



**Subsidising Big Coal:
Handouts to Australia's biggest
coal mining companies through
the Fuel Tax Credits Scheme**



**AUSTRALIAN
CONSERVATION
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Introduction

The Government hands out around \$6 billion dollars in fuel tax subsidies every year to a wide range of industries through the Fuel Tax Credits Scheme. Despite only making 1 per cent of claims, the mining industry received 40 per cent of the total amount of fuel tax credits claimed in 2012-13. The biggest average claims in the mining industry are made by the coal miners. This report makes a preliminary estimate of the amount of fuel tax credits claimed by the biggest coal mining companies in Australia.

Companies do not routinely disclose how much fuel they use or the value of fuel tax credits afforded to them. Treasury and the Tax Office do not disclose this information either. If the companies would provide ACF with details of the fuel tax credits they receive from the taxpayer, we would be more than happy to re-do this analysis to incorporate the exact figures.

To estimate how much each coal mining company may receive in fuel tax credits, this report uses publicly available data on total coal production in Australia and the total value of fuel tax credits claimed by the coal mining industry.

The report is divided into three sections.

The first section estimates the amount of fuel tax credits claimed by Australia's biggest coal mining companies.

The second section identifies the potential budget savings that could arise if fuel tax credits were reduced over four years and capped at \$20,000 per claimant.

The third section identifies the legislative changes that would be required to enact a transition to a \$20,000 cap per claimant.

Analysis by Carbon Tracker and research in *Nature* suggests at least 80 per cent of the world's coal reserves must remain in the ground if the world is to have a high probability of avoiding an increase in global temperatures of more than 2 degrees Celsius.¹ This means the economy needs to rapidly move away from fossil fuel use. Budgetary measures should not encourage greater use of fossil fuels, particularly when they are being used to mine coal, thereby perpetuating a climate-damaging cycle.

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Environmental Justice Australia provided the legal analysis for this report.

FOOTNOTES

¹ Carbon Tracker, Unburnable Carbon – Are the world's financial markets carrying a carbon bubble? September 2014.

Christophe McGlade and Paul Ekins, 'The geographical distribution of fossil fuels unused when limiting global warming to 2 °C' *Nature*, 8 January 2015.

Section 1: How much do coal companies in Australia receive in Fuel Tax Credits?

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In 2012-13 Australia's taxpayers provided some of the world's largest and most profitable resource companies with millions of dollars in fuel tax credits for coal mining operations.

The coal mining industry is a large recipient of fuel tax credits in Australia. In 2012-13 the industry received \$767 million in fuel tax credits.² This amounts to 14 per cent of the total value of claims. The average value of coal mining claims was the second highest of any industry that claimed fuel tax credits in 2012-13 and the highest average claim from the mining sector.

ACF has endeavoured to calculate which coal miners are the biggest recipients of fuel tax credits. The credits effectively subsidise the companies' business fuel use. Estimates on the amount of fuel tax credits claimed by companies are based on publicly available information from the Australian Tax Office on fuel tax credits and publicly available production figures published by the coal mining companies.

In the table below the three columns on the right hand side show revenue from each company's Australian coal operations, its Australian coal earnings before interest and tax is removed (EBIT) in A\$m and its worldwide EBIT in US\$m. The columns on the left of the table set out each company's annual coal production (in megatons), the share of Australian coal production this represents and an estimate of how much each company received in fuel tax credits in 2012-13 for its Australian coal operations.

Further explanation of the methodology and the data is in appendix A.

In the context of the 2014-15 federal budget, the entire fuel tax credit scheme is forecast to be the Government's 15th biggest spending program.⁷ Over the next 4 years the Government will spend more on the Fuel Tax Credit Scheme than on overseas aid.

FOOTNOTES

² Australian Taxation Office, Taxation Statistics 2011-12, Fuel tax credits – claims paid by industry <http://data.gov.au/dataset/taxation-statistics-2011-12/resource/97706a92-dfd2-43a4-a1a5-43ade4a13825>

³ IBIS World Industry Report, Black Coal Mining in Australia, February 2015.

⁴ IBIS World Industry Report, Black Coal Mining in Australia, February 2015.

⁵ IBIS World Industry Report, Black Coal Mining in Australia, February 2015.

⁶ IBIS World Company Report, Peabody Energy Australia Pty Ltd, Profile Report. December 2013.

