



# **CONSULTATION ON IMPLEMENTATION OF ALTERNATIVE FUELS TAXATION POLICY**

*Submission to:*

**Commonwealth Treasury**

*Submission by:*

**Australian Institute of Petroleum**

**11 November 2010**

## **(A) INTRODUCTION**

The Australian Institute of Petroleum (AIP) was established in 1976 as a non-profit making industry association. AIP's mission is to promote and assist in the development of a sustainable, internationally competitive petroleum products industry, operating efficiently, economically and safely, and in harmony with the environment and community standards.

AIP is pleased to present this submission on behalf of the following member companies:

BP Australia Pty Ltd  
Caltex Australia Ltd  
Mobil Oil Australia Pty Ltd  
The Shell Company of Australia Ltd.

AIP member companies represent a significant proportion of the transport fuels manufacturers and suppliers in Australia and collectively are the largest remitters of fuel excise.

This submission has been developed to assist with the Treasury consultations on the implementation of the Government's alternative fuels taxation policy announced in the 2010-11 Commonwealth Budget and subsequently on 7 September 2010.

AIP supports the Treasury objective of ensuring, through this consultation process, that the proposed legislative framework is practical, minimises compliance costs and delivers the Government's policy in the most effective way. Our comments and recommendations in this submission seek to support these objectives and also identify issues that may arise with the implementation of the policy and the design of the associated legislation.

The coverage of this submission includes:

- (A) Introduction
- (B) Tax Policy for Transport Fuels
- (C) Consultation & Implementation Process
- (D) AIP Responses to Specific Questions in the Treasury Discussion Paper

AIP is happy for our submission to be made publicly available on the Treasury website.

## **(B) TAX POLICY FOR TRANSPORT FUELS**

From a tax policy principles perspective, AIP supports a tax system for road transport fuels that:

- is efficient (causes minimum distortions), equitable (fair) and simple (easily understood);
- is practical and workable and minimises compliance and administration costs for business and government; and
- supports clarity, consistency and stability in the policy settings relevant to the downstream petroleum industry.

The above AIP policy principles are consistent with the reform objectives outlined in the Treasury Discussion Paper.

AIP's long held view is that, if road transport fuels (liquid and gaseous transport fuels) are to be taxed, this should be on a comprehensive and neutral basis, consistent with energy content, so that consumers can make informed decisions about fuel choice. AIP recognises that a transition to this policy objective may be appropriate.

Consistent with AIP's overarching fuel tax policy principles:

- AIP supports energy content as an appropriate and neutral basis for taxing all transport fuels (including conventional liquid fuels and alternative fuels like ethanol, biodiesel, methanol, LPG, LNG and CNG); and
- AIP does not oppose the introduction of excise for alternative transport fuels according to the timetables announced in 2010 (and previously) and commencing on the 1 July 2011.

AIP therefore supports the Government's announced 'tax policy' for transport fuels of neutral tax treatment consistent with energy content, and AIP is not opposed to the Government's announced 'industry policy' measures and timetables to transition alternative fuels (including currently untaxed gaseous fuels) to the new fuel tax framework for all transport fuels.

AIP notes that significant investments and current and future business plans have been made on the basis of Government policy announcements on fuel tax since 2004 and, if there are to be any further substantive changes to that announced in May and September 2010, including through the legislative process, they should not result in any existing or committed projects (at the date of any policy change) being made worse off.

AIP acknowledges that the government has decided that there should be a *"phase in to the new fuel tax arrangements (ie. a transition period) 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"*. AIP believes that such government support should be transparent and should be administered in a robust and effective way.

## **(C) CONSULTATION & IMPLEMENTATION PROCESS**

AIP member companies expect to meet the timetable announced by the Government for a commencement of new excise and customs duty arrangements to apply to alternative fuels from 1 July 2011 and have preparations already underway to achieve this.

However, to meet the announced start date, AIP member companies require:

- early release of draft legislation following this initial consultation process, to ensure:
  - the relevant legislation aligns with the Government's policy objectives;
  - the legislation is robust, equitable and workable from an AIP member company perspective;
  - the legislation does not create unintended consequences and additional (unmanageable) compliance and administration costs for AIP member companies.
- finalisation of the legislative changes and timely Parliamentary approval:
  - while preparations are already underway in AIP member companies to achieve the announced start date, AIP member companies typically will not 'implement' or execute the compliance and accounting systems changes until the legislation is passed. This will require sufficient lead time to implement changes after passage of legislation.
- ongoing consultation with AIP and its member companies in the period up until 1 July 2011 on relevant implementation details and legislation affecting their operations and their excise/customs obligations; and
- early, effective and regular communications and guidance being provided by Treasury, ATO and Customs to major transport fuel users in relation to the practical implications of the legislative changes and the steps needed to be taken by major fuel users to comply from 1 July 2011.

