fuels**

- (1) For the purposes of the \*fuel tax law, the Commissioner may, by legislative instrument, determine that a blend of a fuel and another product does not constitute a fuel.
- (2) An entity that blends that fuel and that other product to produce that blend is taken to have used that fuel.
- (3) In making a determination under subsection (1), the Commissioner must consider the following matters:
  - (a) the physical and chemical properties of the blend;

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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Section 95-10

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- (b) whether the blend can be used in an internal combustion engine;
- (c) whether the blend is marketed and distributed as fuel;
- (d) whether there is a risk that the blend might be used as fuel, and the financial impact on the Commonwealth if the blend were used as fuel;
- (e) any other relevant matter.

The Commissioner must give the greatest weight to the matter mentioned in paragraph (d).

**95-10 Application of this law to the Commonwealth**

- (1) It is the Parliament's intention that the Commonwealth and \*untaxable Commonwealth entities should:
  - (a) be notionally entitled to fuel tax credits; and
  - (b) have notional \*fuel tax adjustments.

Note: The fuel tax law binds the Crown in right of the States, the Australian Capital Territory and the Northern Territory (see section 1-15).

- (2) The \*Finance Minister may give such written directions as are necessary or convenient for carrying out or giving effect to subsection (1) and, in particular, may give directions in relation to the transfer of money within an account, or between accounts, operated by the Commonwealth or an \*untaxable Commonwealth entity.
- (3) The directions given under subsection (2) may also take account of the provisions of the *Fuel Tax (Consequential and Transitional Provisions) Act 2006*.
- (4) Directions under subsection (2) have effect, and must be complied with, despite any other Commonwealth law.
- (5) A direction given under subsection (2) is not a legislative instrument.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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### **95-100 Regulations**

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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## **Chapter 5—Interpretation**

### **Part 5-1—Rules for interpreting this Act**

#### **Division 105—Rules for interpreting this Act**

##### **Table of Subdivisions**

105-A Rules for interpreting this Act

##### **Subdivision 105-A—Rules for interpreting this Act**

##### **Table of Sections**

105-1 What forms part of this Act  
105-5 What does not form part of this Act  
105-10 Guides, and their role in interpreting this Act

##### **105-1 What forms part of this Act**

- (1) These all form part of this Act:
  - (a) the headings to the Chapters, Parts, Divisions and Subdivisions of this Act;
  - (b) \*Guides;
  - (c) the headings to the sections and subsections of this Act;
  - (d) the headings for groups of sections of this Act (group headings);
  - (e) the notes and examples (however described) that follow provisions of this Act.
- (2) The asterisks used to identify defined terms form part of this Act. However, if a term is not identified by an asterisk, disregard that fact in deciding whether or not to apply to that term a definition or other interpretation provision.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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### **105-5 What does not form part of this Act**

These do not form part of this Act:

- (a) footnotes and endnotes;
- (b) Tables of Subdivisions;
- (c) Tables of sections.

### **105-10 Guides, and their role in interpreting this Act**

- (1) A **Guide** consists of:
  - (a) sections under a heading indicating that what follows is a Guide to a particular Subdivision, Division etc.; or
  - (b) a Subdivision, Division or Part that is identified as a Guide by a provision in the Subdivision, Division or Part.
- (2) \*Guides form part of this Act, but they are kept separate from the operative provisions. In interpreting an operative provision, a Guide may only be considered:
  - (a) in determining the purpose or object underlying the provision; or
  - (b) to confirm that the provision's meaning is the ordinary meaning conveyed by its text, taking into account its context in the Act and the purpose or object underlying the provision; or
  - (c) in determining the provision's meaning if the provision is ambiguous or obscure; or
  - (d) in determining the provision's meaning if the ordinary meaning conveyed by its text, taking into account its context in the Act and the purpose or object underlying the provision, leads to a result that is manifestly absurd or is unreasonable.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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## Part 5-3—Dictionary

### Division 110—Dictionary

#### Table of Subdivisions

110-A Dictionary

#### Subdivision 110-A—Dictionary

#### Table of Sections

110-5 Dictionary

#### 110-5 Dictionary

In this Act:

***adjustment*** has the meaning given by section 195-1 of the \*GST Act.

***amount*** includes a nil amount.

***approved form*** has the meaning given by section 388-50 in Schedule 1 to the *Taxation Administration Act 1953*.

***assessed net fuel amount***, for a \*tax period, or for a \*fuel tax return period, means the \*net fuel amount \*assessed for the tax period or fuel tax return period.

