

BMF Guidance on Red Diesel

Introduction

This guidance is intended to assist companies who supply fuel to private pleasure craft to implement the changes that will take place on 1 November 2008 following the expiry of the UK derogations to the Energy Products Directive that allowed for a reduced rate of duty on fuel supplied to private pleasure craft users.

Overview

The EU Energy Products Directive provides that from 1 November 2008:-

- a) The full rate of duty is to be applied to fuel used for "*the purposes of navigation*" (which has been reflected in UK law as "*fuel for propelling*" of private pleasure craft;
- b) Red diesel at the rebated rate of duty can continue to be used for domestic purposes aboard a boat such as heating, lighting electricity generation, refrigeration, air conditioning or hot water;
- c) Customers purchasing fuel will be required to make a declaration about their fuel usage; and
- d) Fuel suppliers will need to become Registered Dealers in Controlled Oils (RDCO's) and will return the duty collected to HMRC.

HMRC has understood the industry's concerns about the potential difficulties for fuel suppliers in calculating duty and VAT when faced with customers claiming different percentages of fuel used for propulsion. The BMF, RYA and Inland Waterways Association put significant effort into familiarising HMRC officials with the wide variety of craft that make up the boating market from small sportsboats with minimal domestic fuel use to residential narrowboats on the inland waterways with a high domestic fuel usage. Following this work, HMRC have confirmed that industry and Government analysis suggests that a split of 60% for propulsion and 40% for domestic use reflects most peoples use and it is therefore likely that many users will declare such an apportionment. However, where a purchaser knows that the propulsion use may be more or less than the above apportionment split, or a craft clearly has no domestic use, then they must declare their actual intended usage.

Responsibilities of Fuel Suppliers

Companies will need to register as a supplier of fuel to private pleasure craft users under the RDCO scheme. A simple notification form will be made available to RDCO's shortly along with instructions for completion and return. RDCO's will receive a new RDCO certificate and will be required to return the duty collected to HMRC on an annual basis.

Please note that HRMC have stated that the process of notification and amendment of RDCO registration is expected to take some time and not all RDCO's will receive an amended registration certificate by 1 November 2008. However, it is important that RDCO's which



supply fuel to private pleasure craft must start charging and collecting duty from 1 November 2008 and keep records of the supplies and duty due.

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 to HMRC. 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. HMRC 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, account number will be published in a public notice.

Charging duty and VAT

The following is an illustration /example of a calculation of duty and VAT under the new arrangements. It is intended to be an illustration only. The proportion split between propulsion and domestic usage will vary.

HMRC have confirmed that 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 70 pence per litre (ppl) which includes 10.42 ppl duty already paid to fuel supplier):

Propulsion calculation (i.e. 60%)

60 litres @ 70 ppl = £42
60 litres @ 43.77 ppl = £26.26 (additional duty)
VAT @ 5% = £3.41
Propulsion Total = £71.67

Domestic calculation (i.e. 40%)

40 litres @ 70 ppl = £28
VAT @ 5% = £ 1.40
Domestic Total = £29.40

Transaction Total = £101.07

Responsibilities of the Fuel Purchaser

It is the responsibility of the fuel purchaser to make a declaration in writing about the amount of fuel being purchased for propulsion. A simple declaration that incorporates the following wording will be required.



“I declare that 60% of the fuel purchased will be used for propelling a private pleasure craft”.

HMRC is aware that accounting methods and systems can vary from supplier to supplier, for example, some may wish to print the declaration on invoice slips or till receipts. Others may wish to prepare a simple form for signature by the customer. An example proforma is attached.

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

This process can be simplified for regular customers who can make one annual declaration covering all their transactions for a period of up to one year.

The Declaration about fuel usage is the responsibility of the purchaser.

The RDCO has a duty of care when selling or delivering controlled oil and must therefore take all reasonable precautions and exercise reasonable care to ensure that they only make supplies to customers who have a legitimate use for that oil. (See HMRC Notice 192).

Commercial Usage

Supplies of red diesel to commercial craft are completely unaffected by these changes and you can continue to supply to commercial users at the fully rebated rate of duty.

The definition of “private pleasure craft” for the purposes of the Energy Products Directive and the purchase of red diesel in the UK is defined in the Directive as:-

“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”

This definition will be the criteria by which commercial usage will be assessed. We set out below our understanding of how this will be applied to certain types of boat operation.



Hire Boats/Day Boats	Likely to be regarded as pleasure usage because the Hirer will be deemed a natural or legal person who enjoys its use.
Bareboat Charter	Likely to be regarded as pleasure usage because the Hirer will be deemed a natural or legal person who enjoys it use.
Skippered Charter	Classed as commercial where the Charter company provides a Skipper as this may equate to the supply of services for consideration.
Sailing School Training Courses	Classed as commercial as this equates to the supply of services for consideration.
Yacht Delivery	Classed as commercial if the delivery is by professional crew.

Residential Boats

HMRC have recognised the status of residential boat owners whose primary residence is their boat. Some of these will be at fixed moorings or moved a very short distance along the towpath from permanent moorings to fuel. If they live aboard the craft permanently and hold certain documentation such as houseboat licence, residential mooring licence, council tax bill in respect of the mooring or other documentation that provides proof of permanent residency they may purchase all their fuel at the rebated rate. They will be required to make and sign a Declaration that zero percent of the fuel is for propelling purposes. It will be the responsibility of the residential boat owner to ensure they hold the requisite documentation should HMRC wish to check the validity of the declaration made in these circumstances.

Continuous cruisers may not declare zero percent under these arrangements, even if they reside permanently on their craft. They must declare their actual intended usage.

Further Information

The BMF is continuing to work with HMRC to provide guidance to the industry as these new policy measures bed in. The BMF is receiving many questions from member companies and will build a Frequently Asked Questions section on the BMF website at www.britishmarine.co.uk

Any enquiries about this guidance should be sent by email to Claire Westbrook on cwestbrook@britishmarine.co.uk

HMRC are undertaking a briefing process for their National Helpline and Regional staff. They have emphasised that during this implementing period their emphasis will be on helping and advising fuel supplier and users to get things right.



**THIS IS ILLUSTRATIVE OF A DECLARATION THAT WILL BE REQUIRED
FROM CUSTOMERS AT THE 60/40 SPLIT**

RED DIESEL DUTY DECLARATION FORM

NAME:

ADDRESS:

I declare that 60% of the fuel purchased will be used for propelling a private pleasure craft.

Signed **Date**