


ATO Interpretative Decision


ATO ID 2006/256 (Withdrawn)

Excise

Energy Grants (Credits) Scheme: off-road credit - use of diesel fuel at a home for aged persons

 This ATO ID is withdrawn and replaced by ATO ID 2008/131

FOI status: may be released
Status of this decision: Decision Withdrawn 3 October 2008

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Issue

Does an establishment that is approved under the *Aged Care Act 1997* to provide residential aged care services satisfy the meaning of a 'home for aged persons' for the purposes of paragraph 53(4)(d) of the *Energy Grants (Credits) Scheme Act 2003* (EGCSA)?

Decision

Yes. An establishment that is approved under the Aged Care Act to provide residential aged care services is a 'home for aged persons' for the purposes of paragraph 53(4)(d) of the EGCSA.

Facts

An entity provides accommodation and care to individuals at an establishment. The entity is an approved provider of residential aged care under the Aged Care Act.

The establishment is approved under the Aged Care Act for use in the provision of the accommodation and care.

Reasons for Decision

Section 53 of the EGCSA provides that, subject to the conditions and restrictions specified in the Energy Grants (Credits) Scheme Regulations 2003, an entity is entitled to an off-road credit if they purchase or import into Australia off-road diesel fuel for a use that qualifies.

Subsection 53(4) of the EGCSA lists the following qualifying uses:

- (a)** use at particular premises to generate electricity for use in the course of carrying on, at those premises, an enterprise that:
 - (i)** has, as its principal purpose, the retail sale of goods or services (other than electricity) or the provision of hospitality; and
 - (ii)** does not have, at those premises, ready access to a commercial supply of electricity;
- (b)** use at residential premises to generate electricity for use in:
 - (i)** providing food and drink for; or
 - (ii)** providing lighting, heating, air-conditioning, hot water or similar amenities for; or
 - (iii)** meeting other domestic requirements of;
residents of the premises;
- (c)** use at a hospital or nursing home or at any other institution providing medical or nursing care;
- (d)** use at a home for aged persons.

The *Macquarie Dictionary*, 2001, rev. 3rd edn, The Macquarie Library Pty Ltd, NSW defines the term 'home' to include 'a house or other shelter that is the fixed residence of a person, a family, or a household', and, 'an institution for the homeless, sick, etc'.

With regard to the EGCSA, the second meaning is considered more appropriate. When the term 'home' is considered alongside the terms 'hospital', 'nursing home' and 'any other institution' in subsection 53(4) of the EGCSA, it is clear that the term 'home for the aged' is intended to apply to institutions rather than private residences.

The *Macquarie Dictionary* defines the term 'institution' as being:

noun

1. an organisation or establishment for the promotion of a particular object, usually one for some public, educational, charitable, or similar purpose.
2. a building used for such work, as a college, school, hospital, mental hospital, or the like.

The provision of accommodation and care to frail older people is funded by the Government under the Aged Care Act. The Aged Care Act refers to these services as 'residential aged care'.

An entity that meets the suitability criteria set out in the Aged Care Act is approved to provide residential aged care services at certain establishments. These establishments are required to be approved under the Aged Care Act, and are commonly referred to as 'aged care homes'.

It is accepted that an establishment which is approved to provide accommodation and care to aged persons

under the Aged Care Act is a home - in the sense of an institution - that exists 'for' aged persons.

Accordingly, an establishment that is approved under the Aged Care Act for use in the provision of residential aged care services satisfies the meaning of a 'home for aged persons' for the purposes of paragraph 53(4)(d) of the EGCSA.

Note: The Fuel Tax Act 2006 has effect from 1 July 2006 and provides an entitlement to a fuel tax credit for taxable fuel that is acquired, manufactured in or imported into Australia for a use that qualified for an off-road credit or on-road credit under the EGCSA.

Date of decision: 11 September 2006

Legislative References:

Energy Grants (Credits) Scheme Act 2003
subsection 53(4)
paragraph 53(4)(d)

ATO Interpretative Decisions overturned by this decision

ATO ID 2005/269

Keywords

EGCS off-road diesel
EGCS use of eligible fuel at certain premises
Energy grants (credits) scheme

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