

EXPLANATORY MEMORANDUM TO
THE HYDROCARBON OIL DUTIES (SULPHUR-FREE DIESEL)
(HYDROGENATION OF BIOMASS) (RELIEFS) REGULATIONS 2006

2006 No. 3426

1. This explanatory memorandum has been prepared by the Commissioners for Her Majesty's Revenue and Customs and is laid before Parliament by Command of Her Majesty.

2. Description

These Regulations, which come into force on 12th January 2007, introduce a partial relief from excise duty charged on sulphur-free diesel which is produced in part from the hydrogenation of biomass. The relief takes the form of a remission of duty.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None.

4. Legislative Background

4.1 Section 6 of the Hydrocarbon Oil Duties Act 1979¹ ("the Act") provides for a duty of excise to be charged on hydrocarbon oil² imported into the United Kingdom or produced in the United Kingdom and delivered to home use from certain specified premises. The rate of duty for sulphur-free diesel is set out in section 6(1A) (ca).

4.2 Section 20AA of the Act³ provides that the Commissioners may make regulations allowing reliefs as regards any duty of excise which has been charged in respect of hydrocarbon oil. Such relief may take the form of a repayment or remission of duty or an allowance to be set off against duty payable to the Commissioners by the person claiming relief. Relief can be allowed in cases or classes of cases set out in the regulations and to the extent set out in the regulations. Regulations can also provide for relief to be subject to such conditions as the Commissioners may impose on the person claiming relief.

4.3 These Regulations are made under the above powers and provide for relief by way of a partial remission of duty charged on sulphur-free diesel that is produced in part by the hydrogenation of biomass. The amount of the relief is equivalent to the duty differential between sulphur-free diesel and biodiesel and is calculated on the volume of hydrogenated biomass in the fuel after it has been produced.

¹ c. 5. Section 6(1) was amended by section 4(2) of the Finance Act 1982 (c. 39). Section 6(1) was amended and section 6(1A) inserted by section 7 of the Finance Act 1997 (c.16). Section 6(1A) was amended by sections 4(1) and 5(3) of the Finance Act 2000 (c. 17), section 1(1) of the Finance Act 2001 (c. 9), section 4(1) of the Finance Act 2003 (c.14), sections 5(1) and 7(5) of the Finance Act 2004 (c.12) and sections 4(2) and 5(2) of the Finance Act 2005 (c.7).

² A term defined in section 1 of the Act. Section 1 was amended by section 7 of the Finance Act 1997, section 8 of the Finance Act 1998 and section 7 of the Finance Act 2004.

³ Section 20AA was inserted by section 2(1) of the Finance Act 1989 (c.26), and has been amended by section 213, Schedule 21, Part 1(4) of the Finance Act 1993 (c.34), section 9, Schedule 4, Part 3 of the Finance Act 1994 (c.9) and section 10(1) and (3) of the Finance Act 2000.

5. Extent

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Production of hydrocarbon oil normally involves the obtaining of one description of mineral oil from another description of mineral oil. Biodiesel is not a hydrocarbon oil; it is normally produced by putting biomass through a stabilising process called esterification. This biodiesel may then be mixed with sulphur-free diesel for sale at forecourts. An alternative approach is to replace a proportion of the mineral oil feedstock in the refinery process itself with biomass. The feedstock is then hydrogenated, and hydrogen bonds with the carbon in the biomass to form hydrocarbon oil. This produces a fuel that meets the sulphur free-diesel definition in section 1(7) of the Act.

7.2 In 2005 the Government invited tenders for pilot projects using the hydrogenation of biomass. The purpose was to support research into, and the development and demonstration of how the hydrogenation process might work on a large scale as well as demonstrating the potential environmental benefits of the process now and in the future. This relief is now being introduced to facilitate pilot projects by oil refiners, the first of which is expected to take place early in 2007. This initial trial is to last for a period of two weeks. Based on an evaluation of this trial, a decision will be taken on whether to proceed with further trials. For this reason, the relief is limited to a two year period over which such trials may take place.

7.3 There is no guarantee that the duty reduction set for the fuel produced from a pilot will continue once the pilot project is completed. However, the pilot process will be used to inform decisions on the longer-term duty rates for the fuels in question. The information from the pilot schemes will also be shared with other member states of the EU on the basis of encouraging the wider use of the hydrogenation process within the EU if it is seen to offer environmental benefits.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument, as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is that H M Revenue and Customs staff, as part of the assurance of the businesses that are liable to pay hydrocarbon oil duty, will monitor compliance with the Order.

9. Contact

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ann.little@hmrc.gsi.gov.uk can answer any queries regarding the instrument.