## (D) AIP RESPONSES TO SPECIFIC DISCUSSION PAPER QUESTIONS

### SUMMARY: AIP PRINCIPLES & POSITION

AIP supports the principle that all fuel for transport use - including liquid fuels (conventional fuels and biofuels) and gaseous fuels (LPG, LNG and CNG) - should be taxed on a comprehensive and neutral basis, to ensure the most efficient and robust tax system for road transport fuels.

- AIP supports energy content as an appropriate and neutral basis for taxing all transport fuels.
- AIP supports relief from the burden of excise being provided for 'business inputs' to production.

AIP supports the point at which excise should be imposed and collected should be at the highest point in the supply chain to ensure the most compliant fuel excise system. This approach is consistent with the current (successful) practice for liquid petroleum fuels, would reduce the number of licenses required, and will help ensure efficient market operation without undue burden on marketers/distributors to collect, remit and report excise to the ATO.

Consistent with these overarching principles, AIP supports:

- excise on all transport fuels being levied once it leaves the last licensed area (the point of 'entry for home consumption'), with license holders being able to move product under permission between licensed areas free of excise;
- any fuel exported should be exempt from excise;
- any excise levied on liquid or gaseous fuel used for non transport purposes should be eligible for a Fuel Tax Credit and business can claim a Fuel Tax Credit for eligible transport uses;
  - for gaseous fuel sold directly to households, the process and principles covered in the ATO's publication 'Fuel Sold for Domestic Home Heating' (NAT 15471) should apply;
  - for businesses who 'package' gaseous fuel for domestic use (eg. BBQ bottles) should be able to claim a Fuel Tax Credit and pass through this benefit in their final price to customers.

AIP supports excise/customs duty being paid, fuel entering home consumption, and eligibility for grants to offset duty paid, being subject to fuel meeting the fuel quality standards under the *Fuel Quality Standards Act 2000* in the same way as currently for liquid fuels. If the *Energy Grants (Cleaner Fuels) Scheme (EGCFS) Act* is repealed, AIP supports the link between meeting relevant fuel standards and excise payment/relief being reflected in the relevant legislation, and supported by a robust, visible and sufficiently funded compliance program.

AIP supports 'licence eligibility criteria' which establish that licenses will only be issued to parties who have an ABN and are registered for GST, and intend manufacturing, importing or storing transport fuels on a commercial scale (and have the relevant expertise and financial resources to do so).

AIP supports, in principle and where possible, excise being applied on a 'cent per litre' basis at the taxing point (in the same way as currently for transport fuels under the Excise Act), as this will assist end-users and consumers to be able to observe the pass through of excise to the final price of transport fuel.

AIP strongly opposes 'intended use provisions' (or imposing excise or customs duty on the basis of intended consumption). AIP considers it unreasonable for a fuel supplier to be expected to know what application a fuel product may be used for once it is sold to a customer (and determine whether or not to apply excise or customs duty based on the intended use of the customer) and believe it will likely lead to significant compliance difficulties and revenue leakage.

Finally, AIP notes that during the period of Fuel Tax Reform in 2006, the current concepts applied to liquid petroleum fuels were comprehensively reviewed and discussed. The resulting process of applying excise as fuels enter home consumption, then applying fuel tax credits as appropriate, has proved to be exceptionally robust in protecting the revenue base for Government, with an acceptable compliance and administration burden on the impacted parties. AIP considers there is a strong case for applying the same efficient excise arrangements to alternative fuels from 1 July 2011; not utilising the same consistent approach for all transport fuels would likely lead to significant compliance risks, revenue leakage and perverse outcomes as well as potential fuel substitution problems with poor quality fuels.

**The Discussion Paper identifies a number of principles and specific questions on which comments are sought. These are reproduced below, together with AIP's response.**

## **5. PHASING IN EXCISE FOR GASEOUS FUELS AND BIODIESEL:**

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*(i) Would there be any additional compliance costs from imposing the fuel tax rate directly in the excise and customs legislation rather than also applying a grant for the gaseous fuels and biodiesel each year during the transition period?*

AIP supports, in principle, the imposition of the 'net' effective fuel tax rate directly in the excise and customs legislation for biodiesel and gaseous fuels.

