

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 12 March 2001

concerning reduced rates of excise duty and exemptions from such duty on certain mineral oils when used for specific purposes

(2001/224/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 92/81/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on mineral oils ⁽¹⁾, and in particular Article 8(4) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Pursuant to Article 8(4) of Directive 92/81/EEC, the Council, by Decision 1999/880/EC ⁽²⁾, authorised Member States to introduce exemptions or reductions in the excise duty charged on mineral oils for specific policy considerations.
- (2) The Council is required to decide, on the basis of a proposal from the Commission, whether the provisions in Decision 1999/880/EC enacting those exemptions and reductions should be modified or extended for a further period.
- (3) The abolition of the automatic extensions provided for in Decision 1999/880/EC would give the Council more effective control over such derogations, by ensuring that they are examined regularly and that conscious and explicit decisions are taken as to their continuation.
- (4) While guaranteeing equal treatment between Member States having similar derogations, this Decision is intended to extend for a six-year period all the deroga-

tions in force save those for road transport operators which are extended for a two-year period.

- (5) This Decision shall be without prejudice to the outcome of any procedures relating to distortions of the operation of the single market that may be undertaken, in particular under Articles 87 and 88 of the Treaty. It does not override the requirement for Member States to notify instances of potential State aid to the Commission under Article 88 of the Treaty.
- (6) Decisions 1999/880/EC, 1999/804/EC ⁽³⁾, 2000/266/EC ⁽⁴⁾, 2000/433/EC ⁽⁵⁾, 2000/434/EC ⁽⁶⁾, 2000/446/EC ⁽⁷⁾ and 2000/719/EC ⁽⁸⁾ should be repealed,

HAS ADOPTED THIS DECISION:

Article 1

1. By way of derogation from the provisions of Directive 92/82/EEC regarding the minimum rates of excise duty on mineral oils ⁽⁹⁾, Member States are hereby authorised to continue to apply the reductions in rates of excise duties or exemptions from such duty set out in Annex I hereto.
2. Subject to a prior review by the Council, on the basis of a proposal from the Commission, this authorisation shall expire on 31 December 2006.

Article 2

1. By way of derogation from the provisions of Directive 92/82/EEC regarding the minimum rates of excise duty on mineral oils, the Member States concerned are hereby authorised to continue to apply the reductions in rates of excise duties or exemptions from such duty set out in Annex II hereto.

⁽³⁾ OJ L 313, 7.12.1999, p. 9.

⁽⁴⁾ OJ L 85, 6.4.2000, p. 21.

⁽⁵⁾ OJ L 172, 12.7.2000, p. 21.

⁽⁶⁾ OJ L 172, 12.7.2000, p. 23.

⁽⁷⁾ OJ L 180, 19.7.2000, p. 39.

⁽⁸⁾ OJ L 291, 18.11.2000, p. 30.

⁽⁹⁾ OJ L 316, 31.10.1992, p. 19. Directive as amended by Directive 94/74/EC.

⁽¹⁾ OJ L 316, 31.10.1992, p. 12. Directive as last amended by Directive 94/74/EC (OJ L 365, 31.12.1994, p. 46).

⁽²⁾ OJ L 331, 23.12.1999, p. 73.

2. Subject to a prior review by the Council, on the basis of a proposal from the Commission, this authorisation shall expire on 31 December 2002.

Article 3

Decisions 1999/880/EC, 1999/804/EC, 2000/266/EC, 2000/433/EC, 2000/434/EC, 2000/446/EC and 2000/719/EC shall be repealed.

Article 4

This Decision shall apply from 1 January 2001.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 12 March 2001.

For the Council

The President

B. RINGHOLM

ANNEX I

Reduced rates of excise duty and exemptions from such duty referred to in Article 1

1. BELGIUM:

- for liquid petroleum gas (LPG), natural gas and methane;
- for local public passenger transport vehicles;
- for air navigation other than that covered by Article 8(1)(b) of Directive 92/81/EEC;
- for navigation in private pleasure craft;
- for a reduction in the rate of excise duty on heavy fuel oil to encourage the use of more environmentally friendly fuels. Such reduction shall be specifically linked to sulphur content and in no case can the reduced rate fall below EUR 6,5 per tonne;
- for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty.