⁷ The Treasury, Budget 2014-15, Budget Paper 1, Statement 6: Expenses and Net Capital Investment, Table 3.1: Top 20 Programmes by expenses in 2014-15. http://budget.gov.au/2014-15/content/bp1/html/bp1_bst6-01.htm

| Company | Annual coal production (MT) | Share of Australian coal production | Estimated FTCs ^x received 2012-13 millions (\$AU) | 4-year average (2010-2013) | | |
|------------------|-----------------------------|-------------------------------------|--|--|---|---|
| | | | | Revenue from Australian coal operations millions (\$AU) ³ | Australia coal operations EBIT millions (\$AU) ⁴ | Worldwide EBIT millions (\$US) ⁵ |
| Glencore Xstrata | 65 | 14% | 109 | 4,575 | 325 | 25,208 |
| BHP Billiton | 56 | 12% | 93 | 8,150 [^] | 1,162 [^] | 6,678 [*] |
| Peabody | 35 | 8% | 58 | 2,732 | - 162 | 1,708 [#] |
| Rio Tinto | 34 | 7% | 57 | 5,025 | 748 | 23,158 |
| Anglo American | 29 | 6% | 49 | 3,525 | 456 | 10,928 |
| Total | 219 | 48% | 366 | 24,007 | 2,529 | 67,679 |

^x Fuel Tax Credits

[^] Average across 2010-11 to 2013-14

^{*} BHP Billiton figures are 3-year averages based on 11-12 to 13-14 financial years

[#] Profit before tax figures

Section 2: How would reform of Fuel Tax Credits affect the Budget?

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The fuel tax credits system is an example of an environmentally damaging incentive created by legacy policies that are entrenched in Australia's tax system for special interest groups. The largest coal mining companies operating in Australia have their fuel subsidised by the taxpayer while they mine a highly polluting substance. In a world attempting to avoid damaging climate change, it is reckless for the Australian Government to continue subsidising fuel for companies to dig up a dangerous fossil fuel.

A large number of industries take advantage of fuel tax credits. It is not ACF's intention to disadvantage users of the scheme that make small claims, such as farmers. Therefore ACF is proposing a \$20,000 cap per claimant, so those making small claims would not be

adversely affected. The cap would be phased in over a few years, starting at an \$80,000 cap and stepping down by \$20,000 a year until a final cap of \$20,000 is reached. This cap would ensure the vast majority of industries are able to continue to claim as they do now.

The table below outlines the potential savings to the budget.

| Year | 2014-15 millions (\$AU) | 2015-16 millions (\$AU) | 2016-17 millions (\$AU) | 2017-18 millions (\$AU) | Total millions (\$AU) |
|--|-----------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|---------------------------------|
| FTC cost to the Budget (Treasury projections) | 6,270 | 6,822 | 7,211 | 7,615 | 27,918 |
| FTC cost to the Budget (with ACF proposal) | 3,179 | 3,205 | 2,988 | 2,673 | 12,045 |
| Savings | 3,091 | 3,617 | 4,223 | 4,942 | 15,873 |

ACF's reform proposal is based on the 2012-13 tax statistics and Treasury projections and assumes a start date of 2015-16. However, to illustrate the potential savings over the current forward estimates period, we have included figures from 2014-15 onwards in the above table.

Section 3: What legislative changes are needed to enact a cap on Fuel Tax Credits?

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Legal advice provided by Environmental Justice Australia indicates legislative reform of the Fuel Tax Credits Scheme is relatively straightforward.

The Fuel Tax Credits Scheme currently applies to all industries and there is no cap on the dollar amount eligible businesses ('claimants') can claim.

A cap on the total amount a business can claim each year when filing their business activity statement can be inserted through amendments to the Act.

The proposed amendments would refine the purpose of the Act to allow for fuel tax to apply to fuel used by enterprises that are high fuel users and to introduce a cap on the total dollar amount each claimant can claim each financial year beginning with \$80,000 and reducing every year by \$20,000 until a final cap of \$20,000 is reached.

PROPOSED AMENDMENTS TO THE FUEL TAX ACT 2006 (CTH)

Amend section 2-1 by inserting the following after subsection (b):

"(c) fuel used by enterprises that are high fuel users."

The amended section would therefore read as follows:

2-1 Overview and purpose of the fuel tax law

This Act provides a single system of fuel tax credits. Fuel tax credits are paid to reduce or remove the incidence of fuel tax levied on taxable fuels, ensuring that, generally, fuel tax is effectively only applied to:

- (a) fuel used in private vehicles and for certain other private purposes;
- (b) fuel used on-road in light vehicles for business purposes; and
- (c) fuel used by enterprises that are high fuel users.

