

**EXPLANATORY MEMORANDUM TO
THE VALUE ADDED TAX (CONSIDERATION FOR FUEL PROVIDED FOR
PRIVATE USE) ORDER 2010**

2010 No. 919

1. This explanatory memorandum has been prepared by HMRC and is laid before House of Commons by Command of Her Majesty.

This memorandum contains information for the Select Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 VAT is payable if road fuel of a business is used for private motoring. Table A of section 57(3) of the Value Added Tax Act 1994 (“VAT Act”) applies flat rate values for private use of fuel in vehicles based on their CO₂ emissions. This order substitutes a new Table A with effect from a taxable person's first prescribed accounting period started on or after 1 May 2010 and is required (and updated annually) to ensure that the flat rates in the Table reflect any changes in road fuel costs.

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

None

4. **Legislative Context**

4.1 The UK has a derogation (Council Decision 659/2006/EC) from Council Directive (77/388/EEC) (recast as Council Directive 2006/112/EC, OJ L 347, 11.12.2006). The derogation authorises the UK to fix, on a flat rate basis, the proportion of Value Added Tax relating to expenditure on fuel used for private purposes in business cars. The rates are to be established on the basis of CO₂ emissions level of the type of vehicle and reflect fuel consumption. The derogation is operative until 31st December 2015. The amounts of the flat rates must be adjusted annually (“revalorisation”) to reflect changes in the average cost of fuel. This Order makes the necessary adjustments to those figures.

4.2 The Order has been made by the Treasury in exercise of the powers conferred by section 57(4) and 57(4A) of the VAT Act 1994. It amends Table A in Section 57(3) of this Act, which applies flat rate values for private use of fuel in vehicles based on their CO₂ emissions. Section 57(4) of the Value Added Tax Act 1994 provides that the Treasury may by order taking effect from the beginning of any prescribed accounting period substitute a new table for Table A in section 57(3) of the Value Added Tax Act 1994. Section

57(4A) – (4G) give the power to substitute a table which describes vehicles by reference to their CO₂ emissions figure and to make or vary provisions in notes.

4.3 The revalorisation factors in the latest available fuel and duty prices. This Order introduces a new table with effect from a taxable person's first prescribed accounting period started on or after 1 May 2010.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom

6. European Convention on Human Rights

6.1 The Exchequer Secretary to the Treasury: Sarah McCarthy- Fry MP has made the following statement regarding Human Rights:

“In my view the provisions of the Value Added Tax (Consideration for Fuel Provided for Private Use) Order 2010 are compatible with the Convention rights”.

7. Policy background

- *What is being done and why*

7.1 VAT is payable if a business provides road fuel that is used, not for the purposes of the business, but for private motoring. The table of flat rate charges provides a simpler way for businesses to calculate the VAT due. The annual revalorisation amends the value of the existing flat rates for private use of fuel in business vehicles to reflect any change in the fuel price. This adjustment is necessary for the UK to satisfy the terms of the derogation referred to above.

7.2 Table A in section 57(3) of the Value Added Tax Act 1994 applies to calculate the figure that represents the tax inclusive value of the supply. This provides flat rates based on CO₂ emissions in line with the terms of the derogation. Where a vehicle does not have a CO₂ emissions figure the notes to the table apply a CO₂ emissions figure by reference to the vehicle's engine size. The revalorised flat rates will be calculated in line with the average cost of fuel applicable in March 2010.

7.3 Revalorising the rates ensures that the fuel scales continue to produce approximately the same amount of revenue as would accrue if VAT was charged on the private use of fuel in the normal way. A revalorisation of these charges will have a neutral effect on VAT receipts.

- ***Consolidation***

7.4 There are no plans to consolidate the legislation as a result of this minor amendment.

8. Consultation outcome

8.1 Consultation was not required; the fuel scale charges are revalorised annually to reflect any change in the fuel price in line with the terms of the derogation.

9. Guidance

9.1 All guidance will be updated as appropriate as part of the normal period process of review.

10. Impact

10.1 An Impact Assessment has not been produced for this instrument as it has a negligible impact on the public sector, business, charities or voluntary bodies.

11. Regulating small business

11.1 The legislation applies equally to small business. Respondents to informal consultation on the more significant change of reforming the fuel scale charges to a CO₂ basis in 2007 raised no concerns about the impact on small businesses of altering fuel scale charges in general.

12. Monitoring & review

12.1 The revalorisation of fuel scale charges will be subject to internal review after 12 months and the legislation will be amended if necessary to reflect any changes to the average cost of fuel.

13. Contact

Irene Frost at Her Majesty's Revenue and Customs, Tel: 0207 147 0685 or email: Irene.Frost@hmrc.gsi.gov.uk can answer any queries regarding the instrument.