



Carbon Pollution Reduction Scheme (CPRS Fuel Credits) Bill 2009

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Economics Section

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Carbon Pollution Reduction Scheme (CPRS Fuel Credits) Bill 2009

Date introduced: 14 May 2009

House: House of Representatives

Portfolio: Treasury

Commencement: Sections 2-1 to 13-1 commence on 1 July 2011 but will not commence if section 3 of the proposed *Carbon Pollution Reduction Scheme Act 2009* does not commence before 1 July 2011. All other sections commence on Royal Assent.

Links: The [relevant links](#) to the Bill, Explanatory Memorandum and second reading speech can be accessed via BillsNet, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed they can be found at ComLaw, which is at <http://www.comlaw.gov.au/>.

Purpose

To establish a ‘CPRS fuel credit’ program to offset, temporarily, the effect on business of higher fuel prices resulting from the advent of the Carbon Pollution Reduction Scheme (CPRS).

Background

Most fuels, notably petrol and diesel, are subject to a general rate of excise and customs duty of 38.143 cents per litre. Some fuels, notably liquid petroleum gas (LPG), liquefied natural gas (LNG), and compressed natural gas (CNG) are, however, not subject to excise.

The government expects the prices of fuels will rise consequent to the introduction of the CPRS, and intends to offset the price rises, temporarily, by reducing the rates of excise and customs duty on fuels. The mechanisms for effecting the excise and customs duty rate reductions are contained in the Excise Tariff Amendment (Carbon Pollution Reduction Scheme) Bill 2009¹ and the Customs Tariff Amendment (Carbon Pollution Reduction Scheme) Bill 2009² respectively.

1. See: Bills Digest, 146, 2008–09,
<http://www.aph.gov.au/library/pubs/bd/2008-09/09bd146.pdf>

2. See: Bills Digest, 147, 2008–09,
<http://www.aph.gov.au/library/pubs/bd/2008-09/09bd147.pdf>

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Fuel tax credits

The [Fuel Tax Act 2006](#) provides to eligible business activities a fuel tax credit to offset, in full or part, the excise and customs duty businesses pay on fuels. The credit rates and eligible fuels are set out in Table 1 below.

Table 1: Fuel tax credits rates (cents per litre) and eligible fuels

Activity/business use	Eligible fuel	Rates
In a vehicle greater than 4.5 tonne GVM travelling on a public road (diesel vehicles acquired before 1 July 2006 can equal 4.5 tonne GVM).	All taxable fuels – for example, diesel and petrol. Petrol has only been eligible since 1 July 2008.	17.143*
Emergency vehicles greater than 4.5 tonne GVM travelling on a public road (diesel vehicles acquired before 1 July 2006 can equal 4.5 tonne GVM).	All taxable fuels – for example, diesel and petrol. Petrol has been eligible only since 1 July 2008	17.143*
Specified activities eligible since 1 July 2006 in: agriculture, fishing, forestry, mining, marine transport, rail transport, and nursing and medical	Diesel and fuel oil.	38.143
	All taxable fuels including petrol. Petrol has only been eligible since 1 July 2008.	38.143
Burner applications	All taxable fuels – for example, diesel, petrol, heating oil, kerosene and fuel oil.	38.143
Non-fuel uses such as: fuel you use directly as a mould release, and fuel you use an ingredient in the manufacture of products	All taxable fuels – for example, kerosene, fuel oil, toluene, mineral turpentine and white spirit.	38.143
Packaging fuels in containers of 20 litres or less for non-internal combustion engine use.	Mineral turpentine, white spirit, kerosene and certain other fuels.	38.143
Supply of fuel for domestic heating.	Heating oil and kerosene	38.143
Electricity generation by a commercial generation plant, a stationary generator or a portable generator.	All taxable fuels – for example, diesel, petrol, heating oil, kerosene, and fuel oil.	38.143
Emergency vessels	Diesel and fuel oil.	38.143
	All taxable fuels including petrol. Petrol has only been eligible since 1 July 2008.	38.143
All other activities, machinery, plant and equipment are eligible from 1 July 2008. Examples of activities are: construction, manufacturing, wholesale/retail, property management, and landscaping:	All taxable fuels – for example, diesel and petrol.	19.0715**

[Source: Australian Taxation Office](#)

Notes:

* This rate accounts for the road user charge, which is subject to change.

Heavy vehicles (that is, those with a GVM greater than 4.5 tonne) travelling on a public road are entitled to the full tax credit rate of 38.143 cents per litre minus the road user charge.

From 1 January 2009, the road user charge is 21 cents per litre, so the rate for heavy vehicles is 17.143 cents per litre (38.143-21= 17.143).

**The rate of 19.0715 cents per litre is 50% of the full rate of 38.143 cents per litre. The full rate will apply to all these activities from 1 July 2012.

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CPRS fuel credit

Table 1 shows that for many activities, the amount of the fuel tax credit equals the amount of excise. Consequently, for these activities, the ‘effective’ rate of excise—excise less the fuel tax credit—is zero. Activities which incur a zero effective rate of excise cannot, therefore, benefit from the proposed excise rate reductions. Rather, they will be *relatively* worse off compared with other activities that do benefit from the excise reductions. The government therefore proposes to introduce, temporarily, an *additional* credit—the CPRS fuel credit—for these (and other) activities.

As noted, some activities are entitled to only a partial offset of excise paid. They include ‘incidental’ agricultural and fishing activities (see the last row of Table 1 for other examples).³ The reason they receive only a partial credit is that they were initially not eligible for a fuel tax credit but were later included when the scope of the fuel tax credit scheme was expanded. However, the fuel tax credit for these activities is being phased in. Currently, the amount of the fuel tax credit for these activities is half the excise rate, that is, 19.0175 cents per litre. These activities will be eligible for a full fuel tax credit on 1 July 2012. The government proposes that incidental activities receive an additional amount equal to 50 per cent of the CPRS fuel credit until 30 June 2012.

Heavy vehicles are those with a gross vehicle mass (GVM) of more than 4.5 tonnes. Heavy vehicles also do not receive a full fuel tax credit, nor do diesel-powered vehicles acquired before 1 July 2006 with a GVM equal to 4.5 tonnes. These vehicles receive a fuel tax credit of 17.143 cents per litre. The difference between the excise (38.143 cents per litre) and the fuel tax credit is the road user charge (21 cents per litre). This charge seeks to recover the cost of damage that heavy vehicles cause to roads. Under the CPRS, heavy vehicle users are expected to face higher fuel prices, notably for diesel. The government’s proposal for heavy vehicles is as follows:

For one year beginning 1 July 2011, business users of vehicles on-road with a gross vehicle mass exceeding 4.5 tonnes will be entitled to a CPRS fuel credit for eligible taxable fuels. The amount of the CPRS fuel credit will be equal the fuel tax reductions. [*Division 6, section 6-15, CPRS Fuel Credits Bill*].⁴

The amount of the CPRS fuel credit will be 2.455 cents per litre for the year 1 July 2011 to 30 June 2012.⁵

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3. Carbon Pollution Reduction Scheme (CPRS Fuel Credits) Bill 2009, Explanatory Memorandum, pp. 19 and 21, viewed 29 May 2009, http://parlinfo/parlInfo/download/legislation/ems/r4121_ems_44f4b531-74f7-41d4-995b-2575809979f4/upload_pdf/329345.pdf;fileType=application%2Fpdf
 4. Explanatory Memorandum, pp. 21–22.
 5. Explanatory Memorandum, p. 22.

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CNG, LNG and LPG will be subject to the CPRS. Consequently, their prices are also expected to rise. Because these gases are not subject to excise, they will not benefit from the excise reductions. The government therefore proposes to make the CPRS fuel credit available to CNG, LNG and LPG suppliers.

Basis of policy commitment

The Rudd Government made the commitment to provide temporary adjustment assistance to businesses with respect to fuel prices in its CPRS White Paper:

Fuel tax credits remove or reduce the incidence of effective fuel tax from business inputs. They ensure that most businesses do not pay effective fuel tax. Therefore, reducing the rate of fuel tax will not benefit those businesses. To address this, the Green Paper proposed to introduce special measures for the agriculture and fishing industries and heavy on-road vehicle users.

Assistance to the agriculture and fishing industries

Agriculture and fishing businesses pay no effective fuel tax, and so will not benefit from fuel tax cuts. Instead, they will receive a new 'CPRS fuel credit'. The amount of credit will equal the fuel tax cut. The Government will align the credit amount with the six-monthly fuel tax cut assessments. This will ensure that these businesses receive assistance equivalent to the full benefit of the fuel tax cut.

Agricultural and fishing activities, excluding forestry, will be eligible for the CPRS fuel credit from 1 July 2010 to 30 June 2013. The Government will review this measure after three years as part of the review of the fuel tax adjustment mechanism.

The new CPRS fuel credit scheme will minimise compliance burdens for eligible businesses. The Australian Taxation Office will administer the CPRS fuel credit, and businesses will claim it on their business activity statements.

Policy position 17.1

The Government will introduce legislation to implement a new CPRS fuel credit scheme for three years for businesses in the agriculture and fishing industries.

Assistance to heavy on-road transport vehicle users

Heavy vehicle road users will be eligible for a CPRS fuel credit to offset the initial price impact on fuel from introducing Scheme.

Heavy road transport businesses are eligible for fuel tax credits up to the value of the road user charge, which will be 21 cents/litre from 1 January 2009. Businesses in this industry will be able to claim the CPRS fuel credit, equal to the cut in fuel tax for one year. The Government will review this measure after one year.

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Vehicles with a gross vehicle mass exceeding 4.5 tonnes will be eligible for the CPRS fuel credit.

To minimise the compliance burden for eligible businesses, the Australian Taxation Office will administer the CPRS fuel credit, and businesses will claim it on their business activity statements.

Policy position 17.2

The Government will introduce legislation to implement a new CPRS fuel credit scheme for one year for businesses in heavy on-road transport.

Assistance to LPG, CNG and LNG fuel users

LPG, CNG and LNG are alternative transport fuels that compete with petrol and diesel. LPG is Australia's most widely used alternative fuel, comprising over 5 per cent of the transport fuel market.

LPG, CNG and LNG are not currently subject to fuel tax, so their users will not benefit from fuel tax cuts. Instead, a CPRS fuel credit will be available in each case to an appropriate entity in the supply chain. As the volume of emissions from these fuels is substantially lower than the volume from petrol and diesel, the carbon price impact on them will be lower. To reflect this, the amount of credit will be less than the full amount of the fuel tax cut. This will maintain the relative prices of these fuels against petrol and diesel. CNG users will benefit from a credit of around three-quarters of the fuel tax cut, LPG users will benefit from a credit of around two-thirds, and LNG users will benefit from a credit of around one-half.

CNG and LNG fuel suppliers will not be provided with CPRS fuel credits after 30 June 2011. This treatment is the same as heavy on-road transport as these fuels are predominantly used for this purpose. The Government will review this measure after one year.

CPRS fuel credits will cease for LPG on 1 July 2013. The Government will review this measure after three years.

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Policy position 17.3

The Government will introduce legislation to implement a new CPRS fuel credit scheme for LPG, CNG and LNG users that reflects the lower emissions of those fuels.

The CPRS fuel credit scheme for LPG will be in place for three years.

The CPRS fuel credit scheme for CNG and LNG will be in place for one year.⁶

On 4 May 2009, the government announced that it would delay the start date for the CPRS to 1 July 2011, and that the emission unit charge would be fixed at \$10 per tonne.⁷

Committee consideration

The Bill has been referred to the Senate Economics Legislation Committee for inquiry and report by 15 June 2009. Details of the inquiry are at

http://www.aph.gov.au/senate/Committee/economics_ctte/cprs_2_09/index.htm

Position of significant interest groups/press commentary

See the Bills Digest for the Carbon Pollution Reduction Scheme Bill 2009.

Financial implications

The Explanatory Memorandum does not identify separately the financial consequences of the Bill. Rather, it shows the estimated combined consequences of the Bill and related Bills as shown below.

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6. Department of Climate Change, *Carbon Pollution Reduction Scheme: Australia's Low Pollution Future*, White Paper, December 2008, pp. 17–16 and 17–17, viewed 29 May 2009, <http://www.climatechange.gov.au/whitepaper/report/index.html>
 7. K Rudd (Prime Minister), *carbon pollution Reduction Scheme: support in managing the impact of global recession*, media release, 4 May 2009, viewed 3 June 2009, http://www.pm.gov.au/media/Release/2009/media_release_0969.cfm

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	2009-10	2010-11	2011-12	2012-13	2013-14
Revenue (\$m)					
Australian Customs and Border Protection Service	–	–	–\$33m	–\$109m	–\$127m
ATO	–	–	–\$1,027m	–\$3,383m	–\$3,843m
Total	–	–	–\$1,060m	–\$3,492m	–\$3,970m
Expense (\$m)					
ATO	–	–	–\$186m	–\$1,287m	–\$1,476m
Total	–	–	–\$186m	–\$1,287m	–\$1,476m

Source: Explanatory Memorandum, p. 8

Standing appropriations

The Bill does not appropriate funds. Rather, it establishes the framework for the CPRS credit.

Main provisions

Chapter 2—CPRS fuel credits

Part 2-1—Basic rules

Division 6—CPRS fuel credits

Subdivision 6-A—Entitlement rules for CPRS fuel credits

Subdivision 6-A establishes which industries are entitled to receive CPRS credits, the periods of entitlement, and the eligible fuels.

Clause 6-5 CPRS fuel credit for fuel to be used for fishing operations or agriculture establishes eligibility for the agricultural and fishing industries. **Paragraph 6-5(c)** provides that to be eligible, an enterprise must be engaged in fishing operations [subparagraph 6-5(c)(i)] or agriculture [subparagraph 6-5(c)(ii)]. **Subclause 6-5(1)** establishes the start and end of the period to which the CPRS applies, namely, 1 July 2011 and 30 June 2014 respectively. **Paragraph 6-5(1)(d)** specifically excludes from eligibility, fuel used in a vehicle travelling on a public road. To be eligible, an enterprise must also be registered for GST or be required to be registered for GST [subclause 6-5(2)].

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The provisions in **clause 6-10** are identical to those in **clause 6-5** except that **clause 6-10** relates to incidental agricultural and fishing activities.

Clause 6-15 deals with the eligibility of heavy vehicles used by businesses on public roads. Eligibility for these vehicles applies for one year—from 1 July 2011 to 30 June 2012 [**subclause 6-15(1)**]. To be eligible, an enterprise using heavy vehicles must also be registered for GST or be required to be registered for GST [**subclause 6-15(2)**]. However, the GST requirement does not apply to non-profit bodies regarding emergency vehicles they use [**subclause 6-15(3)**].

As noted, diesel-powered vehicles acquired before 1 July 2006 with a GVM equal to 4.5 tonnes receive only a partial tax credit and pay the road user charge. To receive a CPRS credit (as well as a fuel tax credit) these vehicles must qualify under item 12 of Schedule 3 of the [Fuel Tax \(Consequential and Transitional Provisions\) Act 2006](#) [**subclause 6-20(1)**]. Like heavy vehicles, eligibility for this category of vehicles applies for the year starting on 1 July 2011 and ending on 30 June 2012 [**paragraphs 6-20(1)(a)** and **(b)**]. Also like heavy vehicles, an enterprise must be registered for GST or be required to be registered for GST [**subclause 6-20(2)**] but the GST requirement does not apply to non-profit bodies and emergency vehicles [**subclause 6-20(3)**].

As noted, LPG, LNG, and CNG are not subject to excise. Of these, LPG is the most widely-used to power vehicles. All three fuels will be eligible for a CPRS credit. The provisions governing these fuels—**clauses 6-25, 6-30** and **6-35** respectively—are identical except in three respects: references to the different fuels, the eligibility period, and provisions regarding the supply and use of fuel which relate to LPG only. **Clause 6-25** will therefore be taken as representative of all three clauses.

Subclause 6-25(1) sets out the period over which the CPRS will apply to LPG. LPG will be eligible for three years whereas CNG and LNG will be eligible for one year only. LPG will be eligible for the CPRS credit only if it meets four conditions. First, it must be used for a vehicle travelling on a road [**paragraph 6-25(1)(c)**]. Second, the enterprise must be a ‘liable entity’ under the proposed *Carbon Pollution Reduction Scheme Act 2009* [**paragraph 6-25(1)(c)**]. Third, if the enterprise supplies LPG, it must do so in its capacity as a LPG marketer [**paragraph 6-25(1)(e)**]. Fourth, if the enterprise is using LPG for its own use, it must be a LPG marketer at the time of use [**paragraph 6-25(1)(f)**]. Note that **paragraphs 6-25(1)(e)** and **(f)** relate only to LPG; there are no comparable provisions for CNG and LNG. **Subclause 6-25(2)** further requires that the enterprise be registered for GST or be required to be registered for GST.⁸

Subdivision 6-B—Disentitlement rules for CPRS fuel credits

The provisions in subdivision 6-B have three purposes:

8. There are no provisions creating any exceptions for non-profit bodies.

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- to prevent ‘double dipping’ by ensuring that a CPRS credit cannot be claimed twice for the same fuel
- to prevent claims being made for vehicles that do not meet environmental criteria, and
- to exclude fuel used in aircraft being eligible for a CPRS credit.

Subclause 6-40(1) provides that no CPRS fuel credit is payable if it is reasonable to conclude that another entity has previously been entitled to a CPRS fuel credit, or a decreasing CPRS fuel credit adjustment. **Subclause 6-40(2)** provides that **subclause 6-40(1)** does not apply if it is also reasonable to conclude that another entity had, in respect of the credit, an increasing CPRS fuel credit adjustment of the amount of the credit. The terms decreasing and increasing CPRS fuel credit adjustments are defined in Division 8 (see below).

Clause 6-45 provides that no CPRS fuel credit will be payable if the fuel is used in motor vehicles that do not meet the environmental criteria set out in **subclause 6-45(1)**. However, **subclause 6-45(2)** provides that these environmental requirements do not apply if the vehicles is used in a primary production businesses and on an agricultural property [**paragraph 6-45(2)(a)**] or is not diesel-powered [**paragraph 6-45(2)(b)**] or is not used on a public road [**paragraph 6-45(2)(c)**].

Aviation gasoline and kerosene are subject to excise. The revenue is used to help recover the cost of providing aviation safety services, that is, a form of cost recovery. **Clause 6-50** therefore provides that there will be no CPRS fuel credit for fuel used in aircraft.

Division 7—Working out your CPRS fuel credit

Subdivision 7-A—Working out your CPRS fuel credit

Clause 7-5 contains the formula for working out the amount of the CPRS credit. The formula includes an ‘adjustment factor’. This is the proportion of the CPRS credit to which the applicant is entitled. For example, in the case of agriculture and fishing operations, the applicant is entitled to a full credit whereas incidental agricultural and fishing activities are entitled to only half of the CPRS credit. The proportions for automotive LPG, CNG and LNG are 67, 78 and 50 per cent respectively.

For CNG, its proportion translates into a CPRS fuel credit of 1.915 cents per cubic metre, and 1.228 cents per litre for LNG, both for one year. LPG will be eligible for CPRS credits for three years. LPG will receive a CPRS credit of 1.645 cents per litre for the first year. After the first year, the CPRS credit for LPG will be adjusted in accordance with increases in the emissions unit charge.⁹

The reason for the different proportions for gaseous fuels is:

9. Explanatory Memorandum, p. 7.

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The volume of emissions from these fuels is substantially lower than the volume from petrol and diesel and therefore the carbon price impact on them will be lower. To reflect this, the amount of credit will be less than the full amount of the fuel tax cut. This will maintain the relative prices of these fuels against petrol and diesel.¹⁰

Division 8—Increasing and decreasing CPRS fuel credit adjustments

Subdivision 8-A deals with adjustments to CPRS fuel credits. Adjustments arise when actual fuel use differs from its intended use, that is, the purpose for which the fuel is to be used. CPRS credits—like fuel tax credits—will be based on intended fuel use. When making a claim for CPRS credits, applicants will base their claims on intended fuel use. If actual use differs from intended use, the amount of the CPRS credit will be adjusted to reflect the correct entitlement. The reason claims are based on intended use is so that applicants are not out-of-pocket while waiting for claims to be paid. Applicants have subsequently to report how they actually used the fuel.

Subclause 8-5(1) provides that an adjustment is required when there is an increase or decrease in the CPRS credit to which the applicant is entitled, that is, when the entitlement originally claimed differs from the correct entitlement. **Subclause 8(5)(2)** defines the amount of the adjustment as the difference between the two. A **decreasing CPRS fuel credit** adjustment is where the applicant's claimed entitlement exceeds the correct entitlement so that the amount of the CPRS credit is reduced [**subclause 8-5(3)**]. In other words, a decreasing entitlement is where the applicant, in effect, owes money to the Commissioner of Taxation. The reverse is true of an increasing adjustment [**subclause 8-5(4)**].

Chapter 4—Miscellaneous

Clause 11-15 empowers the Governor-General to make regulations for matters relating to the proposed Carbon Pollution Reduction Scheme (CPRS Fuel Credits) Act 2009 Act.

Concluding comments

There is good reason for not taxing business inputs such as fuel because such taxes distort resource allocation.¹¹ Excise increases the cost of fuel that businesses use. Businesses pass on the excise, to varying degrees, in the prices of their goods and services. Higher prices reduce demand for the goods and services of the industries that use fuel relatively intensively. This in turn reduces the quantity of resources these industries employ. In

10. Explanatory Memorandum, p. 7.

11. See R Webb, *Some Issues in Fuel Taxation*, Current Issues Brief, no. 2, 2001-02, Parliamentary Library, Canberra, 2001, viewed 3 June 2009, <http://www.aph.gov.au/library/pubs/CIB/2001-02/02cib02.pdf>

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short, fuel input taxes distort both consumption and production. The fuel tax credit system provides relief from these effects.¹² The CPRS, in so far as it maintains the non-taxation of business inputs, is a logical extension of the fuel tax credits system.

Another logical extension would be to revamp fuel excise. The current structure of fuel excises is haphazard. As noted, some fuels are subject to excise while others are not for no good reason. Haphazardness is also evident in the failure to index fuel excise so that excise keeps pace with inflation. On 1 March 2001, the Howard Government announced the cessation of all future indexation of the excises on petroleum fuels (indexation continued to apply to other goods). The excise on petrol and diesel has since remained at 38.143 cents per litre. The absence of indexation provides fuel users with a continuous de facto tax cut as prices rise. Had indexation continued, the excise rate would now be more than 48 cents per litre.¹³ The decision to forgo indexation has also reduced government revenue considerably.

The Fuel Taxation Inquiry recommended a revamp of excise based on the energy content of each fuel.¹⁴ However, neither the Howard nor Rudd Governments have adopted this recommendation or the Inquiry's recommendation that indexation be reintroduced.

The cessation of indexation may have encouraged the purchase of less fuel-efficient vehicles. This could be seen as inconsistent with other aspects of fuel taxation, especially the encouragement of the use of alternative fuels on environmental grounds. The cessation of indexation on petroleum fuels could also be seen as inconsistent with the continuing indexation of excise on other products. To meet environmental concerns, in addition to basing excise on energy content, an option would be to impose an additional amount that reflects the carbon dioxide-intensity of each fuel.

The proposal to cut excise for heavy vehicle users affects the road user charge. If heavy vehicle users pay 35.688 cents per litre (38.143 less 2.455) excise and the fuel tax credit remains at 17.143 cents per litre, the road user charge will increase to 18.545 cents per litre. This would result in costs being over-recovered. The government has not indicated that it intends to change the fuel tax credit from 17.143 cents per litre.

12. This analysis does not take account of negative 'externalities' such as air pollution.

13. Statistics section, Parliamentary Library.

14. Report of the Fuel taxation Inquiry Committee, *Fuel Taxation Report*, March 2002, viewed 3 June 2009, <http://fueltaxinquiry.treasury.gov.au/content/report/default.asp>

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