We consider that such a proposal is likely to provide the most manageable option for implementation and compliance purposes and should provide certainty and administrative simplicity around who can claim the grant (eliminating many problems with the current approach/legislation).

We also expect, at this stage, that there will be no additional (net) compliance costs for AIP member companies from imposing fuel tax at an effective 'net' rate rather than at a particular substantive rate with a separate offsetting grant. AIP member companies consider that the benefits of the proposed streamlined 'net excise' approach offset its compliance costs.

- The removal of the requirement to separately claim an offsetting grant will provide compliance/regulatory benefits through simplification, as the current two-phase process of charging excise and claiming a grant raises complexities in commercial negotiations throughout the fuels supply chain.
- We do not foresee any significant concerns with annually amending in internal company systems the relevant net excise rate to apply from 1 July in each year of the transition period.
- There will, however, be costs associated with higher working capital to pay higher duty obligations, accounting system changes that will be required under these proposals (particularly to deal with the complexities of blends at different excise rates) and also with the renegotiation of any existing fuel supply commercial contracts that contemplate the continued operation of the EGCFs Act (if this Act is repealed).

AIP notes that AIP member companies and other claimants have reported a range of difficulties with the current EGCFs Act. Primarily, there have been difficulties in interpreting the Act as a result of not being totally clear on who can claim the grants available (which is an area of on-going discussion and clarification with the ATO) and also because the party remitting excise may not be the party who can claim the grant. These can lead to potential errors in grant claims. For example, difficulties in interpreting the grants scheme legislation occur when sales are made to customers who hold excise licences in other locations. This arises because an EGCFs grant is payable to the last excise licence holder in the supply chain, which may be downstream of the point at which excise is paid.

If the Government decides to maintain a grant approach rather than to legislate a net effective excise rate, then AIP strongly supports amendments to the EGCFs Act to improve the operation and effectiveness of the scheme, provide clarity for claimants in relation to grant entitlement, and to reduce compliance costs and risk (including revenue risk).

*(ii) Are there any adverse or other unintended consequences of repealing the operation of the Energy Grants (Cleaner Fuels) Scheme from 1 July 2011, provided entitlements arising prior to 1 July 2011 can still be claimed?*

At this stage, apart from the below, AIP is not aware of any unintended consequences from repealing the EGCFS Act if entitlements arising prior to 1 July 2011 can still be claimed and an appropriate period is provided for such claims to be made. AIP member companies advise that 6-12 months is the time normally allowed for such claims to be lodged and processed.

We note, however, that the EGCFS Act provides a direct link between eligibility for grants to offset excise/customs duty paid and fuel entering home consumption having to meet the quality standards under the Fuel Quality Standards Act 2000 (FQSA). It is AIP's strong view that if the EGCFS Act is repealed, then this linkage must be clearly reflected in the relevant legislation that is preserved to support transport fuel taxation from 1 July 2011 (eg. in the Fuel Tax Act or Excise Act). Further, a robust, visible and sufficiently funded compliance program will be very important to ensuring ongoing adherence to the fuel quality standards under the FQSA. Without appropriate legislation changes and a robust fuel quality compliance program, there are risks to government and industry in terms of revenue leakage, loss of consumer confidence, and financial loss by AIP member companies who have made significant investments in systems and regular fuel testing to fully comply with fuel quality standards and the excise and customs laws.

## 6. REVISED TAXATION AND GRANT ARRANGEMENTS FOR ETHANOL

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### *Principle — Fuel tax to apply to ethanol used in internal combustion engines*

- *Continue to impose fuel excise and excise equivalent customs duty on ethanol at the point of production and importation.*
- *The rate of excise applying to domestically produced ethanol will be consistent with the rate of excise equivalent customs duty that applies to imported ethanol.*

AIP supports the rate of fuel excise and excise equivalent customs duty applying to all transport fuels (including ethanol) to be the same for domestically produced and imported product.

We note, however, that to deliver the net excise 'outcomes' for ethanol announced by the Government, that an offsetting grant program for ethanol appears necessary for implementation and compliance reasons. Different 'net excise rates' for imported and domestically produced ethanol would create administrative problems which do not exist for biodiesel and gaseous fuels. That is, legislating a 'net excise rate' for ethanol (in the same way as under Question i) would be unworkable in many instances as the industry would be unable to differentiate between domestically produced and imported ethanol when ethanol blended products are entered for home consumption and excise is remitted. This includes because imported and domestically produced ethanol can be co-mingled, which would mean the correct excise cost could not be accurately and systematically estimated, and thereby passed on to customers.

