



Explanatory Statement

Excise Act 1901 Excise By-Law 156

General Outline

1. This Explanatory Statement is provided in accordance with section 26 of the *Legislative Instruments Act 2003*.
2. The Government announced in its May 2008 Budget their intention to remove the exemption of condensate from crude oil excise, effective on and from midnight (by legal time in the Australian Capital Territory) on 13 May 2008. To give effect to the policy change, the *Excise Legislation Amendment (Condensate) Act 2008* and the *Excise Tariff Amendment (Condensate) Act 2008* amended the *Excise Act 1901*, *Excise Tariff Act 1921* (Excise Tariff Act), *Petroleum Excise (Prices) Act 1987* and the *Petroleum Revenue Act 1985*.
3. In particular, item 21 of the Schedule to the Excise Tariff Act was amended to insert sub-item 21.3 which imposes a duty of excise on certain condensate to be "Free, or if higher the amount of duty worked out under section 6CA."
4. Section 6CA of the Excise Tariff Act provides that a "**prescribed condensate production area**" means a condensate production area prescribed by by-laws (which, without limiting the generality of the foregoing, may be a relevant accumulation, a well, and oil field or a gas field."
5. Excise By-Law No.156 is therefore required to prescribe condensate production areas for the purposes of section 6CA of the Tariff Act.
6. Excise By-Law No.156 is made under section 165 of the *Excise Act 1901*.

Date of effect

7. This instrument is to commence on and from midnight (by legal time in the Australian Capital Territory) on 13 May 2008. This date aligns with the commencement date for the removal of the exemption of condensate from crude oil excise announced in the Government's May 2008 Budget.

Note: Subparagraph 168(b) (i) of the *Excise Act 1901* provides that a By-Law will take effect, or be deemed to have taken effect from a date specified by the By-Law. Despite section 169 of the *Excise Act 1901*, subsection 6CA(13A) of the *Excise Tariff Act 1921* authorises the Commissioner to make a by-law imposing duty in relation to condensate entered for home consumption before the date on which the by-law is published in the *Gazette*.

Effect of the instrument

8. This instrument provides one of the mechanisms required to give effect to the Government's Budget announcement on condensate.

9. This instrument prescribes each condensate production area for the purposes of the definition of the term “*prescribed condensate production area*” contained in subsection 6CA (1) of the Excise Tariff Act.

Impact of the instrument

10. By prescribing condensate production areas, this instrument makes condensate produced from those areas subject to a duty of excise to be Free or if higher the amount of duty worked out under section 6CA of the Excise Tariff Act.

Consultation

11. Section 18 of the *Legislative Instruments Act 2003* specifically provides for circumstances where consultation may not be necessary or appropriate. One of those circumstances is where the instrument gives effect, in terms announced in the Budget, to a decision to repeal, impose or adjust a tax, fee or charge. This instrument falls into that category, and therefore consultation on the development of it has not been undertaken.



Timothy Dyce

Deputy Commissioner and Delegate for Commissioner of Taxation (CEO)

26 November 2008

Related Rulings/Determinations:

Subject references:

Excise
Excise Tariff
Excise by-law
Condensate

Legislative references:

Excise Act 1901
Excise Act 1901 section 165
Excise Legislation Amendment (Condensate) Act 2008
Excise Tariff Amendment (Condensate) Act 2008
Excise Tariff Act 1921, section 6CA
Excise Tariff Act 1921, subsection 6CA(1)
Excise Tariff Act 1921, the Schedule, item 21
Excise Tariff Act 1921, the Schedule, subitem 21.1
Legislative Instruments Act 2003 section 18
Legislative Instruments Act 2003 section 26
Petroleum Excise (Prices) Act 1987
Petroleum Revenue Act 1985

Other references:

