



14 November 2014

Senate Economics Legislation Committee  
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CANBERRA ACT 2600  
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Dear Committee Secretary

### **Tax and Superannuation Laws Amendment (2014 Measures No. 6) Bill 2014**

The National Farmers Federation (NFF) welcomes the opportunity to comment on schedule 4 of the *Tax and Superannuation Laws Amendment (2014 Measures No. 6) Bill 2014* (the bill) to align Fuel Tax Credits (FTCs) with the increased rate of fuel excise and excise-equivalent customs duty.

The farm and agribusiness sector supports the timely passage of schedule 4 of the bill. Aligning FTCs with the increased rate of fuel excise will ensure that the FTC scheme continues to meet its policy objective to remove excise from a key business input and remote community electricity generation.

The bill should be passed in the current sittings to allow increased FTC claims to be made in claimants' November Business Activity Statements (BAS) due to be lodged on 21 December 2014.

#### Fuel Tax Credits are underpinned by sound tax policy principles

The purpose of the Fuel Tax Credit scheme is to:

- Ensure fuel used as a business input is not taxed; and
- Ensure excise is not imposed on non-transport use of fuel.

The NFF is of the view that removing tax on fuel (less a road user charge for on-road), the FTC scheme reflects the policy principle that tax should not be imposed on business inputs. It is the same principle that underpins the GST system whereby tax is not applied on business to business transactions through input tax credits.

FTCs fully offset excise imposed on fuels used off-road. This not only recognises the tax policy principle that tax should not be imposed on business inputs, it also reflects that excise represents an implicit user charge for roads and that excise was originally introduced to fund and maintain roads. Off-road farming activities do not use publicly funded roads and therefore should not pay an implicit road user charge. Rebates for off-road use of diesel fuel have existed ever since excise was extended to diesel in 1957 in line with this principle.

The NFF approach is if you aren't using the diesel on roads, then there's no case to pay for a road user charge. In recognition of that, some industries (mining, farming, forestry and fishing) have, correctly in our view, historically not been charged the full tax on diesel.

The FTC scheme also operates to remove excise from fuel used in electricity generation, heating and other non-transport applications to ensure that excise is targeted at transport use of fuels only.

In recognition of these principles, the Fuel Tax Act 2006 automatically links FTC rates to the excise rate as set out in the Excise Tariff Act 1921 and Customs Tariff Act 1921. This ensures that credits fully offset excise for fuel used off-road by business regardless of the legislated rate of excise.

The bill before the Committee simply ensures that the policy principle underpinning the Fuel Tax Act 2006 is retained by increasing fuel tax credits in line with excise. Automatic indexation should continue regardless of whether excise is increased by tariff proposals or legislative amendment to the Excise and Customs Tariff Acts.

#### Fuel tax credits are not a 'subsidy'

FTCs are not a subsidy or form of industry assistance. Credits claimed under the scheme refund tax that should not have been paid in the first place at the fuel pump. Treasury has stated in documents released under freedom of information that:

*Fuel Tax Credits are not a subsidy for fuel use, but a mechanism to reduce or remove the incidence of excise or duty levied on the fuel used by business off road or in heavy on-road vehicles<sup>1</sup>.*

Rob Heferen, Executive Director of Revenue Group Treasury, made the same point in Budget Estimates on 5 June 2014 stating that:

*It is there to ensure that the double taxation does not occur. So the tax that is on the business input is relieved from the business activity. It is particularly important from a tax policy point of view. Certainly, with export competing industries, that double taxation obviously would be problematic.<sup>2</sup>*

Nor does Treasury consider FTC's a tax expenditure. Mr Heferen also stated that:

*The fuel tax credits—it is an outlay; it is not a tax expenditure..... The net amount paid for the fuel—so the amount of tax itself, to the extent that someone is entitled to either be exempt from that or have that refunded—to the extent that it is an off-road use, as in manufacturing, mining, agriculture and those sorts of things, would ordinarily be included as part of the base and therefore the departure from the base is not a tax expenditure. It is not a subsidy. It is just what the base ought to be<sup>3</sup>.*

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<sup>1</sup> Treasury QTB, Treasury Freedom of Information Disclosure Log, Document 19 AFR ARTICLE: G20 COMMITMENT ON FOSSIL FUEL SUBSIDIES, 28 February 2011  
<http://www.treasury.gov.au/~media/Treasury/Access%20to%20Information/Disclosure%20Log/2012/G20%20commitments%20on%20fossil%20fuel%20subsidies/Downloads/Document%2019.ashx>

<sup>2</sup> Senate Committee Hansard, Hearing before Senate Economics Legislation Committee, Estimates, Treasury testimony - Mr Rob Heferen, Executive Director Revenue Group, Treasury, 5 June 2014.

<sup>3</sup> Ibid

A diverse range of industries and services claim FTCs including agriculture, forestry, fishing, manufacturing, accommodation, construction, hospitals and local government. Of the 690,000 claims for fuel tax credits in 2012-13, the largest single share was by agriculture, forestry and fishing operations just under 300,000 or 45 per cent of total claims.

The bill before the Committee ensures the continuation of the link between FTCs and the excise rate. If the bill is not passed, the gap between the real excise rate paid by industry due to the tariff proposals and FTCs claimable would constitute a new tax on every mine in Australia, on rural exports and on regional communities located off the electricity grid.

Taxing fuel, a key business input, would introduce a distortion to Australia's tax system to the disadvantage of industries reliant on diesel fuel. The impact of such a tax would be particularly harmful to Australia's economy because it would impose an unrecoverable cost on some of Australia's largest export industries including agriculture. The additional cost would be unrecoverable because commodity prices are set globally and tax increase cannot be passed on to foreign consumers.

Importantly, a number of Australia's competitors do not levy taxes on fuels used in mining or agriculture in recognition of the reliance on off-road activities and the tax principle of avoiding tax on business inputs.

A stable FTC scheme grounded in the tax policy principle will help ensure Australia's competitiveness and improve the efficiency of that tax system. The bill before the Committee will ensure the continuation of the link between FTCs and movements in excise rates based on sound tax principles.

The farm and agribusiness sector recommends to the Committee that the bill be passed. This would ensure that:

1. The current link between FTCs rates and excise rates is not broken;
2. The sound tax policy principle that business inputs should not be taxed will be adhered to; and
3. A new tax on regional communities and exports is avoided.

The NFF appreciates the opportunity to provide these comments to the Committee. Should you require any further explanation of the issues raised in this submission, please contact me in the first instance

Yours Sincerely

**TONY MAHAR**  
**General Manager of Policy**