AIP believes that consistency of taxing point for fuel for transport use is paramount to ensuring that the fuel tax system:

- is efficient (causes minimum distortions), equitable (fair) and simple (easily understood);
- is practical and workable, minimising compliance and admin costs for business and government;
- minimises financial and revenue risks to industry and government (eg. fuel substitution between taxed and untaxed fuels and revenue leakage); and
- is implemented and administered in a robust and efficient manner.

AIP supports excise or customs duty for all liquid and gaseous transport fuels being levied once product leaves the last licensed premises (the point of 'entry for home consumption'), and any excise levied on fuel used for non-transport purposes should be eligible for a Fuel Tax Credit.

*(iii) Are there any impediments for the domestic ethanol industry in providing a production grant program for domestic ethanol producers beyond 2011?*

AIP has no comment.

*(iv) Should the proposed production grant program be administered by the Australian Taxation Office or should it be administered by AusIndustry or another agency?*

AIP has no preference for who administers the production grant program, provided the program is:

- robust and transparent;
- supported by clearly defined objectives;
- enforced, and applied, consistently to all market participants; and
- regularly reviewed to ensure the effective performance of the program.



AIP notes, however, that the ATO administering the grant program would streamline the collection of excise with the payment of the grant and thereby reduce complexity and regulatory cost since claimants would only need to deal with a single government agency. There may also be benefits and synergies that can be realised by operating the grants program in a simplified way more consistent with the EGCFs arrangements for biodiesel.

*(v) Are there any improvements to the administration of the proposed production grant program that could be made that would be consistent with the Government's ethanol policy and improve the grant's effectiveness or reduce compliance costs for industry?*

See above. AIP notes that to deliver on the government's stated objectives and assist with delivering transport fuel supply security to consumers and major fuel users, ethanol production grants should directly facilitate the long term commercial expansion of ethanol production capacity and the reliable supply of ethanol to quality standards and at competitive market prices.

*(vi) Are the proposed arrangements broad enough to include ethanol produced from all emerging feedstocks under new or emerging technologies?*

AIP notes that the current definition under the Ethanol Production Grant may not adequately provide for some new and emerging ethanol feedstocks and production technologies that are currently being examined for commercial feasibility by market operators, including by AIP member companies. For example, ethanol made from "natural renewable sources", "biomass" or "plant matter" (current definitions) may not include future feedstocks like 'waste', which would potentially offer environmental and other benefits, but would be currently ineligible for the production grant if the definition of ethanol is not sufficiently broad. A broadening of the ethanol definition at an appropriate time, including following consultation with relevant experts, may reduce the need for dedicated and complex legislative change to deal with the specific characteristics of individual feedstocks when they are commercially proven (as was the case for renewable diesel).

Overall, AIP sees a broadening of the ethanol definition is desirable, but not essential to meeting the 1 July 2011 start date, as we expect that significant industry consultation will be necessary.

## 7. TAXATION OF GASEOUS FUELS

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### **COMPRESSED NATURAL GAS (CNG):**

#### *Principle — taxation of CNG*

*Excise on CNG is imposed on the manufacturer or importer of CNG for transport use, other than for export.*

As noted above, AIP supports the principle that all fuel for transport use – including liquid fuels and gaseous fuels – should be taxed in the same way.

Consistent with this overarching principle, AIP supports:

- excise on CNG should be levied once it leaves the last licensed premises (the point of ‘entry for home consumption’), with license holders being able to move product under permission between licensed premises free of excise;
- any CNG exported should be exempt from excise; and
- any excise levied on CNG used for non-transport purposes should be eligible for a Fuel Tax Credit (either claimable by end-users or by distributors/suppliers to end-users who are not in a position to claim fuel tax credits directly themselves, consistent with existing Fuel Tax Credit provisions) and business can claim a Fuel Tax Credit for eligible transport uses.

*(vii) To what extent is CNG manufactured by householders for transport use?*

Not known.

*(viii) Is there potential for household manufacture of CNG to increase?*

Not known.

### **LIQUID NATURAL GAS:**

#### *Principle — taxation of LNG*

*Excise is imposed on all domestic production of LNG, other than LNG for export. However, collection of excise only occurs where the LNG is supplied by distributors for transport use.*

*Importations are subject to excise equivalent customs duty where intended for transport use.*

The principle outlined above in the Treasury Discussion Paper (“*where intended for transport use*”) suggests the utilisation of ‘intended use’ provisions. AIP strongly opposes ‘intended use provisions’ (or imposing excise or customs duty on the basis of intended consumption). We consider it unreasonable for a fuel supplier to be expected to know what application a fuel product may be used for once it is sold to a customer (and determine whether or not to apply duty based on the intended use of the customer) and believe it will likely lead to compliance difficulties.

