
STATUTORY INSTRUMENTS

2004 No. 2065

The Biofuels and Other Fuel Substitutes
(Payment of Excise Duties etc.) Regulations 2004

PART 7

Relief for electricity generation

Interpretation of this Part

20. In this Part, “qualified claimant” means a person who causes biofuel to be used as motor fuel in a generator to produce electricity.

Relief

21.—(1) Relief is afforded in accordance with this Part if a quantity of biofuel has been—

- (a) charged with biofuels duty, and
- (b) used as motor fuel in a generator to produce electricity,

(2) The amount that is afforded is the amount of the biofuels duty that has been charged and paid.

(3) Relief is allowed only upon the written application of a qualified claimant.

(4) No relief is allowed in respect of any biofuels duty that is the subject of any other application or claim for repayment, remission or drawback.

Form of relief

22.—(1) If, at the time that the claim is made, the qualified claimant is an approved person, relief shall be in the form of an allowance to be set-off against duty payable to the Commissioners by the qualified claimant.

(2) If, at the time that the claim is made, the qualified claimant—

- (a) is not an approved person,
- (b) is a producer in relation to the biofuel that is the subject of the claim for relief, and
- (c) has entered the premises (in accordance with regulation 8) on which that biofuel was charged with biofuels duty,

relief shall be in the form of an allowance to be set-off against the biofuels duty payable to the Commissioners by the qualified claimant in respect of the biofuel that is the subject of the claim for relief.

(3) In any other case, the relief shall be in the form of a repayment by the Commissioners to the qualified claimant.

(4) If two or more qualified claimants make application for relief relating to the same fuel, the Commissioners may determine which one shall be afforded the relief.

(5) If in relation to any application for relief it appears to the Commissioners that the relief applied for exceeds the amount allowable under regulation 21, they may, in such circumstances as they see fit and notwithstanding the provisions of regulations 25(1) and 26(3), reduce the amount of the claim to such lesser sum as appears to them to be allowable.

Set-off

23.—(1) In the case described by regulation 22(1) (approved persons), the qualified claimant must set-off the relief in accordance with regulation 6 of the Deferment Regulations.

(2) In the case described by regulation 22(2) (producers), the qualified claimant must set-off the relief against the biofuels duty that he is obliged to pay under regulation 19(1).

(3) In any other case, the Commissioners may set-off the amount of any repayment under regulation 22(3) against any other debt then due to them from the qualified claimant.

Applications

24.—(1) Applications for relief that is set-off in accordance with regulation 23(1) must be made by submitting the claim for set-off governed by regulation 6(2) of the Deferment Regulations.

(2) Applications for relief that is set-off in accordance with regulation 23(2) must accompany the return governed by regulation 19(1) that he is obliged to furnish in respect of the biofuels duty.

(3) Applications for repayment—

- (a) must be made no later than 3 months after the period to which they relate, and that period must not be shorter than 2 months nor longer than 3 years, and
- (b) shall not lie where the amount to be paid is less than £50.

Cancellation of relief

25.—(1) If there is a contravention of, or failure to comply with, any condition imposed by or under regulation 26 or 27, the relief allowed shall be cancelled.

(2) Where any relief is cancelled, any person who is a qualified claimant in relation to the application for relief shall, on demand, be liable to repay the amount of the relief.

General conditions

26.—(1) Relief is allowed subject to the following conditions.

(2) The qualified claimant must, on being so required by the Commissioners, furnish to their satisfaction evidence that—

- (a) the biofuel that is the subject of the application for relief has been used as motor fuel in a generator to produce electricity, and
- (b) the biofuels duty that is the subject of the application for relief has been paid and is not the subject of any other application or claim for repayment, remission or drawback.

(3) The amount of relief applied for must not exceed the amount of relief that may be allowed by regulation 21.

Conditions imposed by the Commissioners

27. Relief is allowed subject to such conditions (if any) as the Commissioners impose on a qualified claimant.