2. DENMARK:

- for a reduction in the rate of duty on diesel to encourage the use of more environmentally friendly fuels, provided that such incentives are linked to established technical characteristics including specific gravity, sulphur content, distillation point, cetane number and index and provided that such rates are in accordance with the obligations laid down in Directive 92/82/EEC;
- for the application of differentiated rates of excise duty between petrol distributed from petrol stations equipped with a return system for petrol fumes and petrol distributed from other petrol stations, provided that the differentiated rates are in accordance with the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates of excise duty provided for in Articles 3 and 4 thereof;
- for differentiated rates of excise duties on petrol, provided that the differentiated rates are in accordance with the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates of excise duty provided for in Articles 3 and 4 thereof;
- for local public passenger transport vehicles;
- for differentiated rates of excise duties on gas oil, provided that the differentiated rates are in accordance with the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates of excise duty provided for in Article 5 thereof;
- for partial reimbursement to the commercial sector, provided that the taxes concerned are in conformity with Community provisions and provided that the amount of the tax paid and not reimbursed at all times respects the minimum rates of duty or monitoring charge on mineral oils as provided for in Community law;
- for air navigation other than that covered by Article 8(1)(b) of Directive 92/81/EEC.

3. GERMANY:

- for the use of waste hydrocarbon gases as heating fuel;
- a differentiated rate of excise duty on mineral oils used as fuel in local public passenger transport vehicles, subject to compliance with the obligations laid down in Directive 92/82/EEC;
- on samples of mineral oils intended for analysis, tests on production or for other scientific purposes;
- for a differentiated rate of excise duty on heating oils used by manufacturing industries, provided that the differentiated rates are in accordance with the obligations laid down in Directive 92/82/EEC;
- for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty.

4. GREECE:

- for use by the national armed forces;
- to grant relief from the excise duties on mineral oils for fuels intended to be used to power the official vehicles of the Ministry of the Presidency and the national police force;
- for local public passenger transport vehicles;
- for differentiated rates of tax on unleaded petrol to reflect different environmental categories, provided that the differentiated rates are in accordance with the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates of excise duty provided for in Article 4 thereof;
- for LPG and methane used for industrial purposes.

5. SPAIN:

- for LPG used as fuel in local public transport vehicles;
- for LPG used as fuel in taxis;
- for differentiated rates of tax on unleaded petrol to reflect different environmental categories, provided that the differentiated rates are in accordance with the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates of excise duty provided for in Article 4 thereof;
- for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty.

6. FRANCE:

- in the framework of certain policies aimed at assisting areas suffering from depopulation;
- for consumption on the island of Corsica, provided that the reduced rates at all times respect the minimum rates of duty on mineral oils as provided for under Community law;
- for a differentiated rate of excise duty on a new fuel composed of a water-and-antifreeze/diesel emulsion stabilised by surfactants, provided that the differentiated rates are in accordance with the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates of excise duty provided for in Article 5 thereof;
- for a differentiated rate of excise duty for premium-grade unleaded petrol containing a potassium-based additive to improve resistance to valve burn-out (or any other additive of equivalent effect);
- for fuel used in taxis, within the limits of an annual quota;
- for exemption from excise duty on gases used as fuel for public transport subject to an annual quota;
- for an exemption from excise duties for gases used as engine fuels in gas-powered refuse collection vehicles;
- for a reduction in the rate of excise duty on heavy fuel oil to encourage the use of more environmentally friendly fuels; this reduction shall be specifically linked to sulphur content and the rate of duty charged on heavy fuel oil must correspond to the minimum rate of duty on heavy fuel oil as provided for in Community law;
- for an exemption for heavy fuel oil used as fuel for the production of alumina in the region of Gardanne;
- for air navigation other than that covered by Article 8(1)(b) of Directive 92/81/EEC;
- for gasoline delivered from the harbours of Corsica to private pleasure craft;
- for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty.

7. IRELAND:

- for LPG, natural gas and methane used as motor fuel;
- in motor vehicles used by the disabled;
- for local public passenger transport vehicles;
- for differentiated rates of tax on unleaded petrol to reflect different environmental categories, provided that the differentiated rates are in accordance with the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates of excise duty provided for in Article 4 thereof;
- for the production of alumina in the Shannon region;
- for air navigation other than that covered by Article 8(1)(b) of Directive 92/81/EEC;
- for navigation in private pleasure craft;
- for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty.

8. ITALY:

- for waste hydrocarbon gases used as fuel;
- for methane used as fuel in motor vehicles;
- in respect of the national armed forces;
- in respect of ambulances;
- for local public passenger transport vehicles;
- for fuel used in taxis;
- in certain particularly disadvantaged geographical areas, for reduced rates of excise duty on domestic fuel and LPG used for heating and distributed through the networks of such areas, provided that the rates are in accordance with the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates of excise duty provided for in Articles 5 and 7 thereof;

- for consumption in the regions of Val d'Aosta and Gorizia;
- for a reduction in excise duty on petrol consumed on the territory of Friuli-Venezia Giulia, provided that the rates are in accordance with the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates of excise duty provided for in Articles 3 and 4 thereof;
- for a reduction in the rate of duty for mineral oils consumed in the regions of Udine and Trieste, provided that the rates are in accordance with the obligations laid down in Directive 92/82/EEC;
- for an exemption from excise duty on mineral oils used as fuel for alumina production in Sardinia;
- for a reduction in the excise duty on fuel oil, for the production of steam, and for gas oil, used in ovens for drying and 'activating' molecular sieves in Reggio Calabria, provided that the rates are in accordance with the obligations laid down in Directive 92/82/EEC;
- for air navigation other than that covered by Article 8(1)(b) of Directive 92/81/EEC;
- for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty.