- This principle suggests excise should be remitted to the ATO once the end use is determined. This would require AIP member companies to sell fuel to its customers under bond, and those customers to remit excise once the end use was determined. While this removes the excise payment obligations from AIP Member companies, it will increase the number of entities required to be licensed for excise purposes. It is also unclear how AIP member companies could sell product under bond to customers where the customer was delivering product directly from their facility to their own customer (eg. a service station or other business).

We note that the June 2005 Treasury Discussion Paper ('Review of the Excise Tariff Act 1921') indicates that "imposing excise on the basis of intended consumption, an act that occurs after the taxing point, makes compliance difficulties inevitable. Indeed, parties have exploited this inconsistency over many years in the market, both on an opportunistic basis and in some cases, systematically and intentionally". The AIP view above is consistent with this Treasury position.

AIP supports the principle that all fuel for transport use – including liquid fuels and gaseous fuels – should be taxed in the same way (see AIP discussion above).

Consistent with this overarching principle, AIP supports:

- excise on LNG should be levied once it leaves the last licensed premises (the point of 'entry for home consumption'), with license holders being able to move product under permission between licensed premises free of excise;
- any LNG exported should be exempt from excise; and
- any excise levied on LNG used for non-transport purposes should be eligible for a Fuel Tax Credit (either claimable by end-users or by distributors/suppliers to end-users who are not in a position to claim fuel tax credits directly themselves, consistent with existing Fuel Tax Credit provisions) and business can claim a Fuel Tax Credit for eligible transport uses.

*(ix) Will the intended use of LNG be able to be readily determined by producers or importers of LNG?*

As noted above, AIP is strongly opposed to 'intended use provisions'. We do not believe it is reasonable for a fuel supplier to be expected to know what application a product may be used for once it is sold to a customer (and be responsible for excise accordingly). The difficulty for suppliers in determining customer end-use is exacerbated if the product passing through a distribution chain involves a number of parties (eg. distributor and retailer).

### **LIQUIFIED PETROLEUM GAS (LPG)**

#### Option 1: Imposition on manufacturer – collection from marketer

*Excise could be imposed on the manufacture of all LPG (other than for export) and excise equivalent customs duty imposed on the importation of LPG. However, no excise or excise equivalent customs duty would apply to LPG supplied for household (non vehicle) use. Under this option, excise and excise equivalent customs duty would apply to all LPG (other than for export or household use). Businesses would claim fuel tax credits for LPG acquired for qualifying transport and non transport applications. This option would be achieved by:*

- *Imposing excise on the manufacture of all LPG delivered from licensed premises with remission of any excise liability if LPG is delivered: in containers of less than 50 kilograms; or directly into a bulk tank connected to residential premises for the purposes of domestic cooking and heating.*
- *Imposing excise equivalent customs duty on the importation of all LPG, other than importations in containers of less than 50 kilograms.*

#### Option 2: Imposing excise on distributors and marketers

*Excise could apply to all LPG that is distributed or marketed for end use in transport applications, other than for export markets. Excise-equivalent rates of duty would also apply for imported LPG for transport applications. Household (non-transport) use would not be taxed. This option could apply to all LPG for use in transport applications. Businesses would then claim fuel tax credits for LPG used for eligible transport purposes. This option would be achieved by imposing excise liability on marketers or distributors of LPG that is delivered into storage that is attached to vehicle refuelling equipment.*

*(x) Which option for taxing LPG would be the most effective and have the overall lowest compliance cost impact on affected parties?*

AIP considers that both Option 1 and Option 2 do not meet Treasury's stated objectives that the proposed legislative framework is practical, minimises compliance costs and delivers the Government's policy in the most effective way. We consider that these options do not provide a framework for taxing LPG for transport use that is sufficiently robust and workable, whilst minimising compliance obligations. In addition, and as noted above, AIP strongly opposes 'intended use provisions' or imposing excise or customs duty on the basis of intended consumption.

- Under Option 1, the principle suggests excise should be remitted to the ATO once the end use is determined. This would require AIP member companies to sell LPG to their customers under bond, and those customers to charge excise on sales to all customers except household use. AIP member company customers would then be required to remit excise to the ATO once the end use was determined. While this removes the excise payment obligations from AIP member companies, it will increase the number of entities required to be licensed for excise. It is also unclear how AIP member companies could sell product under bond to customers where the customer was delivering LPG directly to their customer (eg. service station or other business).
- Option 2 applies the same concepts as Option 1, however excise will only be applied for LPG used in transport. This will add further burden on the marketer/distributor in identifying non-transport uses, instead of the end user claiming a Fuel Tax Credit. This adds additional tax compliance risk to the distributor which the introduction of Fuel Tax Credits effectively removed.

