

Revenue & Customs Brief 49/08

Energy Products Directive- Expiry of the derogations allowing reduced rate duty on fuel in private pleasure craft

Purpose of this brief

The purpose of this brief is to inform:

- registered Dealers in Controlled Oils (RDCOs) who supply red diesel and/or bioblend for use in private pleasure craft
- users and purchasers of fuel for private pleasure craft

of the changes that are being introduced with effect from 1 November 2008.

Implementation date

The changes will take effect on or after 1 November 2008.

Background

The UK held a derogation from the Energy Products Directive (EPD) (2003/96) which permitted the use of reduced rates of excise duty on fuel used in private pleasure-craft. This expired on 31 December 2006. The changes that are being introduced are required in order to comply with European legislation.

Please note that suppliers of rebated fuel to commercial craft are completely unaffected by these changes and may continue to purchase fuel at the fully rebated rate.

Private Pleasure Craft

Outline of scheme

It will be illegal from 1 November 2008 for red diesel to be used for propelling private pleasure craft unless the purchaser of the fuel makes a declaration to that intent and pays the full rate of duty. Red diesel at the rebated rate of duty can continue to be used for domestic purposes such as heating and lighting.

RDCOs who make supplies of rebated fuel to owners of private pleasure craft are responsible for retaining the declaration made by the customers, for charging the appropriate rate of duty and for paying the duty collected to us.

The current full rate of duty is 50.35 pence per litre (ppl). The rebated rate is 9.69 ppl. The additional duty that must be charged to private users on fuel they intend to use for propulsion is **40.66 ppl**.

RDCOs' responsibilities

If you supply red diesel to private pleasure craft, you will be required to charge the purchaser the full rate of duty **on fuel used for propulsion** and pay the duty to us. This is a new requirement for fuel suppliers.

You are not responsible for ascertaining whether the fuel you sell to an individual is for propulsion of a private pleasure craft, although, if you suspect that is the case, you should remind the purchaser of their legal obligation to make a declaration and pay the full rate of duty. You are not responsible if the user fails to make a declaration or makes a false declaration.

Not all RDCOs supply fuel for use by private pleasure craft but if you do, or may do so in the foreseeable future, you must notify us. A simple notification form will be made available to you shortly, along with instructions for completion and return. You will receive a new RDCO certificate showing that you are a supplier of red diesel to private pleasure craft.

Please note that, as the process of notification and amendment of RDCO registration details is expected to take some time, not all of you will receive an amended registration certificate by 1 November. The important point, however, is that those of you who supply fuel to private pleasure craft **must start charging and collecting duty from 1 November, and must keep a record of the supplies and the duty due** (see '**Declarations**' below).

The first return and payment by all registered suppliers will cover the 12 month period from **1 November 2008 to 31 October 2009** and you will have a further 21 days from the end of this period in which to submit the return and payment. There will be a new payment return, separate from, and additional to, your usual RDCO return, showing your RDCO number and on which you must declare the total amount of duty due, and sign and date it. We will send you the return in advance of 31 October 2009. If you wish to submit a return more frequently or change the stagger to coincide with your usual RDCO return, you will be able to do so after this initial 12 month period.

Details of the methods of payment, addresses and account number will be published in a public notice in October.

You should note arrangements for supply of fully rebated red diesel to residential boat owners, explained in the next section. You are not responsible for establishing the validity of declarations made under the arrangements described.

Purchasers' responsibilities

You are responsible for declaring that red diesel purchased will be used to propel a private pleasure craft. Use of fuel without the appropriate declaration renders you liable to a civil penalty under the Hydrocarbon Oils Duties Act 1979, as amended by the Finance Act 2008. The form and manner of the declaration is explained in the next section.

It is your responsibility to declare the proportion of any fuel you buy which you intend to use for propulsion. That proportion will be subject to the full rate of duty. A declaration is required even if all of the fuel is intended to be used for propulsion purposes. The remaining proportion, which is

intended for domestic use (heating, lighting etc), can continue to be supplied at the rebated rate of duty.

Both elements, propulsion and domestic, are eligible for the reduced rate of VAT (5%).

