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Customs, Trade and Transport Law e-alert

Alternative Fuels under the pump

Previously tax-free 'Alternative Fuels' will now be subject to excise and custom duties after a series of Bills amending the current legislation have received Royal Assent.

Liquefied petroleum gas (LPG), liquefied natural gas (LNG) and compressed natural gas (CNG) used for transport purposes will now be subject to the tax which the Government has implemented as a means of addressing perceived current distortions in the fuel market.

Aims of the Changes:

The Government has created the amendments with an aim to:

- Improve efficiency and effectiveness of the market by addressing current taxing distortions.
- Improve the use of fuel tax as a proxy for a road-user charge
- Recognise the benefits that can flow from alternative fuels
- Provide certainty as to the future direction of the industry
- Provide the industry with an appropriate transition period

Which acts are affected?

The following Acts are affected by the proposed amendments:

- *Taxation of Alternative Fuels Legislation Amendment Bill 2011*
- *Excise Tarriff Amendment (Taxation of Alternative Fuels) Bill 2011*
- *Customs Tarriff Amendment (Taxation of Alternative Fuels) Bill 2011*
- *Energy Grants (Cleaner Fuels) Scheme Amendment Bill 2011*

Why the change?

Historically, such fuels are considered more 'eco-friendly' and as such have remained tax-free to increase their attractiveness to industry and consumers alike. However, as new policies regarding the promotion of 'environmentally friendly' practices are introduced, the Government no longer considers withholding of a tax on 'eco-friendly' fuels as important.

Furthermore, as fuel tax is considered a 'proxy' road-user charge, the taxing of alternative fuels means the fuel tax is more effective in reflecting the costs associated with road use in general.

The potential environmental benefits of such fuels have not been completely discounted by the scheme however. Although these fuels will be taxed at a rate based on their energy content, a discount of 50 per cent will be applied to this amount. Furthermore automatic remissions schemes and entitlements to fuel tax credits for LPG, LNG and CNG used in enterprise for off-road use will also be made available.

The arrangements for Biodiesel and Renewable Diesel and ethanol will also be extended under the Bills.

The scheme also incorporates the most recent review of the International Harmonized Commodity Description and Coding System into the *Customs Tariff Act* and provides rates of customs duties for products produced overseas in accordance with relevant Free Trade Agreements.

According to the Government, the estimated gain to the Budget until 2015 is \$518.5 million.

Transitional Periods for Industry

Under the scheme, manufacturers of alternative fuels will now need to be licensed. However, these compliance costs will allegedly be offset by simplification of excise requirements such as allowing payment of fuel tax on a Business Activity Statement.

To allow unlicensed gaseous fuel manufacturers sufficient time to obtain such licences, transitional provisions will be enacted and the application of the taxes for LPG, LNG and CNG will be phased in over the period 1 December 2011 to July 2015.

The amendments will apply to fuel manufactured or imported into Australia on or after 1 December 2011, fuel imported before 2011 for which the rate of import duty is uncalculated and fuel which is at a manufacturer's premise on 1 December 2011.

What should my business do to implement the changes?

The Government says the amendments to the current scheme aim to ensure consistency in the taxation of fuels for transport purposes and accordingly improve market efficiency, competition and the consequential allocation of resources throughout the fuel market. However, action is required to achieve such changes. As the Bill has now received Royal Assent, swift commencement of preparations by manufacturers, importers and the wider industry alike to implement the changes are crucial.

With industry-leading expertise in Customs, Trade and Transport Law Hunt & Hunt have the knowledge and the resources to assist and advise your business with the seamless implementation of the new laws with commercially viable outcomes and as ever, are happy to assist with the transition.

Contact us

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