1998/94

TRANSIT NEW ZEALAND (APPORTIONMENT AND REFUND OF EXCISE DUTY) REGULATIONS 1998

THOMAS EICHELBAUM, Administrator of the Government

ORDER IN COUNCIL

At Wellington this 15th day of May 1998

Present:

HIS EXCELLENCY THE ADMINISTRATOR OF THE GOVERNMENT IN COUNCIL

PURSUANT to section 110 of the Transit New Zealand Act 1998, His Excellency the Administrator of the Government, acting by and with the advice and consent of the Executive Council, makes the following regulations.

ANALYSIS

1. Title and commencement
2. Interpretation
3. Amounts of excise duty to be credited to National Roads Fund
4. Entitlement to refunds
5. Rates of refunds

SCHEDULE
Kinds of Vehicles Included in the Definition of Exempted Vehicle

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Transit New Zealand (Apportionment and Refund of Excise Duty) Regulations 1998.

(2) These regulations come into force on 16 May 1998.

2. Interpretation—(1) In these regulations, unless the context otherwise requires,—

"The Act" means the Transit New Zealand Act 1989:

"Adjoining" means contiguous, or contiguous except for a separation by a river, stream, drain, canal, or other watercourse, or by a road or railway:

"Agricultural operation" means any operation concerned directly with the management of a farm; and includes the transport on a road of the produce of a farm, farm implements, stock, or other requisites of any kind whatsoever for a farm, if they are transported—

(a) From a part of a farm to another part of the same farm or from a farm to another adjoining farm that is owned or managed by the same person; or

(b) From a farm to another farm owned or managed by the same person if the motor vehicle carrying the goods is not taken during any 1 trip along more than 21 kilometres of public highway in going from the owner's farm or other place of garage and in returning to that farm or place:

"Commercial vessel" means a vessel used exclusively or principally for commercial purposes:

"Exempted vehicle" means:

(a) A motor vehicle that is not required to be registered under section 5 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986 and is used for commercial purposes; or

(b) A motor vehicle that is of a kind described in the Schedule; but

(c) Does not include—

(i) Any licensed vehicle; or

(ii) Any vehicle that has trade plates affixed to it in accordance with section 35 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986:

"Farm" means—

(a) A dairy farm, cattle farm, pig farm, or sheep farm; or

(b) A market garden, orchard, plant nursery, permanent State forest, or any other area of land on which trees or plants of any description are cultivated; or

(c) An apiary; or

(d) A poultry farm or egg-producer's farm;—

and farmer has a corresponding meaning:

"Garage" means any place, whether a building or other structure or not, in which a motor vehicle is usually kept when not in use:

"Licensed vehicle" means a motor vehicle that is required to be licensed under the Road User Charges Act 1977 and to which a licence within the meaning of that Act relates at all times during any period in respect of which a refund is applied for under Part V of the Act:

"Plants" includes hops, peas, potatoes, tobacco, and other crops of any kind whatsoever.

(2) Expressions used in the Schedule that are not not defined in these regulations but are defined in the Transport Act 1962 have, in the Schedule, the meanings defined in that Act.

3. Amounts of excise duty to be credited to National Roads Fund—(1) The amounts specified in subclause (2) must be credited to the National Roads Fund out of money paid into the Crown Bank Account as excise duty.

(2) The amounts referred to in subclause (1) are as follows:

(a) 13.6 cents of the excise duty received in respect of each litre of motor spirits:

(b) 10.4 cents of the excise duty received in respect of each litre of liquefied petroleum gas:

(c) $3.17 of the excise duty received in respect of each gigajoule of compressed natural gas.

4. Entitlement to refunds—(1) A person is entitled, under section 101 of the Act, to a refund of the excise duty and goods and services tax charged in respect of motor spirits to the extent that the motor spirits are used—

(a) As fuel in an exempted vehicle; or

(b) As fuel in a licensed vehicle; or

(c) As fuel in a commercial vessel; or

(d) For commercial purposes otherwise than as fuel in any motor vehicle, vessel, or aircraft.

(2) A person is entitled, under section 101 of the Act, to a refund of the excise duty and goods and services tax charged in respect of compressed natural gas or liquefied petroleum gas to the extent that the compressed natural gas or the liquefied petroleum gas is used—

(a) As fuel in an exempted vehicle; or

(b) As fuel in a licensed vehicle; or

(c) For commercial purposes otherwise than as fuel in a motor vehicle.

(3) Nothing in this regulation applies to any motor spirits, compressed natural gas, or liquefied petroleum gas used as fuel for a motor vehicle that is principally used in vehicle races or trials or other sporting events.

(4) Nothing in this regulation applies to any motor spirits, compressed natural gas, or liquefied petroleum gas in respect of which an exemption from or refund of excise duty has been granted under any other enactment.

5. Rates of refunds—Refunds of excise duty and goods and services tax to which persons are entitled under regulation 4 are payable at the following rates:

(a) In respect of motor spirits, at the rate of 15.3 cents per litre:

(b) In respect of liquefied petroleum gas, at the rate of 11.7 cents per litre:

(c) In respect of compressed natural gas, at the rate of $3.57 per gigajoule.

Reg. 2

SCHEDULE

KINDS OF VEHICLES INCLUDED IN THE DEFINITION OF EXEMPTED VEHICLE

PART 1

FARM VEHICLES

1. (1) A motor vehicle (not being a trailer) designed exclusively or principally for agricultural operations and used on a road exclusively for agricultural operations, including mobile or movable huts, galleys, and similar motor vehicles used on a road solely in connection with such operations.