We recognise that the declaration made by you will be an estimate but you must make every effort to ensure it is as accurate a reflection of your usage as possible. Analysis by both the industry and us suggests that a split of 60% for propulsion and 40% for domestic use probably reflects **most** people's use and it is therefore likely that many users will declare such an apportionment. This will make it easier for suppliers (RDCOs) to work out additional duty and VAT. However, where you know that your propulsion use may be more or less than the above apportionment split or a craft clearly has no domestic use, then you must declare your actual intended usage.

You are not required to obtain or retain evidence that you have made a declaration and paid duty on fuel you purchased for propulsion, but doing so will facilitate any checks made by us and make that a quicker and easier process for all parties.

Residential boat owners

We have recognised your status as a residential boat owner whose primary residence is your boat. Some of these will be at fixed moorings or move just a very short distance along the tow path from permanent moorings. If you live aboard the craft permanently and hold certain documentation, such as a Houseboat Licence, Residential Mooring Licence, Council Tax bill in respect of the mooring, or other documentation, such as invoices or bills which provides proof of permanent residency, you may purchase all your fuel at the rebated rate (as if you owned a commercial vessel). You will still be required to make and sign a declaration saying that 0% of the fuel is for propelling purposes. It will be your responsibility to ensure that you hold the requisite documentation should we wish to check the validity of the declaration made in these circumstances.

Continuous cruisers may not declare 0% under these arrangements. Even if they reside permanently on their craft, they must declare their actual intended usage for propulsion.

Declarations

At the time of supply, the private purchaser must declare in writing the amount of fuel being purchased for propulsion and RDCO suppliers are required to retain this declaration with their record of the transaction and duty collected.

We are aware accounting methods and systems can vary from supplier to supplier, for example, some may wish to pre-print the declaration on invoice slips or till receipts. Therefore, although the declaration must be in the following form of words, it is for individual RDCOs to decide how to incorporate this into their existing accounting procedures and records:

'I declare that [] % of the fuel purchased will be used for propelling a private pleasure craft'.

The declaration must be signed and dated by the purchaser, and the RDCO supplier must ensure that the purchaser's name and address is noted in his normal records.

This process may be simplified where RDCOs make supplies to regular or account customers and removes the need to make a declaration every time they purchase fuel.

Regular customers may make a single declaration (same format as above) covering all of their transactions with a particular RDCO for **up to a year**, provided the percentage declared is an accurate reflection of their intended usage for propulsion over the period concerned and there is **a clear audit trail** in the supplier's records between the declaration and each individual purchase made by the customer in that period. The declaration must be renewed when the percentage usage changes, there is a change of name and address, or at least once a year (even if the material details remain valid).

Charging Duty and VAT

The following is a guide to the calculation of duty and VAT under the new arrangements for illustration only. The proportion split between propulsion and domestic usage will vary.

VAT is charged at the reduced rate of 5% on fuel for propulsion and domestic use.

This example assumes a 60% (propulsion) and 40% (domestic) split for a purchase of 100 litres of red diesel (the price of diesel is assumed to be 0.70ppl which includes 9.69 ppl duty already paid to fuel supplier):

Propulsion calculation (ie 60 per cent)

60 litres @ 0.70ppl = £42
60 litres @ 0.4066 = £24.40 (additional duty)
VAT @ 5% = £3.32

Propulsion Total = £69.72

Domestic calculation (ie 40 per cent)

40 litres @ 0.70ppl = £28
VAT @ 5% = £1.40

Domestic Total = £29.40

Transaction Total = £99.12

Definition of Private Pleasure Craft

The definition of 'private pleasure craft' is as in the Energy Products Directive:

'private pleasure craft shall mean any craft used by its owner or the natural or legal person who enjoys its use either through hire or through any other means, for other than commercial purposes and in particular other than for the carriage of passengers or goods or for the supply of services for consideration or for the purposes of public authorities.'

All forms will be available on our website www.hmrc.gov.uk or from the National Advice Service on 0845 010 9000

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Downloaded from HMRC website - <http://www.hmrc.gov.uk/briefs/excise-duty/brief4908.htm>.