***assessment*** has the meaning given by the *Income Tax Assessment Act 1997*.

***Australia*** has the meaning given by section 195-1 of the \*GST Act.

***biodiesel*** has the same meaning as it has in the *Excise Tariff Act 1921*.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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**carrying on** an \*enterprise has the meaning given by section 195-1 of the \*GST Act.

**Commissioner** means the Commissioner of Taxation.

Note: The office of Commissioner of Taxation is created by section 4 of the *Taxation Administration Act 1953*.

**creditable acquisition** has the meaning given by section 195-1 of the \*GST Act.

**creditable importation** has the meaning given by section 195-1 of the \*GST Act.

**decreasing adjustment** has the meaning given by section 195-1 of the \*GST Act.

**decreasing fuel tax adjustment** has the meaning given by section 44-5.

**effective fuel tax** has the meaning given by sections 43-5 and 43-7.

**enterprise** has the meaning given by section 9-20 of the \*GST Act.

**entity** has the meaning given by section 184-1 of the \*GST Act.

**Finance Minister** has the meaning given by section 195-1 of the \*GST Act.

**financial year** has the meaning given by section 195-1 of the \*GST Act.

**fuel tax** means duty that is payable on fuel under:

- (a) the *Excise Act 1901* and the *Excise Tariff Act 1921*; or
- (b) the *Customs Act 1901* and the *Customs Tariff Act 1995*;

other than any duty that is expressed as a percentage of the value of fuel for the purposes of section 9 of the *Customs Tariff Act 1995*.

**fuel tax adjustment** means an \*increasing fuel tax adjustment or a \*decreasing fuel tax adjustment.

**fuel tax benefit** has the meaning given by section 75-10.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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Section 110-5

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***fuel tax credit*** means an entitlement arising under section 41-5, 41-10 or 42-5.

***fuel tax disadvantage*** has the meaning given by section 75-45.

***fuel tax law*** means:

- (a) this Act; and
- (b) the *Fuel Tax (Consequential and Transitional Provisions) Act 2006*; and
- (c) the *Taxation Administration Act 1953*, so far as it relates to any Act covered by paragraphs (a) and (b); and
- (d) any other Act, so far as it relates to any Act covered by paragraphs (a) to (c) (or to so much of that Act as is covered); and
- (e) regulations under any Act, so far as they relate to any Act covered by paragraphs (a) to (d) (or to so much of that Act as is covered).

***fuel tax return period*** has the meaning given by section 61-20.

***government entity*** has the meaning given by section 41 of the *A New Tax System (Australian Business Number) Act 1999*.

***GST Act*** means the *A New Tax System (Goods and Services Tax) Act 1999*.

***GST branch*** has the meaning given by section 54-5 of the \*GST Act.

***GST group*** has the meaning given by section 48-5 of the \*GST Act.

***GST instalment*** has the meaning given by subsection 162-70(1) of the \*GST Act.

***GST instalment payer*** has the meaning given by section 162-50 of the \*GST Act.

***GST instalment quarter*** has the meaning given by subsections 162-70(2) and (3) of the \*GST Act.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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***GST joint venture*** has the meaning given by section 51-5 of the \*GST Act.

***GST law*** has the meaning given by section 195-1 of the \*GST Act.

***GST return*** has the meaning given by section 195-1 of the \*GST Act.

***Guide*** has the meaning given by section 105-10.

***incapacitated entity*** has the meaning given by section 195-1 of the \*GST Act.

***increasing adjustment*** has the meaning given by section 195-1 of the \*GST Act.

***increasing fuel tax adjustment*** has the meaning given by sections 44-5 and 44-10.

***input tax credit*** has the meaning given by section 195-1 of the \*GST Act.

***input taxed*** has the meaning given by section 195-1 of the \*GST Act.

***joint venture operator*** has the meaning given by section 195-1 of the \*GST Act.

***LPG*** means:

- (a) liquid propane; or
- (b) a liquid mixture of propane and butane; or
- (c) a liquid mixture of propane and other hydrocarbons that consists mainly of propane; or
- (d) a liquid mixture of propane, butane and other hydrocarbons that consists mainly of propane and butane.

***motor vehicle*** has the meaning given by section 995-1 of the *Income Tax Assessment Act 1997*.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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Section 110-5

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**net amount** has the meaning given by section 195-1 of the \*GST Act.