Reflected in our advice above AIP believes that the point at which excise should be imposed and collected should be at the highest point in the supply chain to ensure the most compliant fuel excise system. This approach is consistent with current practice (eg. for currently excised liquid petroleum fuels), would reduce the number of licenses required, and will help ensure efficient market operation without undue burden on marketers/distributors to collect and report excise to the ATO.

AIP supports the principle that all fuel for transport use – including liquid fuels and gaseous fuels – should be taxed in the same way.

Consistent with this overarching principle, AIP supports:

- any LPG exported should be exempt from excise;
- excise on LPG should be levied once it leaves the last licensed premises (the point of 'entry for home consumption'), with license holders being able to move product under permission between licensed premises free of excise;
- for excise to be imposed on LPG (and for Fuel Tax Credits to be claimed) it must meet the LPG (Autogas) Fuel Quality Standard, in the same way as currently for liquid petroleum fuels;
- any excise levied on LPG for non-transport purposes should be eligible for a Fuel Tax Credit (either claimable by end-users or by distributors/suppliers to end-users who are not in a position to claim fuel tax credits directly themselves, consistent with existing provisions supporting Fuel Tax Credits);
- business can claim a Fuel Tax Credit for eligible transport uses;
- for LPG sold to households, the process and principles covered in the ATO's publication 'Fuel Sold for Domestic Home Heating' (NAT 15471). In this publication, it is the distributor who delivers the fuel to the specific customer who makes the decision whether it is going to be used for household use. Once that decision is made the distributor claims the Fuel Tax Credit, and sells the fuel to the customer without excise. Guidelines on what supporting documentation is required are provided in NAT 15471.
- Allow businesses who package LPG for domestic use (eg. BBQ bottles) to claim a Fuel Tax Credit and pass through the benefit in their price to the customer.

This approach to LPG excise is consistent with the manner in which other liquid fuels are currently taxed, and has a number of benefits including:

- less “excise payers” who need to be licensed and deal with the ATO;
- greater assurance that excise is collected on all product, other than where clearly not taxable, (eg. exports);
- no expectation, and associated risks, in requiring suppliers to anticipate or evidence how LPG is ultimately used by customers;
- more accurate fuel tax credit claims from end users, or suppliers to end users, who are either directly responsible or best positioned to determine LPG use.

Finally, AIP’s notes that during the period of Fuel Tax Reform in 2006, the current concepts applied to liquid petroleum fuels were comprehensively reviewed and discussed. The resulting process of applying excise as fuels enter home consumption, then applying fuel tax credits as appropriate, has proved to be exceptionally robust in protecting the revenue base for Government, with an acceptable compliance and administration burden on the impacted parties.

*(xi) What administrative collection trade offs exist between the two LPG options?*

See AIP Comments in relation to Question (x) above.

*(xii) Do the proposed approaches to tax LPG ensure that non transport fuels are not ultimately taxed?*

The AIP suggested approach to LPG excise would maintain the policy that non transport fuels are not ultimately taxed. This is achieved by:

- paying excise on all LPG for transport use as it leaves a licensed/bonded premises;
- allowing businesses to claim a Fuel Tax Credit for LPG used in non transport business uses and businesses to claim a FTC for eligible transport uses;
- allowing distributors and LPG packagers to claim a Fuel Tax Credit for LPG sold to households, and sells the fuel to the residences without excise.

*(xiii) Are marketers and distributors able to accurately identify the intended end use of LPG sold in bulk?*

AIP member companies are unable to accurately identify the intended end use of LPG sold in bulk.

*(xiv) Is 50 kilograms an appropriate threshold to ensure that household use of LPG is not taxed?*

AIP considers that if the current excise approach for liquid fuels is applied in the same way to gaseous fuels, such thresholds are unnecessary as excise on LPG will be levied once it leaves the last licensed premises, regardless of whether it is sold in bulk or in LPG containers/packages of different sizes. Any excise levied on LPG for non-transport purposes (including household use) would then be eligible for a Fuel Tax Credit, typically claimed by the LPG marketer/distributor, and business can claim a Fuel Tax Credit for eligible transport uses.