After section 43-5(1): Working out your fuel tax credit, insert the following note:

"Note: The amount of the credit is capped at a maximum dollar value amount under section 43-12."

The amended sub section would therefore read as follows:

43-5 Working out your fuel tax credit

- (1) The amount of your tax fuel credit for taxable fuel is the amount of effective fuel tax that is payable on the fuel

Note: The amount of the credit may be reduced under section 43-10.

Note: The amount of the credit is capped at a maximum dollar value amount under section 43-12.

After section 43-10: Reducing the amount of your fuel tax credit, insert the following:

43-12 Cap on the amount of your fuel tax credit

- (1) The amount of your fuel tax credit for taxable fuel cannot exceed \$80,000 in the financial year 2015-2016.
- (2) The amount of your fuel tax credit for taxable fuel cannot exceed \$60,000 in the financial year 2016-2017.
- (3) The amount of your fuel tax credit for taxable fuel cannot exceed \$40,000 in the financial year 2017-2018.
- (4) The amount of your fuel tax credit for taxable fuel cannot exceed \$20,000 in each financial year from 2018-2019 onwards.

APPENDIX A – METHODOLOGY

- 1 Total saleable coal production in Australia in financial year 2012-13 = 459 million tonnes.⁸
▼
- 2 Total Fuel Tax Credits Received by Coal Sector in Australia in FY 2012-13 = \$767 million.⁹
▼
- 3 Average fuel tax credit per tonne of coal (number 2/number 1) - \$1.67
▼
- 4 Saleable coal produced by each company in calendar year 2013¹⁰
▼
- 5 Fuel tax credits received by company (number 3 multiplied by number 4)

Every company will have a different rate of fuel per tonne of coal produced. Given the significant amount of overburden spoil that needs to be removed, the fuel costs for surface or open cut mines are considerably higher than for underground operations. So a company's total fuel tax credit depends on the mix of different mines owned by the company and the technology and vehicles it uses.

As a result of the limit of publicly available information, saleable coal is based on figures for the 2013 calendar year. This results in a comparison of fuel tax credits received in the 2012-13 financial year with coal produced in the 2013 calendar year. This is acknowledged as a limitation of this analysis. (If the companies would provide ACF with details of the fuel tax credits they receive from the taxpayer, we would be more than happy to re-do this analysis to incorporate the exact figures.)

APPENDIX B – BACKGROUND AND HISTORY OF THE FUEL TAX CREDITS SCHEME

Taxation on fuel in the form of an excise on the use of fuel began in Australia in 1929, when the Federal Government introduced a rate of 1 penny per gallon.¹¹ The collection of this tax was directly linked to road funding. In 1957 an excise on diesel was introduced to ensure that operators of diesel vehicles contributed something to the maintenance of public roads. At this time diesel use not on public roads was granted an exemption from the excise because of the link between excise and public road funding.

Prior to 1959, the tax imposed on fuel was directly linked to spending on public road infrastructure and development. As many businesses (such as mining companies), operated on private roads, the Scheme was intended to reimburse non-public road users for this tax as they were not obtaining a benefit from investment in public road development.

In 1959, the collection of the fuel excise was decoupled from road funding and the money collected was directed into general revenue. From here on road funding has been part of the general government budget process.

The Fuel Tax Credit Scheme ('the Scheme') provides tax credits to eligible businesses for the use of fuel.

The Scheme is facilitated by the *Fuel Tax Act 2006* (Cth) ('the Act') which sets out who is entitled to a fuel tax credit and how a fuel tax credit is calculated, as well as the *Excise Tariff Act 1921* (Cth) which outlines the tax rate (also known as the excise duty) payable on certain fuels for particular uses.

The purpose of the Act is to 'reduce or remove' the fuel tax paid by eligible businesses by providing those businesses with fuel tax credits, ensuring that fuel tax is generally only applied to private vehicles (meaning vehicles not used for business purposes) or light vehicles (vehicles that weight 4.5 tonnes or less) used on public roads for business purposes.¹²

Currently, revenue raised by fuel taxes goes into the Commonwealth Government's Consolidated Revenue Fund¹³. Additional