**net fuel amount** has the meaning given by section 60-5.

**participant** has the meaning given by section 195-1 of the \*GST Act.

**period of review**, for an \*assessment, has the meaning given by section 155-35 in Schedule 1 to the *Taxation Administration Act 1953*.

**primary production business** has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

**registered for GST** has the meaning given to **registered** by section 195-1 of the \*GST Act.

**religious practitioner** has the meaning given by section 195-1 of the \*GST Act.

**required to be registered for GST** has the meaning given to **required to be registered** by section 195-1 of the \*GST Act.

**resident agent** has the meaning given by section 195-1 of the \*GST Act.

**residential premises** has the meaning given by section 195-1 of the \*GST Act.

**scheme** has the meaning given by subsection 165-10(2) of the \*GST Act.

**taxable fuel** means fuel in respect of which duty is payable under:

- (a) the *Excise Act 1901* and the *Excise Tariff Act 1921*; or
- (b) the *Customs Act 1901* and the *Customs Tariff Act 1995*;

but does not include fuel covered by:

- (c) item 15, 20 or 21 of the Schedule to the *Excise Tariff Act 1921*; or

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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Section 110-5

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- (d) any imported goods that would be classified to item 15 of the Schedule to the *Excise Tariff Act 1921*, if the goods had been manufactured in Australia.

Note: Item 15 of the Schedule to the *Excise Tariff Act 1921* deals with certain petroleum based oils and greases. Item 20 of that Schedule deals with certain stabilised crude petroleum oils. Item 21 of that Schedule deals with certain condensate.

**taxable supply** has the meaning given by section 195-1 of the \*GST Act.

**tax period** has the meaning given by section 195-1 of the \*GST Act.

**Transport Department** means the Department administered by the \*Transport Minister.

**Transport Minister** means the Minister who administers the *Motor Vehicle Standards Act 1989*.

**Transport Secretary** means the Secretary of the \*Transport Department.

**untaxable Commonwealth entity** has the meaning given by section 177-1 of the \*GST Act.

**you**: if a provision of this Act uses the expression **you**, it applies to entities generally, unless its application is expressly limited.

Note: The expression **you** is not used in provisions that apply only to entities that are not individuals.

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\*To find definitions of asterisked terms, see the Dictionary, starting at section 110-5.

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## Endnotes

Endnote 1—About the endnotes

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## Endnotes

### Endnote 1—About the endnotes

The endnotes provide details of the history of this legislation and its provisions. The following endnotes are included in each compilation:

- Endnote 1—About the endnotes
- Endnote 2—Abbreviation key
- Endnote 3—Legislation history
- Endnote 4—Amendment history
- Endnote 5—Uncommenced amendments
- Endnote 6—Modifications
- Endnote 7—Misdescribed amendments
- Endnote 8—Miscellaneous

If there is no information under a particular endnote, the word “none” will appear in square brackets after the endnote heading.

### Abbreviation key—Endnote 2

The abbreviation key in this endnote sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended the compiled law. The information includes commencement information for amending laws and details of application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision level. It also includes information about any provisions that have expired or otherwise ceased to have effect in accordance with a provision of the compiled law.

### Uncommenced amendments—Endnote 5

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in endnote 5.

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**Modifications—Endnote 6**

If the compiled law is affected by a modification that is in force, details of the modification are included in endnote 6.

**Misdescribed amendments—Endnote 7**

An amendment is a misdescribed amendment if the effect of the amendment cannot be incorporated into the text of the compilation. Any misdescribed amendment is included in endnote 7.

**Miscellaneous—Endnote 8**

Endnote 8 includes any additional information that may be helpful for a reader of the compilation.

## Endnotes

### Endnote 2—Abbreviation key

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#### Endnote 2—Abbreviation key

ad = added or inserted	pres = present
am = amended	prev = previous
c = clause(s)	(prev) = previously
Ch = Chapter(s)	Pt = Part(s)
def = definition(s)	r = regulation(s)/rule(s)
Dict = Dictionary	Reg = Regulation/Regulations
disallowed = disallowed by Parliament	reloc = relocated
Div = Division(s)	renum = renumbered
exp = expired or ceased to have effect	rep = repealed
hdg = heading(s)	rs = repealed and substituted
LI = Legislative Instrument	s = section(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sch = Schedule(s)
mod = modified/modification	Sdiv = Subdivision(s)
No = Number(s)	SLI = Select Legislative Instrument
o = order(s)	SR = Statutory Rules
Ord = Ordinance	Sub-Ch = Sub-Chapter(s)
orig = original	SubPt = Subpart(s)
par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)	