**MEASUREMENT OF GASEOUS FUELS:**

*(xv) Are cubic metres the most appropriate unit of measurement for CNG or is an alternative measurement unit preferable?*

In principle, AIP believes that the appropriate unit of measurement is typically that which is used commercially for gaseous fuels at the point in the distribution chain where tax is to apply. Some form of standardisation may also be required to take adequate account of variations in specification.

*(xvi) Is the cents per litre unit of measurement the most appropriate for the other gaseous fuels?*

AIP member companies are able to track LPG sold in either cents per litre or dollars per metric tonne. AIP notes that The Excise Tariff Act currently requires, for excise purposes, cents per litre measurement for liquid fuels. Given LPG (Autogas) retailed at service stations is ultimately sold on a per litre basis, a conversion will need to be made at some point in the distribution chain. Consequently, a practical response to this would be to have excise applied on a cent per litre basis at the taxing point, and this will assist consumers and end-users to be able to observe the pass-through of excise to the final price of the transport fuel.

*(xvii) What temperature and pressure standards should apply to the measurement of the alternative fuels?*

AIP notes that AIP member companies are currently required by the ATO to account weekly liquid fuel sales into home consumption (liftings) by litres, with the relevant volume being temperature corrected to 15<sup>o</sup> Celsius. We support a similar standardised approach (using the most appropriate standards for the relevant fuel) being applied to alternative fuels entering the excise system from 1 July 2011. AIP also supports 'standards' for LPG being consistent with the LPG (Autogas) Fuel Quality Standard.

## 8. TAXATION OF BIODIESEL AND RENEWABLE DIESEL

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### *Principle – taxing biodiesel*

*The existing taxation point for biodiesel and renewable diesel for both excise and excise equivalent customs duty will be maintained.*

AIP supports this principle (as it is consistent with the existing taxing point).

*(xviii) Is the setting of the net excise rate for biodiesel and renewable diesel in the excise and customs legislation the most effective approach to minimise industry compliance costs?*

Yes – see detailed AIP comments in relation to Question (i).

*(xix) Alternatively, should the rate of excise applicable be set at the final 1 July 2015 rate in the excise and customs legislation and the net excise rate be established by applying a grant calculated under the Energy Grants (Cleaner Fuels) Scheme?*

No, a ‘net excise rate’ approach is preferred by AIP – see detailed AIP comments in relation to Question (i) and the discussion in relation to the required improvements to the EGCFs framework if the Government decides it should be preserved rather than repealed.

*(xx) Would a separate administrative grant for biodiesel and renewable diesel be the most effective way to impose excise and excise equivalent customs duty on biodiesel and renewable diesel from 1 July 2011 (recognising the potential for technological developments to result in a wide range of feedstocks being used in the future)?*

No, a ‘net excise rate’ approach is preferred by AIP – see detailed AIP comments in relation to Question (i).

AIP notes that any such grant and supporting legislation, if supported, would need to be sufficiently robust to ensure that when renewable diesel is blended with diesel that only the renewable portion is identified as eligible for the alternative fuel excise rate, in order to deter fuel substitution and ensure that the same excise that is acquitted to the ATO is recovered from the customer. However, as renewable diesel is chemically identical to diesel, and it is impractical/impossible to specifically track it through the distribution chain after the point of manufacture, there could be an incentive for parties to misrepresent the constitution of fuel blends in order to gain benefit from the excise difference.

## 9. OTHER ISSUES

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### **TRANSPORT APPLICATIONS:**

*(xxi) Are there any transport applications that may be powered by alternative fuels that do not use an internal combustion engine?*

Unknown.

### **TAXATION OF METHANOL:**

#### Principle – taxing of methanol

*(xxii) Excise and excise-equivalent customs duty will apply to all methanol that is distributed or marketed for transport purposes.*

We support the same current excise arrangements for liquid fuels being applied to alternative fuels, including Methanol, from 1 July 2011.

*(xxiii) To what extent is methanol used in motor racing or in other applications as a transport fuel?*

Unknown.

*(xxiv) Is this likely to change in the future?*

Unknown.

*(xxv) Will the proposed taxation point for methanol ensure that fuel tax can be imposed on methanol effectively, whilst minimising compliance costs?*

AIP member companies do not currently sell methanol.

We note that Paragraph 57 of the Treasury Discussion Paper states Option 2 for applying excise to LPG would also apply to methanol. AIP supports the same current excise arrangements for liquid fuels being applied to alternative fuels, including Methanol, from 1 July 2011.

### **TAXING ACT TO IMPOSE FUEL TAX**

*(xxvi) How many businesses are likely to have new excise obligations as a result of the proposals?*

With the Government announcement in 2004 that gaseous and other alternative fuels would be brought into the excise net for the first time from 1 July 2011, it was inevitable that there would be businesses with excise obligations for the first time from that date (as gaseous fuels have been exempt from excise). This includes new excise obligations for AIP member company customers.



The primary objective of the fuels tax framework and legislation should be to minimise the number of new businesses incurring these excise and duty obligations (ie. fundamentally, a limited number of 'excise payers' means administration, regulation, and compliance is easier) and AIP believes this can be achieved by imposing and collecting excise at the highest point possible in the supply chain. This will not only reduce the number of licenses required and the burden on marketers/distributors to collect and report excise to the ATO, but will also ensure the most compliant fuel excise system. Such an approach is also consistent with tested and effective current practices (eg. for currently excised liquid petroleum fuels), which have ensured compliance and protection of the revenue base.

Under the proposals and principles recommended by AIP above, we consider that the number of new excise obligations will be minimised, and will be less than some of the proposals outlined in the Discussion Paper (particularly for LPG). We expect that the required new license holders under the AIP proposals will not be significant in the context of the expected revenue gain.

To also minimise the required number of license holders, AIP supports 'licence eligibility criteria' which establishes that licenses will only be issued to parties who have an ABN and intend manufacturing, importing or storing transport fuels at a commercial scale (and have the relevant expertise and financial resources to do so). AIP is generally opposed to the licensing of small scale manufacturing of gaseous and liquid fuels, as this has the potential to undermine the fuel quality standards and consumer confidence in the quality of the fuel supplied.

#### **TRANSITIONAL ARRANGEMENTS:**

*(xxvii) What transitional arrangements will be needed to ensure that production or importation of the alternative fuels prior to 1 July 2011 is not subject to effective excise or excise equivalent customs duty?*

AIP supports the overarching principle that any fuel entering into the market (home consumption) subsequent to 1 July 2011 will be subject to the new regime. This should be the same as the current provisions for dealing with rate changes, and utilised with successive changes to excise rates over the transition period.

#### **In relation to LPG:**

- Manufacturers' sites should be bonded prior to 1 July 2011. This will ensure product on site does not need to be revalued to the new excise rate. Any LPG which passes the taxing point from midnight on 30 June 2011 will then attract the new excise rate.
- Any retailers or distributors holding pre-1 July 2011 LPG (which they purchase excise exempt), may choose to make their post 30 June 2011 sales including the new excise rate. While this would result in a gain to these entities equivalent to the excise rate for the volume of pre-1 July 2011 stock-on-hand, given the gradual increase in excise over the 5 year transition period this would appear a reasonable approach.

#### **In relation to biodiesel and ethanol:**

- Where product is held under bond there will be no transitional issues, and fuel which is entered for home consumption post 30 June 2011 will attract the new excise rate.
- For product which is held excise paid, the issue is more difficult as the excise applicable post 30 June 2011 is less than the pre-1 July 2011 rate. This will present the possible risk of entities not being able to recoup the 100% of excise paid when they purchased the product.

*(xxviii) Are special arrangements required to allow affected parties sufficient time to become licensed after the start of taxation arrangements on 1 July 2011?*

AIP member companies are not expecting that any new licences will be required for their 'downstream' operations, but one AIP member company will require some 'upstream' gas operations to be licensed before 1 July 2011. It is likely other entities drawn into the excise regime by the proposed changes will also wish to license their facilities. We expect that a sufficient lead time will be provided for affected businesses to identify parties and operations required to be licensed, and we recognise that this will create a burden on the ATO. This may require the ATO to issue an 'interim license' to enable the due process to be followed in applying for licenses.

## **APPENDIX A: ENTITLEMENTS TO FUEL TAX CREDITS FOR ALTERNATIVE FUELS**

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*(xxix) Is a standardised approach to claiming fuel tax credits likely to reduce compliance costs for ethanol blends above E10?*

Yes, a standardised approach to claiming Fuel Tax Credits is likely to reduce compliance costs for ethanol blends above E10.

It is not possible for the end user claiming the Fuel Tax Credit to determine the source of the ethanol (ie. domestic or imported). Because the excise rates applicable to imported and domestic ethanol are different, it will not be possible for the entity to accurately calculate their fuel tax credit entitlement.

For example, as E85 blends vary from 70-85% ethanol due to seasonal variations, and the ethanol included could be sourced domestically or from imports, a standardised Fuel Tax Credit would reduce complexity for claimants.