

# DECISIONS

## COUNCIL IMPLEMENTING DECISION

of 29 September 2014

**authorising Italy to apply, in determined geographical areas, reduced rates of taxation on gas oil and LPG used for heating purposes in accordance with Article 19 of Directive 2003/96/EC**

(2014/695/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity <sup>(1)</sup>, and in particular Article 19(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Pursuant to Article 19(1) of Directive 2003/96/EC, Italy was authorised to apply in certain particularly disadvantaged areas reduced rates of excise duty on gas oil and LPG used for heating. The latest authorisation was granted until 31 December 2012 by Council Decision 2008/318/EC <sup>(2)</sup>.
- (2) By letter dated 31 May 2012, the Italian authorities requested authorisation to apply in certain particularly disadvantaged geographical areas reduced rates of taxation on gas oil and LPG used for heating purposes, by way of extension of the practice followed under Decision 2008/318/EC, before that Decision would expire. Additional information and clarification were provided by the Italian authorities on 4 December 2012, 16 July 2013, 31 December 2013 and 22 January 2014. By letter dated 19 March 2014, the Italian authorities requested a renewal of the authorisation granted by Decision 2008/318/EC without changes in its territorial scope for the period from 1 January 2013 to 31 December 2018.
- (3) Italy has very a diversified territory with variable climate and geographical conditions. Taking into account the particularities of its territory, Italy has introduced reduced rates of taxation on gas oil and LPG with the purpose of partially offsetting the disproportionately high heating costs for residents in certain geographical areas.
- (4) The tax differentiation in Italy is based on objective criteria and aims at putting the population of the eligible areas on a more comparable footing with the rest of the population by means of reducing their disproportionately high heating costs, which are due to severe climate conditions or difficulties with fuel procurement.
- (5) The reduced rates of taxation are applicable in geographical areas fulfilling one of the following criteria: (a) most severe climate conditions within the Italian territory, that is communes falling into zone F as defined in the Presidential Decree No 412 of 1993 <sup>(3)</sup>; (b) severe climate conditions combined with difficulties with fuel procurement, that is communes falling into zone E as defined in the Presidential Decree No 412 of 1993; and (c) geographical isolation combined with difficult and costly fuel procurement, that is Sardinia and small islands. Since the development of the natural gas network would, to a significant extent, reduce the additional heating costs and would lead to a greater diversity of fuel supply, where appropriate, the reduced rates of taxation should only be applied until the completion of the natural gas network in the communes concerned.

<sup>(1)</sup> OJ L 283, 31.10.2003, p. 51.

<sup>(2)</sup> Council Decision 2008/318/EC of 7 April 2008 authorising Italy to apply, in determined geographical areas, reduced rates of taxation on gas oil and LPG used for heating purposes in accordance with Article 19 of Directive 2003/96/EC (OJ L 109, 19.4.2008, p. 27).

<sup>(3)</sup> The Presidential Decree No 412 of 1993 divides the Italian territory into six climate zones (A to F). The classification is based on the unit 'grades per day' which represents the amount of days per year in which the outside temperature differs from the optimum 20 °C and thus heating is needed.

- (6) The requested measure has been reviewed by the Commission and been found not to distort competition or hinder the operation of the internal market, and it is not considered incompatible with EU policy on the environment, energy and transport. The reduced rate of taxation both for gas oil and LPG would remain higher than the EU minimum levels of taxation set out in Directive 2003/96/EC and it would only partially alleviate the additional heating costs incurred in the geographical areas in question.
- (7) The requested measure would apply only to space heating purposes (both for private individuals and businesses) and it would not apply to other forms of business use of gas oil and LPG. According to the Italian authorities, the amount of the tax advantage for business users would in each particular case be covered by Commission Regulation (EU) No 1407/2013 <sup>(1)</sup>. Nevertheless, if the benefit to any single undertaking exceeds the ceiling laid down in that Regulation, it should be notified to the Commission in accordance with Council Regulation (EU) No 734/2013 <sup>(2)</sup>.
- (8) In order to ensure that the measure would apply without interruption in respect of the authorisation to apply reduced rates of excise duties granted by Decision 2008/318/EC, which expired on 31 December 2012, it would be appropriate that this Decision applies from 1 January 2013. The continuous application of the regime of reduced rates of excise duties would contribute to guaranteeing legal certainty and would not undermine the legitimate expectations of the population of the eligible areas. Therefore, it would be appropriate to grant the authorisation for six years. This period of application would provide the Italian authorities with sufficient time to assess the environmental effect of the measure. It would also indicate that in the future more targeted energy saving measures would need to be put in place in order to improve energy efficiency and to ensure a positive effect on the environment,

HAS ADOPTED THIS DECISION:

#### Article 1

1. Italy is hereby authorised to apply reduced rates of taxation to gas oil and LPG used for heating purposes in the following disadvantaged geographical areas:
  - (a) communes falling within the climate zone F as established by the Presidential Decree of 26 August 1993 No 412;
  - (b) communes falling within the climate zone E as established by the Presidential Decree of 26 August 1993 No 412;
  - (c) communes of Sardinia and small islands, that is, all Italian islands except Sicily.
2. In order to avoid any overcompensation, the reduction shall not go beyond the additional costs of heating in the areas in question. In the particular case of Sardinia and small islands, as a consequence, the tax reduction shall not put the price below the price of the same fuel on the Italian mainland.
3. The reduced rate shall comply with the requirements set out in Directive 2003/96/EC, and in particular with the minimum levels of taxation laid down in Article 9 thereof.

#### Article 2

The eligibility of the geographical areas referred to in points (b) and (c) of Article 1(1) shall be subject to the non-availability of the natural gas network in the commune.

#### Article 3

This Decision shall apply from 1 January 2013 until 31 December 2018.

<sup>(1)</sup> Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid (OJ L 352, 24.12.2013, p. 1).

<sup>(2)</sup> Council Regulation (EU) No 734/2013 of 22 July 2013 amending Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ L 204, 31.7.2013, p. 15).

*Article 4*

This Decision is addressed to the Italian Republic.

Done at Brussels, 29 September 2014.

*For the Council*  
*The President*  
S. GOZI

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