FOOTNOTES

- 8 Bureau of Resources and Energy Economics, 2014 energy statistics data, Table I, Australian Production of Primary fuels, Physical units, Black Coal and Brown Coal Production 2012-13. <http://www.industry.gov.au/industry/Office-of-the-Chief-Economist/Publications/Pages/Australian-energy-statistics.aspx#>
- 9 Australian Taxation Office, Taxation Statistics 2011-12 Fuel schemes: Fuel tax credit scheme – claims paid, by fine industry, 2006-08 to 2012-13 financial years. <https://data.gov.au/dataset/taxation-statistics-2011-12/resource/35192f2be-dd0b-4472-9915-e3f4e3ec7a58>
- 10 Taken from annual reports and production reports of companies. BHP Billiton statistics are for the 2012-13 calendar year.
- 11 History of fuel taxation in Australia, <http://www.fueltaxinquiry.treasury.gov.au/content/backgnd/002.asp> September 2001.
- 12 *Fuel Tax Act 2006* (Cth) s 2-1 and s 41-20

revenue raised from the reintroduction of fuel indexation will be deposited into a special account from 1 July 2015.¹⁴ Spending from the Consolidated Revenue Fund is determined by the Commonwealth Government's Annual Budget while revenue in the Fuel Indexation Special Account ('FISA') will be earmarked for road infrastructure funding only. Other than revenue in the FISA, which represents a relatively small percentage of fuel tax revenue, the majority of fuel tax revenue is not spent *directly* on public road infrastructure as initially intended.¹⁵

OPERATION OF THE SCHEME

Fuel tax credits are provided to businesses that meet the following criteria:

- The business must be registered for GST or 'be required to register for GST'¹⁶ and
- The fuel used by the business must be acquired, manufactured, or imported into Australia for use in carrying on their enterprise.¹⁷ This means the business must use the fuel in the course of their business activities,¹⁸ for example, mining and farming.

Fuel tax credits are denied to businesses in the following four situations:

- Another business entity was previously entitled to the credit; or
- The fuel is intended for use on public roads in light vehicles; or
- The fuel is intended for use in vehicles that do not meet certain environmental criteria; or
- The fuel is for use in aircrafts.¹⁹

The amount of the credit available for taxable fuel is the amount of fuel tax payable on the fuel (the fuel tax amount). If the Commonwealth pays any grant or subsidy to a fuel user in respect of the fuel, that grant or subsidy will be deducted from the fuel tax amount,²⁰ unless it is one of three exempt grants.²¹ The effective fuel tax is calculated using the following formula:

Effective fuel tax = Fuel tax amount – grant or subsidy.

The fuel tax amount is outlined in the Schedule to the *Excise Tariff Act 1921* (Cth) as follows:

- 38.9 cents per litre for liquid fuels (like petroleum, gasoline and diesel);
- 10.2 cents per litre for liquefied petroleum gas; and
- 21.3 cents per litre for compressed natural gas and liquefied natural gas.²²

Example

You own a company that uses fuel in your business vehicles. The vehicles weigh more than 4.5 tonnes, are not driven on public roads and are fuelled by diesel. You are eligible to claim a fuel tax credit.

In the last financial year, you used 10,000 litres of fuel and paid 38.9 cents per litre in fuel tax totalling \$3,890. Therefore, your fuel tax amount is \$3,890 and as you did not receive any subsidies or grants, your effective fuel tax is also \$3,890.

This means you are eligible to receive a fuel tax credit of \$3,890 essentially refunding you the entire amount of tax you paid on your fuel.

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FOOTNOTES

¹³ Parliament of Australia (2014) Excise Tariff Amendment (Fuel Indexation) Bill 2014, Explanatory Memorandum.

¹⁴ Fuel Indexation (Road Funding) Special Account Bill 2014.

¹⁵ 'History of Fuel Taxation in Australia', Background Paper to the Fuel Taxation Inquiry, Department of Treasury, Commonwealth of Australia, 2002, pages 1-2.

¹⁶ *Fuel Tax Act 2006* (Cth) s 41-5(2).

¹⁷ *Fuel Tax Act 2006* (Cth) s 41-5(1).

¹⁸ GST Act 1999 (Cth), ss 9-20 and 195-1.

¹⁹ *Fuel Tax Act 2006* (Cth) ss 41-15 – 41-30.

²⁰ *Fuel Tax Act 2006* (Cth) s 43-5.

²¹ *Fuel Tax Act 2006* (Cth) ss 43-5(3) excludes a grant under the Biofuels Capital Grants Program, a grant for petrol or diesel under the *Energy Grants (Cleaner fuels) Scheme Act 2004* and a benefit under the *Product Stewardship (Oil) Act 2000*.

²² *Excise Tariff Act 1921* (Cth) Schedule.



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