## Endnote 3—Legislation history

**Endnote 3—Legislation history**

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Fuel Tax Act 2006	72, 2006	26 June 2006	1 July 2006	
Tax Laws Amendment (2006 Measures No. 2) Act 2006	58, 2006	22 June 2006	Schedule 7 (item 172): 1 July 2006 (s 2(1) item 8)	—
Fuel Tax (Consequential and Transitional Provisions) Act 2006	73, 2006	26 June 2006	Schedule 3 (items 23A, 23B): 1 July 2006 (s 2(10) item 10A) Schedule 3 (items 34A, 34B): 1 July 2008 Schedule 3 (items 35, 36): 1 July 2010 Schedule 3 (items 37–39): 1 July 2012 Schedule 3 (items 40, 41): 1 July 2013	—
<b>as amended by</b>				
Tax Laws Amendment (2009 Measures No. 2) Act 2009	42, 2009	23 June 2009	Schedule 7 (items 13–15): 1 July 2009	—
Excise Laws Amendment (Fuel Tax Reform and Other Measures) Act 2006	74, 2006	26 June 2006	Schedule 1 (items 92–94): 1 July 2006 (s 2(1) item 3)	—
Road Charges Legislation Repeal and Amendment Act 2008	148, 2008	11 Dec 2008	Schedule 3 (items 1, 2, 4, 9): 1 Jan 2009	Sch. 3 (item 9)
Tax Laws Amendment (2009 Measures No. 2) Act 2009	42, 2009	23 June 2009	Schedule 7 (items 1–12, 16): 1 July 2009	Sch. 7 (item 16)

## Endnotes

### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Tax Laws Amendment (2009 Measures No. 5) Act 2009	118, 2009	4 Dec 2009	Schedule 1 (item 11): 1 July 2006 Schedule 1 (item 46): 4 Dec 2009 (s 2(1) item 1)	—
Tax Laws Amendment (2009 GST Administration Measures) Act 2010	20, 2010	24 Mar 2010	Schedule 1 (items 17, 20) and Schedule 5 (items 6, 7): 24 Mar 2010 (s 2(1) item 1)	Sch. 1 (item 20) and Sch. 5 (item 7)
Taxation of Alternative Fuels Legislation Amendment Act 2011	68, 2011	29 June 2011	Schedule 1 (items 15–34): 1 Dec 2011	Sch. 1 (items 22, 24, 29)
Tax Laws Amendment (2011 Measures No. 8) Act 2011	136, 2011	29 Nov 2011	Schedule 4 (items 5–7): 1 Dec 2011 (s 2(1) item 7)	Sch. 4 (item 7)
Clean Energy (Fuel Tax Legislation Amendment) Act 2011	157, 2011	4 Dec 2011	Schedule 1 (items 1–43, 45): 1 July 2012	Sch. 1 (item 45)
Indirect Tax Laws Amendment (Assessment) Act 2012	39, 2012	15 Apr 2012	Schedule 1 (items 16, 17, 166–185, 227–230, 239, 240) and Schedule 2 (items 3, 4): 1 July 2012 Schedule 1 (items 247–253, 264): [ <i>see</i> Endnote 5] Schedule 4 (items 14–16): 15 Apr 2012 (s 2(1) item 1)	Sch. 1 (items 239, 240, 264) and Sch. 4 (item 16)
Clean Energy Legislation Amendment Act 2012	84, 2012	28 June 2012	Schedule 2 (items 76–85): 1 July 2012 (s 2(1) item 3)	—

## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Clean Energy Amendment (International Emissions Trading and Other Measures) Act 2012	204, 2012	13 Dec 2012	Schedule 1 (item 93): 14 Dec 2012	—
Tax and Superannuation Laws Amendment (2013 Measures No. 1) Act 2013	88, 2013	28 June 2013	Sch 7 (item 198): 28 June 2013 (s 2(1) item 1)	—
Clean Energy Legislation (Carbon Tax Repeal) Act 2014	83, 2014	17 July 2014	Sch 1 (items 108–154, 334): 1 July 2014 (s 2(1) item 2)	Sch 1 (item 334)
Tax and Superannuation Laws Amendment (2014 Measures No. 4) Act 2014	110, 2014	16 Oct 2014	Sch 5 (item 94): 16 Oct 2014 (s 2(1) item 7)	—

