
TAXATION OF ALTERNATIVE FUELS
LEGISLATION AMENDMENT BILL 2011

ETHANOL PRODUCTION GRANTS BILL 2011

EXCISE TARIFF AMENDMENT
(TAXATION OF ALTERNATIVE FUELS) BILL 2011

CUSTOMS TARIFF AMENDMENT
(TAXATION OF ALTERNATIVE FUELS) BILL 2011

EXPOSURE DRAFT EXPLANATORY MEMORANDUM

Taxation of Alternative Fuels Legislation Amendment Bill 2011
Ethanol Production Grants Bill 2011
Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011
Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011

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Glossary

The following abbreviations and acronyms are used throughout this explanatory memorandum.

<i>Abbreviation</i>	<i>Definition</i>
B5	a blend of 5 per cent biodiesel and 95 per cent diesel
B20	a blend of 20 per cent biodiesel and 80 per cent diesel
cpl	cents per litre
CNG	compressed natural gas
E10	a blend of 10 per cent ethanol and 90 per cent petrol
E85	a blend of 85 per cent ethanol and 15 per cent petrol
GST	goods and services tax
LNG	liquefied natural gas
LPG	liquefied petroleum gas

General outline and financial impact

Taxation of alternative fuels

These exposure draft bills bring alternative fuels used for transport purposes into the fuel taxation regime and make them subject to excise duty or excise-equivalent customs duty. The rates are based on the energy content of the various fuels, using a banded system and discounted to reflect the potential benefits of alternative fuels. The changes will be phased in over a transition period to allow affected parties time to adjust to the changes.

The Taxation of Alternative Fuels Legislation Amendment Bill 2011 amends the *Excise Act 1901*, *Fuel Tax Act 2006*, and the *Product Grants and Benefits Administration Act 2000* and repeals the *Energy Grants (Cleaner Fuels) Scheme Act 2004*.

The Ethanol Production Grants Bill 2011 will provide for grants in respect of ethanol production.

The Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011 amends the *Excise Tariff Act 1921* to set the excise rates applying to alternative fuels from 1 December 2011, and to calculate the duty payable on blended goods.

The Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011 amends the *Customs Tariff Act 1995* to set the excise-equivalent customs duty rates applying to alternative fuels from 1 December 2011.

Date of effect: These amendments apply to fuel acquired, manufactured or imported on or after 1 December 2011, and fuel imported into Australia before 1 December 2011 where the time for working out the rate of import duty on the goods had not occurred before that day. It will also apply to fuel on hand at manufacturers' premises on 1 December 2011.

A transition period provides affected parties with time to adjust to the changes.

This measure includes four exposure draft bills. As each exposure draft bill is part of the package, if any bill does not receive Royal Assent, none of the bills will commence operation.

Taxation of Alternative Fuels Legislation Amendment Bill 2011
Ethanol Production Grants Bill 2011
Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011
Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011

Proposal announced: These amendments were announced jointly by the then Assistant Treasurer and Minister for Resources and Energy in media release number 099 of 13 May 2010, and the transition path for domestic ethanol was extended by 5 years as set out in the Mid-Year Economic and Fiscal Outlook dated 9 November 2010.

Chapter

Taxation of alternative fuels

Outline of chapter

The Exposure Draft Bills will amend the *Excise Act 1901*, the *Excise Tariff Act 1921*, the *Customs Tariff Act 1995*, the *Fuel Tax Act 2006* and the *Product Grants and Benefits Administration Act 2000*. The Bills repeal the *Energy Grants (Cleaner Fuels) Scheme Act 2004* and introduce the *Ethanol Production Grants Bill 2011*. The Exposure Draft Bills include alternative fuels used for transport purposes in the fuel taxation regime, and make them subject to excise duty or excise-equivalent customs duty. The taxation rates will be based on the energy content of various fuels, using a banded system and discounted to reflect the potential benefits of alternative fuels. The changes will be phased in over a transition period to allow affected parties time to adjust to the changes.

Context of amendments

- 1.1 The Exposure Draft Bills will implement the long-standing plan for energy content based taxation of alternative fuels.
- 1.2 Under the current law the general rate of fuel tax of 38.143 cents per litre (cpl) which applies to petrol and diesel also applies to biodiesel and ethanol, but not to liquefied petroleum gas (LPG), liquefied natural gas (LNG), compressed natural gas (CNG) or methanol.
- 1.3 There is currently a grant payable for biodiesel and renewable diesel of 38.143cpl under the *Energy Grants (Cleaner Fuels) Scheme* where it meets the relevant fuel quality standards in the *Fuel Quality Standards Act 2000*.
- 1.4 In the case of ethanol manufactured before 1 December 2011, there may be an entitlement to a grant under the existing *Ethanol Production Grants Program*.
- 1.5 The intention of the changes is to:

- introduce greater consistency in the taxation of fuels used for transport purposes and to ensure that competition between untaxed transport fuels and currently taxed fuels does not harm economic efficiency and create distortions;
- provide certainty to industry; and
- phase in the new fuel tax arrangements while providing support to the alternative fuels industry in recognition of the potential environmental, fuel security and regional development benefits that these industries can generate.

Summary of new law

1.6 The Exposure Draft Bills will include alternative fuels in the fuel taxation regime.

1.7 The rates of excise and excise-equivalent customs duty will be based on the energy content of the fuels, using a banded system and discounted to reflect the potential benefits of alternative fuels.

1.8 The amendments will apply to fuel manufactured on or after 1 December 2011. The amendments also apply in the case of fuel imported into Australia before 1 December 2011 where the time for working out the rate of import duty on the goods had not occurred before 1 December 2011. The amendments will also apply to fuel on hand at manufacturers' premises on 1 December 2011.

1.9 The amendments will be phased in over a transition period to allow affected parties time to adjust to the changes.

Comparison of key features of Exposure Draft Bills and current law

<i>Exposure draft Bills</i>	<i>Current law</i>
LPG	
LPG for transport use subject to fuel tax at the medium energy content rate of 66 per cent of the petrol and diesel rate, discounted by 50 per cent to 12.5cpl, phased in over the period 1 December 2011 to 1 July 2015.	LPG not subject to fuel tax.
LNG	
LNG for transport use subject to fuel tax at the medium energy content rate of 66 per cent of the petrol and diesel rate, discounted by 50 per cent to 12.5cpl, phased in over the period 1 December 2011 to 1 July 2015.	LNG not subject to fuel tax.
CNG	
CNG for transport use (other than home manufacture for transport use and manufacture for forklift use) will be subject to fuel tax at the high energy content rate of 100 per cent of the petrol and diesel rate, discounted by 50 per cent to 19.1 cents per cubic metre, phased in over the period 1 December 2011 to 1 July 2015.	CNG not subject to fuel tax.
Methanol	
Methanol for transport use subject to fuel tax at the low energy content rate of 45 per cent of the petrol and diesel rate, discounted by 50 per cent to 8.5cpl, phased in over the period 1 December 2011 to 1 July 2015.	Methanol not subject to fuel tax.
Biodiesel	
Biodiesel subject to fuel tax at the high energy content rate of 100 per cent of the petrol and diesel rate, discounted by 50 per cent to 19.1cpl, phased in over the period 1 December 2011 to 1 July 2015. <i>The Energy Grants (Cleaner Fuels)</i>	Fuel tax on biodiesel imposed at the full rate of 38.143cpl, which also applies to petrol and diesel. Biodiesel producers and importers are eligible for a grant of 38.143cpl paid under the <i>Energy Grants (Cleaner Fuels) Scheme Act 2004</i> where the

Taxation of Alternative Fuels Legislation Amendment Bill 2011
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Exposure draft Bills	Current law
<i>Scheme Act 2004</i> is repealed with effect from 1 December 2011 and the rate of excise or excise-equivalent customs duty for biodiesel is imposed at the point of manufacture or importation.	biodiesel meets the relevant fuel quality standard under the <i>Fuel Quality Standards Act 2000</i> .
Renewable diesel	
The full rate of fuel tax of 38.143cpl will continue to apply to renewable diesel. A rebate of 19.043cpl will apply and be phased in over the period 1 December 2011 to 1 July 2015.	Fuel tax on renewable diesel imposed at the full rate of 38.143cpl, which also applies to petrol and diesel. Renewable diesel producers and importers are eligible for a grant of 38.143cpl paid under the <i>Energy Grants (Cleaner Fuels) Scheme Act 2004</i> where the renewable diesel meets the relevant fuel quality standard for diesel under the <i>Fuel Quality Standards Act 2000</i> .
Ethanol	
Ethanol subject to fuel tax at the medium energy content rate of 66 per cent of the petrol and diesel rate, discounted by 50 per cent to 12.5cpl, phased in over the period 1 December 2011 to 1 July 2015. <i>Energy Grants (Cleaner Fuels) Scheme Act 2004</i> repealed with effect from 1 December 2011. The Ethanol Production Grants Bill 2011 provides for decreasing legislative grants to qualifying ethanol producers during the period 1 December 2011 to 30 June 2020. The Ethanol Production Grants Bill 2011 will be repealed with effect from 1 July 2020.	Fuel tax on ethanol imposed at the full rate of 38.143cpl, which also applies to petrol and diesel. Until 1 July 2011, qualifying ethanol producers entitled to a grant of 38.143cpl under the Ethanol Production Grants Program. From 1 July 2011 qualifying ethanol producers are eligible for a grant paid under the <i>Energy Grants (Cleaner Fuels) Scheme Act 2004</i> where the ethanol meets the relevant fuel quality standard under the <i>Fuel Quality Standards Act 2000</i> .
Fuel tax credits	
An entitlement to fuel tax credits will apply to LPG, LNG, CNG and methanol used in carrying on an enterprise.	No entitlement to fuel tax credits for LPG, LNG, CNG or methanol.

Detailed explanation of new law

1.10 The Exposure Draft Bills implement energy content based taxation of transport fuel, with a 50 per cent discount for alternative fuels.

Ethanol

1.11 Ethanol is a liquid alcohol usually produced through fermentation and distillation from crops rich in sugar. Australia currently produces ethanol from wheat, sorghum and C-grade molasses. There is potential for other feedstocks and technological processes to be used to produce ethanol in the future.

1.12 Ethanol as a fuel is most commonly sold as E10 in Australia (a blend of 10 per cent ethanol with 90 per cent petrol).

1.13 Currently, the general rate of fuel tax of 38.143cpl applies to ethanol. A grant of 38.143cpl is payable under the Ethanol Production Grants Program to qualifying ethanol manufacturers.

1.14 The existing Ethanol Production Grants Program operates on an administrative basis and is entered into contractually by producers. The program expires on 30 June 2011, and under the existing law, the *Energy Grants (Cleaner Fuels) Scheme Act 2004* would apply from 1 July 2011.

1.15 Under these amendments excise and excise-equivalent customs duty continues to be imposed on ethanol at the point of manufacture or importation. [*Schedule 1, part 1, item 6 Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011*]

1.16 Excise and excise-equivalent customs duty will be imposed on ethanol at a final rate of 12.5cpl. This is the medium energy content band with the discount for alternative fuels. [*Schedule 1, part 5, item 10, table subitem 10.20 Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011 and Schedule 1, part 6, division 1*]

1.17 Transitional rules will phase in the application of excise and excise-equivalent customs duty for ethanol as follows:

Table 1.1 Rate of excise and excise-equivalent customs duty for ethanol during the transitional period (cpl)

1 Dec 2011 – 30 June 2012	1 Jul 2012 – 30 June 2013	1 Jul 2013 – 30 June 2014	1 Jul 2014 – 30 June 2015	From 1 July 2015 Final rate
25.0	21.9	18.8	15.6	12.5

[Schedule 1, part 1, item 6, part 2, item 7, part 3, item 8, part 4, item 9 and part 5 item 10, Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011 and Schedule 1, parts 1 and 3 to 6, Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011]

1.18 The final rate of excise and excise-equivalent customs duty of 12.5cpl will apply from 1 July 2015. *[Schedule 1, part 5, item 10, table subitem 10.20 Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011 and Schedule 1, part 6, division 1 Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011]*

1.19 The amendments update the rules for working out the amount of fuel tax payable on blended goods such as blends of petrol and ethanol. *[Schedule 1, part 1, item 2, Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011, Schedule 2, part 1, item 4, Taxation of Alternative Fuels Legislation Amendment Bill 2011 and Schedule 1, part 1, item 4, Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011]*

1.20 The amendments repeal the *Energy Grants (Cleaner Fuels) Scheme Act 2004* and the Ethanol Production Grants Bill 2011 introduces a legislative grant program, which will apply to qualifying ethanol manufacturers from 1 December 2011. *[Schedule 1, Taxation of Alternative Fuels Legislation Amendment Bill 2011 and part 1, sections 1 and 2, Ethanol Production Grants Bill 2011]*

1.21 The grant entitlement will be based on excise having been paid on ethanol manufactured in Australia in the period starting on 1 December 2011 and ending at the end of 30 June 2020. *[Part 2, Paragraph 3(1)(a), Ethanol Production Grants Bill 2011]*

1.22 To be eligible for the grant, ethanol manufacturers must be licensed to manufacture ethanol under the *Excise Act 1901* and be registered for entitlement to the grant. The mere blending of ethanol will not qualify for a grant. *[Part 2, Paragraphs 3(1)(c) and 3(1)(f) and Subsection 3(2), Ethanol Production Grants Bill 2011]*

1.23 The entitlement will be calculated on a cents per litre basis on the volume of ethanol manufactured in each of the transitional years.
[Part 2, section 4, Ethanol Production Grants Bill 2011]

1.24 The potential range of feedstocks for the production of ethanol that will qualify for the ethanol production grant include plant sources and waste sources that are not derived from fossil fuels (for example, sewerage). Other feedstock sources, including eligible feedstock that is derived from fossil fuels, will be prescribed by the regulations (for example, municipal, building and industry waste, including tyres and plastics). *[Part 2, paragraphs 3(1)(b) and 3(1)(c) and part 3, section 6, Ethanol Production Grants Bill 2011]*

1.25 Manufacturers must have paid excise duty on the ethanol or blend, however they will not be entitled to more than one grant for the same ethanol, nor will they be entitled to a grant in cases where entitlement to a grant arose under a funding agreement with the Commonwealth connected with the Ethanol Production Grants Program.
[Part 2, paragraph 3(1)(e) and subsections 3(3) and 3(4), Ethanol Production Grants Bill 2011]

1.26 The grant will phase down annually and cease to apply from 1 July 2020. The amount of grant will be calculated by multiplying the volume of ethanol in litres by the rate worked out using the table below.
[Part 2, section 4, Ethanol Production Grants Bill 2011]

Table 1.2 Rate of the transitional grant for domestic ethanol manufacture (cpl)

1 Dec 2011	1 Jul 2012	1 Jul 2013	1 Jul 2014	1 Jul 2015	1 Jul 2016	1 Jul 2017	1 Jul 2018	1 Jul 2019
- 30 Jun 2012	- 30 Jun 2013	- 30 Jun 2014	- 30 Jun 2015	- 30 Jun 2016	- 30 Jun 2017	- 30 Jun 2018	- 30 Jun 2019	- 30 Jun 2020
23.75	19.4	15.05	10.6	6.25	5.0	3.75	2.5	1.25

1.27 No grant will be payable for ethanol manufactured on or after 1 July 2020. *[Part 2, paragraph (3)(1)(a), Ethanol Production Grants Bill 2011]*

Biodiesel

1.28 Biodiesel is a fuel manufactured by chemically altering vegetable oils or animal fats or oils (or recycled oils from these sources). Biodiesel can also be produced from various non-food crops such as Pongamia, Jatropha curcas and algae.

1.29 Biodiesel is generally used as a transport fuel as B5 or B20 (comprising diesel together with up to 5 per cent biodiesel or more than 5 per cent and up to 20 per cent biodiesel respectively). Biodiesel is chemically distinct from diesel.

1.30 Currently, the general rate of fuel tax of 38.143cpl applies to biodiesel. Producers and importers of biodiesel are currently eligible for a grant of 38.143cpl paid under the *Energy Grants (Cleaner Fuels) Scheme Act 2004* where the biodiesel meets the relevant fuel quality standard under the *Fuel Quality Standards Act 2000*.

1.31 Under these amendments excise and excise-equivalent customs duty continues to be imposed on biodiesel at the point of manufacture or importation. [*Schedule 1, part 1, item 6 Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011*]

1.32 Excise and excise-equivalent customs duty will be imposed on biodiesel at a final rate of 19.1cpl. This is the high energy content band with the discount for alternative fuels.

1.33 The *Energy Grants (Cleaner Fuels) Scheme Act 2004* will be repealed. [*Schedule 1, Taxation of Alternative Fuels Legislation Amendment Bill 2011*]

1.34 Transitional rules phase in the application of excise and excise-equivalent customs duty for biodiesel as follows:

Table 1.3 Rate of excise and excise-equivalent customs duty for biodiesel during the transitional period (cpl)

1 Dec 2011 – 30 Jun 2012	1 Jul 2012 – 30 Jun 2013	1 Jul 2013 – 30 Jun 2014	1 Jul 2014 – 30 Jun 2015	From 1 Jul 2015 Final rate
3.8	7.6	11.4	15.3	19.1

[*Schedule 1, part 1, item 6, part 2, item 7, part 3, item 8, part 4, item 9 and part 5 item 10, Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011 and Schedule 1, 1 to 5 and 6, Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011*]

1.35 The final rate of excise and excise-equivalent customs duty of 19.1cpl will apply from 1 July 2015. [*Schedule 1, part 5, item 10, table subitem 10.21 Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011 and Schedule 1, part 6, division 2, Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011*]

1.36 The amendments update the rules for working out the amount of fuel tax payable on blended goods such as blends of biodiesel and diesel. [Schedule 1, part 1, item 2, Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011, Schedule 2, part 1, item 4, Taxation of Alternative Fuels Legislation Amendment Bill 2011 and Schedule 1, part 1, item 4, Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011]

Renewable diesel

1.37 Renewable diesel is produced by a chemical process which results in the product having the same chemical structure as diesel. Renewable diesel producers and importers are currently eligible for a grant of 38.143cpl paid under the *Energy Grants (Cleaner Fuels) Scheme Act 2004* for renewable diesel which meets the relevant fuel quality standard for diesel under the *Fuel Quality Standards Act 2000*.

1.38 Under these amendments fuel excise and excise-equivalent customs duty continues to be imposed on renewable diesel at the point of manufacture or importation.

1.39 Excise and excise-equivalent customs duty will continue to be imposed on renewable diesel at a final rate of 38.143cpl. This is the high energy content band. The *Energy Grants (Cleaner Fuels) Scheme Act 2004* will be repealed, and a rebate will be available from 1 December 2011. The rebate for renewable diesel will be included in the regulations. [Schedule 1, Taxation of Alternative Fuels Legislation Amendment Bill 2011]

Table 1.4 Rate of rebate for renewable diesel during the transitional period (cpl)

1 Dec 2011 – 30 Jun 2012	1 Jul 2012 – 30 Jun 2013	1 Jul 2013 – 30 Jun 2014	1 Jul 2014 – 30 Jun 2015	From 1 Jul 2015 Final rate
34.343	30.543	26.743	22.843	19.043

1.40 A rebate is the most flexible mechanism to ensure that the producer of renewable diesel is entitled to the payment at the time of manufacture or importation.

1.41 The rebate results in a net excise and excise-equivalent customs duty rate of 19.1cpl applying to renewable diesel from 1 July 2015, which reflects the high energy content band with the discount for alternative fuels.

1.42 Transitional rules phase in the application of excise and excise-equivalent customs duty for renewable diesel as follows:

Table 1.5 Rate of excise and excise-equivalent customs duty for renewable diesel during the transitional period, net of the rebate (cpl)

1 Dec 2011 – 30 Jun 2012	1 Jul 2012 – 30 Jun 2013	1 Jul 2013 – 30 Jun 2014	1 Jul 2014 – 30 Jun 2015	From 1 Jul 2015 Final rate
3.8	7.6	11.4	15.3	19.1

1.43 The rebate will be provided for in the regulations.

1.44 The final rate of excise and excise-equivalent customs duty (net of the rebate of 19.043cpl) of 19.1cpl will apply from 1 July 2015.

LPG

1.45 LPG is the generic name for mixtures of light hydrocarbon gas, mainly propane and butane. LPG is a naturally occurring gas and is produced either directly through the processing of crude oil and natural gas or as a by-product of the petroleum refining process.

1.46 LPG is generally supplied as a mixture of propane and butane but it can also be supplied as 100 per cent propane. In addition to being used as a transport fuel, LPG containing propane only is used for a variety of purposes including commercial and domestic cooking, drying, heating and water heating.

1.47 LPG is not currently subject to excise or excise-equivalent customs duty.

1.48 Under these amendments fuel excise and excise-equivalent customs duty will be imposed on LPG at the point of manufacture or importation. *[Schedule 1, part 1, items 3, 5 and 6, Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011]*

1.49 LPG includes liquid propane, liquid mixtures of propane and butane; liquid mixtures that are either predominantly propane and butane mixtures or predominantly butane that also contain other light hydrocarbons. *[Schedule 2, part 2, item 27, Taxation of Alternative Fuels Legislation Amendment Bill 2011 and Schedule 1, part 1, item 1 Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011]*

1.50 Excise and excise-equivalent customs duty will be imposed on LPG at a final rate of 12.5cpl. This is the medium energy content band with the discount for alternative fuels.

1.51 The policy intention is to effectively levy fuel tax on LPG only when it is used for a transport purpose. The fuel tax credit system will be used to achieve that intent.

1.52 Fuel tax credits will be available to:

- manufacturers or distributors in cases where LPG is delivered to a tank that has a capacity of 210 kilograms or less. This will enable them to supply LPG into such tanks GST free;
- business end users where LPG is delivered into a tank that has a capacity of more than 210 kilograms where an entitlement exists under the existing fuel tax credit rules; or
- domestic users where the LPG is delivered to a tank that has a capacity of more than 210 kilograms for use other than to power a motor vehicle.

[Schedule 2, part 2, items 7, 8, 12 and 13, Taxation of Alternative Fuels Legislation Amendment Bill 2011]

1.53 The term motor vehicle that is used in the fuel tax law takes its meaning from section 195-1 of the *Income Tax Assessment Act 1997* where it is defined to mean a motor powered road vehicle, including a four wheel drive. A forklift that is used off-road is not a road vehicle or four wheel drive. Therefore manufacturers or distributors of LPG could claim a fuel tax credit for the excise on LPG and effectively supply LPG excise free in tanks of 210 kilograms or less capacity for powering a forklift. *[Schedule 2, part 2, item 8, paragraph 41-10(1A)(b), Taxation of Alternative Fuels Legislation Amendment Bill 2011]*

1.54 Whilst business users that acquire LPG in tanks with a capacity of greater than 210 kilograms will claim fuel tax credits on their business activity statement, domestic users will lodge a fuel tax return periodically with the Commissioner to claim fuel tax credits for LPG acquired for domestic purposes. *[Schedule 2, part 2, item 13, section 42-10, Taxation of Alternative Fuels Legislation Amendment Bill 2011]*

1.55 It is not intended that fuel tax credits be available for filling a fuel tank that is connected to a vehicle or vessel or for filling a tank that in turn will be used to refuel a tank connected to a vehicle or vessel.

[Schedule 2, part 2, item 8, paragraph 41-10(1A)(b), Taxation of Alternative Fuels Legislation Amendment Bill 2011]

1.56 This is similar to the current fuel tax credit arrangements that apply to fuel packaged for use other than in an internal combustion engine under subsection 41-10(2) of the *Fuel Tax Act 2006*.

Example 1.1

DistroCo is a distributor of LPG that sells 9 kilogram gas bottles to a service station. The service station then on-sells these gas bottles to customers.

Steve is a customer of the service station and on 24 December 2011, he buys two of the gas bottles. He uses one of the gas bottles for his BBQ and the other for his patio heater. On that same trip to the service station, Steve also fills up his car with LPG autogas.

Because DistroCo transferred the gas into storage tanks of under 210 kilograms capacity, DistroCo is able to obtain fuel tax credits for the excise or excise-equivalent customs duty that it paid on the LPG.

Neither the service station nor Steve will pay excise or excise-equivalent customs duty on the gas bottles, because DistroCo will claim fuel tax credits and sell the gas bottles to the service station excise-free.

Excise will apply to the LPG autogas that DistroCo supplies to the service station and when Steve fills up his vehicle with autogas excise will be included in the price because DistroCo cannot claim a fuel tax credit for LPG supplied for vehicle use. The transitional rate that applies on 24 December 2011 will be 2.5cpl.

1.57 To obtain fuel tax credits for excise or excise-equivalent customs duty paid on LPG used in road transport vehicles, entities will need to manufacture, import or acquire the fuel for use in carrying on their enterprise and be registered (or required to be registered) for GST at the time of acquisition, importation or manufacture.

1.58 Fuel tax credits will also be available where LPG is delivered into a tank that has a capacity of more than 210 kilograms and is acquired for use in their enterprise other than to power a motor vehicle for on-road use.

1.59 Where LPG is acquired for domestic use and delivered into a tank with a capacity of more than 210 kg, fuel tax credits will also be available even when the user is not registered for GST.

1.60 Under subsection 41-5(3) of the *Fuel Tax Act 2006*, non-profit bodies that use the fuel in an emergency services vehicle or vessel are not required to be registered for GST to obtain the credit. *[Schedule 2, part 2, items 13 and 16, Taxation of Alternative Fuels Legislation Amendment Bill 2011]*

Table 1.6 Rate of excise and excise-equivalent customs duty for LPG during the transitional period (cpl)

1 Dec 2011 – 30 Jun 2012	1 Jul 2012 – 30 Jun 2013	1 Jul 2013 – 30 Jun 2014	1 Jul 2014 – 30 Jun 2015	From 1 Jul 2015 Final rate
2.5	5.0	7.5	10.0	12.5

[Schedule 1, part 1, item 6, part 2, item 7, part 3, item 8, part 4, item 9 and part 5 item 10, Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011 and Schedule 1, parts 1 and 3 to 6, Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011]

1.61 The final rate of excise and excise-equivalent customs duty of 12.5cpl will apply from 1 July 2015. *[Schedule 1, part 5, item 10, table subitem 10.19A Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011 and Schedule 1, part 6, division 4, Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011]*

1.62 The ordinary rules of licensing for manufacturing excisable goods and importing goods subject to customs duty will apply and manufacturers of alternative fuels will need to be licensed under the excise systems. However, special transitional provisions will provide additional time for manufacturers of gaseous fuels and methanol who are not currently licensed to obtain manufacturer's licences. *[Schedule 3, items 1 to 4 of the Taxation of Alternative Fuels Legislation Amendment Bill 2011]*

LNG

1.63 LNG is produced from natural gas that is cooled to the point that it condenses to a liquid (approximately -161°C). LNG is typically exported but is also used as a transport fuel, generally in heavy-duty long range road transport.

1.64 LNG is not currently subject to excise or excise-equivalent customs duty.

1.65 Under these amendments fuel excise and excise-equivalent customs duty will be imposed on LNG at the point of manufacture or importation. *[Schedule 1, part 1, items 3 and 6, Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011]*

1.66 Given that most LNG that is produced is not for transport use, automatic remissions of excise and excise-equivalent customs duty on LNG will be available where it is used for purposes other than in an internal combustion engine for use in a vehicle.

1.67 The automatic remission for prescribed classes of LNG will remove the obligation to remit duty where a non-transport use occurs, however entities will still be required to be licensed for excise manufacture. Automatic remissions will be included in the excise and customs regulations.

1.68 Excise and excise-equivalent customs duty will be imposed on LNG that is used in an internal combustion engine for use in a vehicle at a final rate of 12.5cpl. This is the medium energy content band with the discount for alternative fuels.

Table 1.7 Rate of excise and excise-equivalent customs duty for LNG during the transitional period (cpl)

1 Dec 2011 – 30 Jun 2012	1 Jul 2012 – 30 Jun 2013	1 Jul 2013 – 30 Jun 2014	1 Jul 2014 – 30 Jun 2015	From 1 Jul 2015 Final rate
2.5	5.0	7.5	10.0	12.5

[Schedule 1, part 1, item 6, part 2, item 7, part 3, item 8, part 4, item 9 and part 5 item 10, Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011 and Schedule 1, parts 1 and 3 to 6, Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011]

1.69 The final rate of excise and excise-equivalent customs duty of 12.5cpl will apply from 1 July 2015. *[Schedule 1, part 5, item 10, table subitem 10.19B Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011 and Schedule 1, part 6, division 3, Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011]*

1.70 The ordinary rules of licensing for manufacturing excisable goods and importing goods subject to customs duty will apply and manufacturers will need to be licensed under the excise and customs systems. However, special transitional provisions will provide additional

time for manufacturers of gaseous fuels and methanol who are not currently licensed to obtain manufacturer's licences. *[Schedule 3, items 1 to 4 of the Taxation of Alternative Fuels Legislation Amendment Bill 2011]*

CNG

1.71 CNG is produced from natural gas, which is compressed. CNG is used in some bus fleets, street sweepers and garbage collection vehicles. There is no significant use of CNG in cars in Australia at this stage.

1.72 CNG is not currently subject to excise or excise-equivalent customs duty.

1.73 Under these amendments fuel excise will be imposed on CNG at the point of manufacture or importation, which is when the natural gas is compressed for use in fuelling a vehicle. *[Schedule 1, part 1, item 6 Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011]*

1.74 Excise will be imposed on CNG at a final rate of 19.1 cents per cubic metre. This is the high energy content band with the discount for alternative fuels.

1.75 Excise and excise-equivalent customs duty will be imposed on the manufacture or importation of CNG where it is manufactured or imported for use in vehicles. However, excise will not apply:

- where CNG is used for something other than as a fuel for a vehicle;
- to the extent the process of manufacture is not part of the activities of the enterprise, for example, excise will not be imposed where natural gas is compressed in home refuelling systems for non-business purposes; or
- where CNG is used in a forklift off road or other vehicles prescribed by regulation.

[Schedule 2, item 5, Taxation of Alternative Fuels Legislation Amendment Bill 2011, Schedule 1, part 1, item 3]

Table 1.8 Rate of excise and excise-equivalent customs duty for CNG during the transitional period (cents per cubic metre)

1 Dec 2011 – 30 Jun 2012	1 Jul 2012 – 30 Jun 2013	1 Jul 2013 – 30 Jun 2014	1 Jul 2014 – 30 Jun 2015	From 1 Jul 2015 Final rate
3.8	7.6	11.4	15.3	19.1

[Schedule 1, part 1, item 6, part 2, item 7, part 3, item 8, part 4, item 9 and part 5 item 10, Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011 and Schedule 1, parts 1 and 3 to 6, Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011]

1.76 The final rate of excise and excise-equivalent customs duty of 19.1cpl will apply from 1 July 2015. *[Schedule 1, part 5, item 10, table subitem 10.19C, Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011 and Schedule 1, part 6, division 6, Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011]*

1.77 The ordinary rules of licensing for manufacturing excisable goods and importing goods subject to customs duty will apply and manufacturers will need to be licensed under the excise and customs systems. However, special transitional provisions will provide additional time for manufacturers of gaseous fuels and methanol who are not currently licensed to obtain manufacturer’s licences. *[Schedule 3, items 1 to 4 of the Taxation of Alternative Fuels Legislation Amendment Bill 2011]*

Methanol

1.78 Methanol is used mainly in industrial and consumer products. It is the principal ingredient in the manufacture of formaldehydes, resins and adhesives, and is also used in producing plastics, paints, building materials and biodiesel.

1.79 While methanol is used mainly for industrial purposes, methanol is also used as a transport fuel in some parts of the motorsport industry. This includes speedway racing, drag racing and some forms of motorcycle racing.

1.80 Under the *Fuel Quality Standards Act 2000*, methanol cannot be used as an extender or additive to petrol or diesel for commercial sale.

1.81 Methanol is not currently subject to excise or excise-equivalent customs duty.

1.82 Under these amendments fuel excise and excise-equivalent customs duty will be imposed on methanol at the point of manufacture or importation. *[Schedule 1, part 1, item 6 Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011]*

1.83 In cases where methanol is used for purposes other than in an internal combustion engine for use in a vehicle, automatic remissions of excise and excise-equivalent customs duty will be available.

1.84 The remission of excise and excise-equivalent customs duty for prescribed classes of methanol will remove the obligation to report and remit duty where a non-transport use occurs, however entities will still be required to be licensed for excise manufacture or importation. Automatic remissions will be included in the excise and customs regulations.

1.85 In cases of transport use, excise and excise-equivalent customs duty will be imposed on methanol at a final rate of 8.5cpl. This is the low energy content band with the discount for alternative fuels.

Table 1.9 Rate of excise and excise-equivalent customs duty for methanol during the transitional period (cpl)

1 Dec 2011 – 30 Jun 2012	1 Jul 2012 – 30 Jun 2013	1 Jul 2013 – 30 Jun 2014	1 Jul 2014 – 30 Jun 2015	From 1 Jul 2015 Final rate
1.7	3.4	5.1	6.8	8.5

[Schedule 1, part 1, item 6, part 2, item 7, part 3, item 8, part 4, item 9 and part 5 item 10, Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011 and Schedule 1, parts 1 and 3 to 6, Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011]

1.86 The final rate of excise and excise-equivalent customs duty of 8.5cpl will apply from 1 July 2015. *[Schedule 1, part 5, item 10, table subitem 10.19D Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011 and Schedule 1, part 6, division 5, Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011]*

1.87 The ordinary rules of licensing for manufacturing excisable goods and importing goods subject to customs duty will apply and manufacturers will need to be licensed under the excise and customs systems. However, special transitional provisions will provide additional

time for manufacturers of gaseous fuels and methanol who are not currently licensed to obtain manufacturer's licences. *[Schedule 3, items 1 to 4 of the Taxation of Alternative Fuels Legislation Amendment Bill 2011]*

Fuel tax credits

1.88 Fuel tax credits are currently available to eligible businesses to provide a credit for the fuel tax included in the price of fuel used in business activities, machinery, plant, equipment and heavy vehicles. Fuel tax credits remove or reduce the incidence of fuel tax from business inputs.

1.89 The purpose of fuel tax credits is to avoid distorting business investment decisions and behaviour that would occur through taxing business inputs.

1.90 The result is that fuel tax is only effectively collected from fuel consumed in:

- vehicles for private use and for other private purposes;
- business use in vehicles of 4.5 tonne gross vehicle mass or less used on public roads; and
- certain industry use (for example quarrying, manufacturing and construction industries) in off-road applications. These activities are currently entitled to a fuel tax credit of 19.0715cpl (which is 50 per cent of the full rate of 38.143cpl). The full rate will apply to these activities from 1 July 2012.

1.91 These amendments result in entitlement to fuel tax credits being extended to include excise and excise-equivalent customs duty payable on LPG, LNG, CNG and methanol used in carrying on an enterprise. *[Schedule 2, Part 2, item 22, Taxation of Alternative Fuels Legislation Amendment Bill 2011]*

1.92 The amount of fuel tax credits is reduced in certain circumstances including grants or subsidies payable by the Commonwealth and by the amount of any road user charge for heavy vehicles determined by the relevant Transport Minister. From 1 July 2010, the road user charge is 22.6cpl. *[Schedule 2, part 2, items 10, 11 and 22, Taxation of Alternative Fuels Legislation Amendment Bill 2011]*

1.93 The amendments include provisions for working out the rate of fuel tax, grant or subsidy. Entitlement to fuel tax credits for fuel acquired in a financial year during the transition period will be determined (subject to the road user charge) based on the excise or excise-equivalent customs duty rate applicable at the date of acquisition, manufacture or import [Schedule 2, part 2, item 16, subsection 43-5(2A) table item 3, *Taxation of Alternative Fuels Legislation Amendment Bill 2011*]

1.94 In working out the fuel tax payable on blended fuels, the amendments give the Commissioner of Taxation the power to determine rules for working out the proportion of one or more of the constituents of the blend. [Schedule 2, part 2, item 18, subsections 43-5(4) and 43-5 (5), *Taxation of Alternative Fuels Legislation Amendment Bill 2011*]

1.95 In the case of ethanol manufactured in Australia in the period between 1 December 2011 and 30 June 2020, the fuel tax will be calculated taking into account any grant paid under the *Ethanol Production Grants Act 2011*. [Schedule 2, part 2, item 18, subsection 43-5(6), *Taxation of Alternative Fuels Legislation Amendment Bill 2011*]

Amendments to the *Customs Tariff Act 1995*

1.96 The amendments to the *Customs Tariff Act 1995* (the Customs Tariff) contained in the Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011 provide rates of duty for imported fuels at rates that are equivalent to the excise duty set out in the Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011, for these goods.

1.97 The amendments to the Customs Tariff also include the creation, in Schedule 3, of new subheadings to separately identify blends of ethanol and gasoline and blends of diesel and other substances. This will enable the calculation of customs duty for such blends based on the appropriate duty rate for each component, equivalent to the provisions of section 6G of the *Excise Tariff Act 1921*. [Schedule 1, *Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011*]

1.98 The international Harmonized Commodity Description and Coding System, commonly referred to as the Harmonized System, forms the basis of Australia's Customs Tariff. The World Customs Organization administers the Harmonized System with reviews approximately every five years. Signatory parties, including Australia, are required to implement changes resulting from the fourth review of the Harmonized System on 1 January 2012.

1.99 A number of the amendments contained in the fourth review will impact on the Customs Tariff provisions relating to fuels. In particular,

these amendments will create a new subheading 2710.20.00 for certain biodiesel blends, renumber subheading 2710.11 (light oils and preparations) as 2710.12 and create a new heading 3826 for biodiesel and other blends.

1.100 Consequently, the Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011 contains amendments effective from 1 January 2012, that reflect the new subheadings that will enter into force from that date, as a result of the fourth review of the Harmonized System. *[Schedule 1, part 2, Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011]*

1.101 The amendments contained in the Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011 also impose excise-equivalent rates of duty for certain gaseous fuels and methanol. The rates of duty are the same as the rates provided under the Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011. The products are:

- Liquefied natural gas (LNG) classified to subheading 2711.11.00;
- Liquefied petroleum gas (LPG) classified to subheadings 2711.12.10 and 2711.13.10;
- Compressed natural gas (CNG) classified to subheading 2711.21.10; and
- Methanol classified to subheading 2905.10.00
[Schedule 1, Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011].

1.102 In the case of LPG, the amendments create a new Additional Note 2 to Chapter 27 to define this product as:

- (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
[Schedule 1, part 1, item 2, Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011].

The amendments provide for new domestic subheadings 2711.12.10 and 2711.13.10 that refer to the above definition and apply the excise-equivalent rates. Other products classified in these subheadings that fall outside the definition will continue to be free of Customs duty (subheadings 2711.12.90 and 2711.13.90). [*Schedule 1, parts 1, 3, 4, 5 and 6, Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011*]

1.103 Schedules 5, 6, 7 and 8 to the Customs Tariff specify rates of customs duty for certain goods, including petroleum based fuels, that are defined as US, Thai, Chilean or ASEAN originating goods, under the Australia-US Free Trade Agreement, the Thailand-Australia Free Trade Agreement, the Australia-Chile Free Trade Agreement and the ASEAN-Australia-New Zealand Free Trade Agreement, respectively. The Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011 will create new items in each of these Schedules and impose rates of duty that reflect the changes in Schedule 3. [*Schedule 1, Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011*]

1.104 The new rates of duty in Schedules 5, 6, 7 and 8 are in accordance with the relevant Free Trade Agreements.

1.105 The amendments to the Customs Tariff (Schedules 3, 5, 6, 7 and 8) ensure that the new rates of duty applicable to fuels will apply to goods imported from all sources. These amendments also ensure that the same rate of customs duty applies to imported goods as the excise duty imposed under the *Excise Tariff Act 1921* on those goods when domestically produced.

Application and transitional provisions

Application provisions

1.106 These amendments apply to fuel:

- acquired, manufactured or imported on or after 1 December 2011;
- imported into Australia before 1 December 2011 where the time for working out the rate of import duty on the goods had not occurred before that day;
- and on hand at licensed (or deemed licensed) premises on 1 December 2011.

[*Schedule 2, part 2, items 9, 14, 19, 23 and Schedule 3, item 2, Taxation*

of Alternative Fuels Legislation Amendment Bill 2011, Schedule 1, part 6, Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011 and Schedule 1, part 7 Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011]

Repeal provisions

1.107 The Ethanol Production Grants Bill will be repealed on 1 July 2020, however it will continue to apply in relation to fuel manufactured before that date. *[Schedule 4, Taxation of Alternative Fuels Legislation Amendment Bill 2011]*

Transitional provisions

1.108 Transitional licensing arrangements will be available from 1 December 2011 for entities that have a licensing obligation as a result of this measure. The arrangements will confer a permission under section 61C of the *Excise Act 1901* to deliver LPG, LNG, CNG or methanol into home consumption after 30 December 2011. *[Schedule 3, Taxation of Alternative Fuels Legislation Amendment Bill 2011]*

Consequential amendments

1.109 The *Energy Grants (Cleaner Fuels) Scheme Act 2004* will be repealed from 1 December 2011. The result of this is that fuel imported into Australia, or manufactured in Australia on or after 1 December 2011 is not covered by the Energy Grants (Cleaner Fuels) Scheme. *[Schedule 1, Taxation of Alternative Fuels Legislation Amendment Bill 2011]*

1.110 References in the *Fuel Tax Act 2006* to cleaner fuel grants will be removed. *[Schedule 2, Part 2, items 15, 17, 20 and 21, Taxation of Alternative Fuels Legislation Amendment Bill 2011]*

1.111 References in the *Fuel Tax Act 2006* to the intention for gaseous fuels to be assessed under that Act from 2011 will be repealed. In line with the existing excise and excise-equivalent customs duty arrangements that apply to: petrol; diesel; ethanol; and biodiesel, LPG will be taxed under the relevant excise and customs legislation *[Schedule 2, Part 2, items 6, and 25, Taxation of Alternative Fuels Legislation Amendment Bill 2011]*. A technical correction has also been made. *[Schedule 1, Part 2, item 24, Taxation of Alternative Fuels Legislation Amendment Bill 2011]*

1.112 The *Product Grants and Benefits Administration Act 2000* will be updated to remove references to the *Energy Grants (Cleaner Fuels Scheme) Act 2004* and add references to the *Ethanol Production Grants Act 2011*. The information gathering powers under Part 9 of the *Product Grants and Benefits Administration Act 2000* will continue to operate in relation to the *Energy Grants (Cleaner Fuels Scheme) Act 2004*. [Schedule 2, Part 3 items 28 to 32, *Taxation of Alternative Fuels Legislation Amendment Bill 2011*]

1.113 Section 58 in the *Excise Act 1901* refers to LPG. This remains in place from a previous taxation arrangement that resulted in LPG paying excise. This reference is redundant and will be removed to ensure that there is no conflict between the new taxation arrangements and the existing legislation. The amendment will ensure that, as with other goods which are exported, LPG which is exported will not be subject to excise. [Schedule 2, Part 1, items 1 and 2, *Taxation of Alternative Fuels Legislation Amendment Bill 2011*]

1.114 The Commissioner of Taxation will have the power to determine rules for working out the energy content of excisable goods. [Schedule 2, Part 1, item 3, *Taxation of Alternative Fuels Legislation Amendment Bill 2011*]

1.115 As part of the fourth review of the Harmonized System, a change to the customs definition of biodiesel is expected to be made on 1 January 2012. This will result in a number of subheadings in Schedule 3 to the *Customs Tariff Act 1995* being repealed and new subheadings being inserted dealing with biodiesel and with mixtures of biodiesel and other substances respectively. [Schedule 1, Part 2, *Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011*]