(2) Nothing in subclause (1) applies to—

(a) A motor vehicle designed exclusively or principally for the spreading or cartage and spreading of lime or fertiliser if it is used on a road for the cartage of lime or fertiliser; or

(b) A motor vehicle designed exclusively or principally as a weed sprayer on a truck chassis.

2. A motor vehicle (not being a trailer) owned by a person carrying on business as a farmer and used on a road only in proceeding, in connection with the owner's agricultural operations, from one part of a farm to another part of the same farm or from one farm to another farm that is owned or managed by the same person.

3. A tractor or traction engine, if used on a road either—

(a) Exclusively for agricultural operations; or

(b) Principally for agricultural operations and otherwise solely in connection with the construction or maintenance of roads.

4. (1) A tractor, and a motor vehicle adapted in its design principally for use as a tractor, if the tractor or motor vehicle is owned by a person carrying on business as a farmer and is used on a road only for all or any of the following purposes:

(a) For the owner's agricultural operations:

(b) For the cartage of milk, cream, or whey to or from a dairy factory:

(c) For the cartage of any other produce of a farm, farm implements, stock, or other requisites of any kind whatsoever for a farm if they are carried from a farm to another farm that is owned or managed by the same person or if they are taken during any 1 trip along not more than 21 kilometres of public highway in going from the owner's farm or other place of garage and in returning to that farm or that place.

(2) A tractor does not cease to be a tractor for the purposes of subclause (1) merely because it is fitted with a readily detachable box or platform that is used for the carriage of goods.

5. A tractor owned and used by a person carrying on business as an agricultural contractor and used on a road only for all or any of the following purposes:

(a) The cartage by means of a trailer of farm implements if the tractor and trailer are not taken during any 1 trip for the cartage of farm implements along more than 21 kilometres of public highway in going from the usual place of garage and in returning to that place:

(b) The haulage on its own wheels of a farm implement or farm machine.

SCHEDULE—*continued*

KINDS OF VEHICLES INCLUDED IN THE DEFINITION OF EXEMPTED VEHICLE—*continued*

PART 1—*continued*

FARM VEHICLES—*continued*

6. (1) A tractor that—

(a) Is designed and used partly for the purpose of loading lime or fertiliser into topdressing aircraft and partly for drawing a trailer that is designed and used exclusively for carrying aviation fuel in a permanently attached tank for use in topdressing aircraft, and for no other purpose; and

(b) Is not taken during any 1 trip along more than 21 kilometres of public highway in going from the usual place of garage and returning to that place.

(2) A trailer described in subclause 1 (a) while being drawn by a tractor described in subclause (1).

PART 2

MOBILE MACHINERY

7. (1) A motor vehicle exclusively designed and used on a road for driving, carrying, or propelling, any of the following:

(a) Aerodrome runway sweepers:

(b) Electrical substations:

(c) Filters for transformer oil:

(d) Log haulers that are stationary when hauling logs:

(e) Aero engine test benches.

(2) Subclause (1) does not apply to a motor vehicle unless the relevant machinery specified in that subclause is permanently attached to the motor vehicle.

PART 3

MISCELLANEOUS

8. A tractor or self-propelled grassmower, that is used exclusively for—

(a) The cultivation or upkeep of land used for cemetery purposes or for the purpose of sport, recreation, or education; or

(b) The cutting of grass verges of roads.

9. A tractor owned by a local authority and used exclusively for the construction, maintenance, or mowing of stopbanks and the banks of rivers, streams, drains, canals, or other watercourses.

10. A mobile or movable hut, galley, or similar motor vehicle that is used on a road solely in connection with the construction or maintenance of roads.

11. A tractor used exclusively for shunting railway rolling stock.

12. Any traction engine.

13. Any forklift.

14. An aerodrome crash fire tender that is used on a road only in emergencies.

15. A motor vehicle, used exclusively in connection with the embarking and disembarking of ships' passengers or for loading and unloading ships'

SCHEDULE—*continued*

KINDS OF VEHICLES INCLUDED IN THE DEFINITION OF EXEMPTED VEHICLE—*continued*

PART 3—*continued*

MISCELLANEOUS—*continued*

mails, cargo, and passengers' baggage, and used on a public highway only when proceeding unladen from one wharf to another wharf or from its usual place of storage to a wharf and in returning to that place of storage.

16. A trailer while being drawn by a motor vehicle specified in clauses 7 to 14.

MARIE SHROFF,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 16 May 1998, determine the proportions of excise duty collected on petrol, LPG, and CNG that must be credited to the National Roads Fund. They also specify the circumstances in which refunds of excise duty and goods and services tax charged on petrol, LPG, and CNG may be claimed, as well as the amounts of such refunds.

The regulations re-enact provisions previously contained in the Transit New Zealand Act 1989 and in the Transit New Zealand (Exempted Vehicles) Order 1995. The only substantive changes concern the amounts to be credited to the National Roads Fund, and the amounts of the refunds that can be claimed on excise duty and goods and services tax.

The amount to be credited to the National Roads Fund from duty collected—

- on petrol is increased from 9.4 cents per litre to 13.6 cents per litre:
- on LPG is increased from 8.4 cents per litre to 10.4 cents per litre:
- on CNG is unchanged at $3.17 per gigajoule.

The refund of excise duty and goods and services tax payable—

- on petrol is increased from 10.58 cents per litre to 15.3 cents per litre:
- on LPG is increased from 9.45 cents per litre to 11.7 cents per litre:
- on CNG is unchanged at $3.57 per gigajoule.

Issued under the authority of the Acts and Regulations Publication Act 1989.
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These regulations are administered in the Ministry of Transport.