## Endnotes

### Endnote 4—Amendment history

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### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
<b>Chapter 1</b>	
<b>Part 1-2</b>	
<b>Division 2</b>	
Subdivision 2-A	
s. 2-1 .....	am. Nos. 68 and 157, 2011; No. 84, 2012; No 83, 2014
<b>Chapter 3</b>	
<b>Part 3-1</b>	
<b>Division 40</b>	
Subdivision 40-A	
s. 40-5 .....	am. Nos. 68 and 157, 2011; No 83, 2014
<b>Division 41</b>	
s. 41-1 .....	am. Nos. 68 and 157, 2011; No 83, 2014
<b>Subdivision 41-A</b>	
s. 41-5 .....	am. No. 157, 2011; No 83, 2014
Note 1 to s. 41-5(1) .....	am. No. 73, 2006; No. 42, 2009
Heading to s. 41-10 .....	rs. No. 68, 2011
Subhead. to s. 41-10(1) .....	ad. No. 68, 2011
Subhead. to s. 41-10(2) .....	ad. No. 68, 2011
s. 41-10 .....	am. Nos. 68 and 136, 2011
<b>Subdivision 41-B</b>	
s. 41-15 .....	am. No. 68, 2011; No. 84, 2012; No 83, 2014
Note to s. 41-20 .....	rep. No. 73, 2006
s. 41-25 .....	am. No. 157, 2011; No 83, 2014
Heading to s. 41-30 .....	rs. No. 157, 2011; No 83, 2014
s. 41-30 .....	am. No. 157, 2011; No 83, 2014
s. 41-35 .....	ad. No. 84, 2012
	rep No 83, 2014
Div. 42A of Part 3-1 .....	ad. No. 84, 2012
	rep No 83, 201
s. 42A-1 .....	ad. No. 84, 2012

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
	rep No 83, 201
s. 42A-5.....	ad. No. 84, 2012 rep No 83, 2014
<b>Division 43</b>	
s. 43-1.....	am. Nos. 68 and 157, 2011; No. 84, 2012; No 83, 2014
<b>Subdivision 43-A</b>	
s. 43-5.....	am. No. 73, 2006; Nos. 68 and 157, 2011; No. 84, 2012; No 83, 2014
s. 43-7.....	ad. No. 68, 2011 am No 110, 2014
s. 43-8.....	ad. No. 157, 2011 am. Nos. 84 and 204, 2012 rep No 83, 2014
Heading to s. 43-10.....	rs. No. 157, 2011; No 83, 2014
s. 43-10.....	am No 148, 2008; No 157, 2011; No 39, 2012; No 88, 2013; No 83, 2014
s. 43-11.....	ad. No. 157, 2011 rep No 83, 2014
Subdiv. 43-B of Div. 43..... of Part 3-1	ad. No. 157, 2011 rep No 83, 2014
s. 43-15.....	ad. No. 157, 2011 rep No 83, 2014
s. 43-20.....	ad. No. 157, 2011 rep No 83, 2014
s. 43-25.....	ad. No. 157, 2011 rep No 83, 2014
s. 43-30.....	ad. No. 157, 2011 rep No 83, 2014
s. 43-35.....	ad. No. 157, 2011 rep No 83, 2014
s. 43-40.....	ad. No. 157, 2011 rep No 83, 2014
s. 43-45.....	ad. No. 157, 2011 rep No 83, 2014

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
s. 43-50.....	ad. No. 157, 2011 rep No 83, 2014
s. 43-55.....	ad. No. 157, 2011 rep No 83, 2014
s. 43-60.....	ad. No. 157, 2011 rep No 83, 2014
s. 43-65.....	ad. No. 157, 2011 rep No 83, 2014
s. 43-70.....	ad. No. 157, 2011 rep No 83, 2014
s. 43-75.....	ad. No. 157, 2011 rep No 83, 2014
<b>Division 44</b>	
s. 44-1.....	am. No. 39, 2012
Note to s. 44-1 .....	rep. No. 42, 2009
<b>Part 3-3</b>	
Div. 45 of Part 3-3 .....	rep. No. 42, 2009
s. 45-1.....	rep. No. 42, 2009
s. 45-5.....	rep. No. 42, 2009
<b>Division 47</b>	
Div. 47 of Part 3-3 .....	ad. No. 20, 2010
s. 47-1.....	ad. No. 20, 2010 rs. No. 39, 2012
<b>Subdivision 47-A</b>	
s. 47-5.....	ad. No. 20, 2010 rs. No. 39, 2012
s. 47-10.....	ad. No. 20, 2010 am. No. 39, 2012
Note to s. 47-10(1).....	rep. No. 39, 2012
Note 1 to s. 47-10(1).....	ad. No. 39, 2012
Note 2 to s. 47-10(1).....	ad. No. 39, 2012
Note 3 to s. 47-10(1).....	ad. No. 39, 2012

