

Summary of Responses and findings: Energy Products Directive - expiry of the derogation for private pleasure flying

Background

The UK derogation to the Energy Products Directive (EPD) that allowed the UK to apply a reduced rate of excise duty on Aviation gasoline (Avgas) and exempt Aviation turbine fuel (Avtur) from excise duty used in private pleasure flying expired on 31 December 2006.

The Chancellor of the Exchequer announced at the Budget 2007 that from the 1 November 2008 fuel used for such purpose would no longer benefit from these reduced rates. The Budget also announced that the Government would consult on the proposed changes and new procedures. The Government is obliged to introduce changes as failure to implement European legislation would leave the UK liable to infraction proceedings by the Commission.

The consultation sought views on the proposed treatment of both Avgas and Avtur. In relation to Avgas it sought views on the proposal to introduce a new free standing duty rate for Avgas, on the proposed criteria for inclusion in a new fiscal definition, and the proposal that the new rate should apply to both commercial and private pleasure use in the same way that the current reduced rate applied. In relation to Avtur, it sought views on the proposal to introduce a scheme whereby the purchaser or user of Avtur would be responsible for the payment of any duty on fuel used for private pleasure flying. Views were also sought on the suggested definition of private pleasure flying.

Summary of responses

In all, 25 responses were received.

The largest number of responses was received from private individuals, followed by replies from representative bodies. Only one fuel producer responded. No responses were received from fuel suppliers at airports.

Status	Numbers
Representative bodies	8
Business	5
Individuals	12

Issues raised in responses

Avgas

The proposed solution to introduce a new fiscal definition and a free standing duty rate for Avgas, that would apply to both commercial and private use as under the current procedure, was accepted in principle. No suggestion for an alternative scheme was made.

A number of replies suggested that the duty rate should be set at the EU minimum rate.

A number of responses queried the proposed criteria for inclusion in a new fiscal definition of Avgas because it did not cover all grades of Avgas, Avgas 80 and Avgas 91/98 were specifically referred to. A number of responses also expressed concerns that a restrictive definition could hinder potential development of unleaded Avgas.

A small number of responses raised the possibility of introducing a refund of duty for commercial use of Avgas which would put it on an equal footing with commercial use of Avtur which currently has a nil rate of duty.

Comment

The Government's focus has been on devising new regimes to meet both EU obligations and the implementation timetable of 1 November 2008 and the focus has been on finding solutions to meet that timetable. However, the Government is also seeking minimum change whilst still considering the introduction of the aviation tax announced at PBR which is intended to be introduced with effect from 1 November 2009. It may be desirable to revisit some of these solutions as the design of aviation tax develops

The Government was aware that not all Avgas grades were included in the proposed definition criteria. Although the Government understands that the Avgas grades not covered by the proposed criteria which were the subject of consultation have very limited use, the Government has reviewed the criteria to ensure these grades are included.

Unleaded Avgas is not currently available for use in the UK although an unleaded variety is in use in Sweden. The Government does not wish to hinder the manufacture or development of environmentally friendly fuels and will reconsider the proposed definition at a later date should the oil industry wish to pursue development if unleaded Avgas or unleaded varieties become available in the UK.

The Government does not consider it an appropriate time to consider a refund scheme for Avgas. The use of Avgas is also declining as more environmentally fuels are being developed. By separating Avgas from leaded petrol and establishing a free standing definition, the aim is to achieve minimum change by maintaining current procedures, and avoid any additional burdens on business. Government policy is that the price of air travel should reflect its environmental and social costs and that air travellers should pay the full environmental costs of their journey.

The Government will consider the duty rate along with rates of other hydrocarbon oils as part of the Budget process.

Avtur

In principle the proposal to introduce a self regulatory scheme was accepted and no alternative scheme was suggested. One respondent expressed concerns that a single aircraft may have different uses and there would be difficulties in distinguishing between private-pleasure and other flying. Another respondent thought it unfair that fuel for a journey in a private plane should be taxed which would not be taxed if it was made in a commercial aircraft.

A number of responses suggested that a new fiscal definition and a separate duty rate should be considered for Avtur, along the lines of the proposed Avgas treatment, distinguishing it from kerosene on the basis that Avtur is a different fuel to kerosene, with its own properties specific to flying use. A number of respondents also suggested that the duty rate should be set at the EU minimum rate.

A number of responses also expressed concern that the increase in the cost of Avtur through the imposition of duty could lead to an increased demand for Avgas, rather than Avtur, fuelled planes. This would be a backward step from an environmental point of view as Avtur is more environmentally friendly than Avgas.

There was no response from any fuel supplier concerning the slight extension to the Registered Dealers in Controlled Oils' duty of care.

Comment

Private pleasure use of Avtur is considered to be negligible and is estimated to be a fraction of 1 per cent of the total Avtur used. It is not considered that any change in the private-pleasure use of Avtur will have a significant environmental effect. The Government is seeking to introduce a regime in order to meet the implementation timetable with minimum administrative burdens and costs for business, users and HM Revenue & Customs (HMRC). The Government will reconsider the proposed regime and the concerns raised in responses as the design of the new aviation tax to be introduced with effect from 1 November 2009 develops.

Definition: pleasure flying

A number of suggestions were made to the definition of pleasure flying mostly to ensure that all business flights, as well as training and the requisite hours for maintaining a licence were excluded from private pleasure flying.

Comment

HMRC will consider the suggestions received as the work continues on the definition of pleasure flying and also in conjunction with the design of the new aviation tax.