9. LUXEMBOURG:

- for LPG, natural gas and methane;
- for local public passenger transport vehicles;
- for a reduction in the rate of excise duty on heavy fuel oil to encourage the use of more environmentally friendly fuels. Such reduction shall be specifically linked to sulphur content and in no case can the reduced rate fall below EUR 6,5 per tonne;
- for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty.

10. NETHERLANDS:

- for LPG, natural gas and methane;
- on samples of mineral oils intended for analysis, tests on production or for other scientific purposes;
- in respect of the national armed forces;
- for the application of differentiated rates of excise duty on LPG used as fuel in public transport;
- for a differentiated rate of excise duty on LPG used as fuel for waste-collection, drain suction and street-cleaning vehicles.

11. AUSTRIA:

- for natural gas and methane;
- for LPG used as fuel in local public transport vehicles;
- for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty.

12. PORTUGAL:

- for differentiated rates of tax on unleaded petrol to reflect different environmental categories, provided that the differentiated rates are in accordance with the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates of excise duty provided for in Article 4 thereof;
- for exemption from excise duty on LPG, natural gas and methane used as fuel for local public passenger transport;
- for a reduction in excise duty on fuel oil consumed in the autonomous region of Madeira; this reduction may not be greater than the additional costs incurred in transporting the fuel oil to that region;
- for a reduction in the rate of excise duty on heavy fuel oil to encourage the use of more environmentally friendly fuels; this reduction shall be specifically linked to sulphur content and the rate of duty charged on heavy fuel oil must correspond to the minimum rate of duty on heavy fuel oil as provided for in Community law;
- for air navigation other than that covered by Article 8(1)(b) of Directive 92/81/EEC;
- for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty.

13. FINLAND:

- for natural gas used as fuel;
- for an exemption from excise duty for methane and LPG for all purposes;
- for reduced excise duty rates on diesel fuel and heating gas oil, provided that the rates are in accordance with the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates of excise duty provided for in Article 5 thereof;
- for reduced excise duty rates on reformulated unleaded and leaded petrol, provided that the rates are in accordance with the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates of excise duty provided for in Articles 3 and 4 thereof;
- for air navigation other than that covered by Article 8(1)(b) of Directive 92/81/EEC;
- for navigation in private pleasure craft;
- for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty.

14. SWEDEN:

- for an exemption from excise duty for biologically produced methane and other waste gases;
- for reduced tax rates for diesel in accordance with environmental classifications;
- for differentiated rates of tax on unleaded petrol to reflect different environmental categories, provided that the differentiated rates are in accordance with the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates of excise duty provided for in Article 4 thereof;
- for a reduced rate of excise duty on mineral oils used for industrial purposes, provided that the rates are in accordance with the obligations laid down in Directive 92/82/EEC;
- for a reduced rate of excise duty on mineral oils used for industrial purposes by introducing both a rate which is lower than the standard rate and a reduced rate for energy-intensive enterprises, provided that the rates are in accordance with the obligations laid down in Directive 92/82/EEC, and do not give rise to distortions of competition;
- for air navigation other than that covered by Article 8(1)(b) of Directive 92/81/EEC.

15. UNITED KINGDOM:

- for LPG, natural gas and methane used as motor fuel;
 - for a reduction in the rate of duty on diesel to encourage the use of more environmentally friendly fuels;
 - for differentiated rates of tax on unleaded petrol to reflect different environmental categories, provided that the differentiated rates are in accordance with the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates of excise duty provided for in Article 4 thereof;
 - for local public passenger transport vehicles;
 - for a differentiated rate of excise duty on water/diesel emulsion provided that the differentiated rates are in accordance with the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates of excise duty provided for in Article 5 thereof;
 - for air navigation other than that covered by Article 8(1)(b) of Directive 92/81/EEC;
 - for navigation in private pleasure craft;
 - for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty.
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ANNEX II

Reduced rates of excise duty and exemptions from such duty referred to in Article 2

1. FRANCE:

- for differential rates of tax on diesel used in commercial vehicles, provided that the differentiated rates respect the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates laid down in Article 5 thereof.

2. ITALY:

- for a reduction in the rate of excise duty on diesel used as fuel by road transport operators, provided that the rates respect the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates laid down in Article 5 thereof.

3. NETHERLANDS:

- for reduced rates of tax on diesel used in commercial vehicles, provided that the rates respect the obligations laid down in Directive 92/82/EEC, and in particular the minimum rates laid down in Article 5 thereof.
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