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
Note to s. 47-10(2).....	rep. No. 39, 2012
Note 1 to s. 47-10(2).....	ad. No. 39, 2012
Note 2 to s. 47-10(2).....	ad. No. 39, 2012
Note 3 to s. 47-10(2).....	ad. No. 39, 2012
Note to s. 47-10(3)	
Renumbered Note 1.....	No. 39, 2012
Note 2 to s. 47-10(3).....	ad. No. 39, 2012
Note 3 to s. 47-10(3) .....	ad. No. 39, 2012
<b>Chapter 4</b>	
<b>Part 4-1</b>	
<b>Division 60</b>	
s. 60-1.....	am. No. 39, 2012
<b>Subdivision 60-A</b>	
s. 60-5.....	am. No. 42, 2009; No. 68, 2011
s. 60-10.....	ad. No. 39, 2012
<b>Division 61</b>	
<b>Subdivision 61-A</b>	
s. 61-1.....	am. No. 39, 2012
Note to s. 61-1 .....	ad. No. 39, 2012
s. 61-5.....	am. No. 20, 2010
	rs. No. 39, 2012
s. 61-7.....	ad. No. 39, 2012
s. 61-10.....	rs. No. 39, 2012
s. 61-15.....	am. No. 39, 2012
s. 61-17.....	ad. No. 39, 2012
<b>Part 4-2</b>	
<b>Division 65</b>	
<b>Subdivision 65-A</b>	
s. 65-5.....	am. No. 42, 2009; No. 39, 2012
s. 65-10.....	am. No. 42, 2009
Note to s. 65-10 .....	am. No. 73, 2006
	rs No 73, 2006

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
<b>Part 4-3</b>	
<b>Division 70</b>	
<b>Subdivision 70-A</b>	
s. 70-25.....	am. No. 118, 2009
s. 70-30.....	am. No. 39, 2012
<b>Part 4-4</b>	
<b>Division 75</b>	
s. 75-1.....	am. No. 39, 2012
<b>Subdivision 75-B</b>	
Heading to s. 75-40.....	rs. No. 39, 2012
s. 75-40.....	am. No. 39, 2012
Note to s. 75-40(1).....	rep. No. 39, 2012
s. 75-45.....	am. No. 39, 2012
Note to s. 75-45(3).....	rep. No. 39, 2012
Note to s. 75-45(5).....	rep. No. 39, 2012
s. 75-50.....	rs. No. 39, 2012
<b>Chapter 5</b>	
<b>Part 5-3</b>	
<b>Division 110</b>	
<b>Subdivision 110-A</b>	
s. 110-5.....	am. No 58, 2006; No 73, 2006 (as am by No 42, 2006); No 74, 2006; No. 42, 2009; Nos. 68 and 157, 2011; Nos. 39 and 84, 2012; No 83, 2014

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**Endnote 5—Uncommenced amendments****Indirect Tax Laws Amendment (Assessment) Act 2012 (No. 39, 2012)****Schedule 1****247 Section 47-1**

Omit:

However, this time limit does not apply in certain limited cases.
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**248 Subsections 47-10(1), (2) and (3)**

Repeal the subsections.

**249 Subsection 47-10(4) (heading)**

Repeal the heading.

**250 Subsection 47-10(4)**

Omit “(4)”.

**251 Subsection 60-10(2)**

Repeal the subsection, substitute:

- (2) The matters must relate to correction of errors that were made in working out \*net fuel amounts to which subsection (3) or (4) applies.

**252 Paragraph 60-10(3)(b)**

Omit “if the earlier tax period started on or after 1 July 2012—”.

**253 Paragraph 60-10(4)(b)**

Omit “if the earlier fuel tax return period started on or after 1 July 2012—”.

**Endnotes**

Endnote 6—Modifications [none]

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**Endnote 6—Modifications [none]**

**Endnote 7—Misdescribed amendments [none]**

**Endnote 8—Miscellaneous [none]**