



Finance Act 2004

2004 CHAPTER 12

PART 1

EXCISE DUTIES

Hydrocarbon oil etc duties

10 Bioethanol

(1) After section 2AA of the Hydrocarbon Oil Duties Act 1979 (c. 5) (biodiesel) insert—

“2AB Bioethanol

- (1) In this Act “bioethanol” means a liquid fuel—
 - (a) consisting of ethanol produced from biomass, and
 - (b) capable of being used for the same purposes as light oil.
- (2) In subsection (1)—
 - (a) “liquid” does not include any substance that is gaseous at a temperature of 15°C and under a pressure of 1013.25 millibars, and
 - (b) “biomass” means vegetable and animal substances constituting the biodegradable fraction of—
 - (i) products, wastes and residues from agriculture, forestry and related activities, or
 - (ii) industrial and municipal waste.
- (3) A substance shall be treated as falling within subsection (1)(a) if it—
 - (a) is denatured alcohol for the purposes of section 5 of the Finance Act 1995 (c. 4), and
 - (b) would fall within subsection (1)(a) above (without reliance on this subsection) but for the presence of a component introduced—
 - (i) for the purpose of rendering the substance denatured alcohol, and

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(ii) in the minimum proportion necessary for that purpose.”

(2) After section 2A(1A) of that Act (power to amend definitions: biodiesel) insert—

“(1B) The Treasury may by order made by statutory instrument amend the definition for the purposes of this Act of “bioethanol”.”

(3) After section 6AC of that Act (biodiesel: application of provisions relating to hydrocarbon oil) insert—

“6AD Excise duty on bioethanol

- (1) A duty of excise shall be charged on the setting aside for a chargeable use by any person, or (where it has not already been charged under this section) on the chargeable use by any person, of bioethanol.
- (2) In subsection (1) “chargeable use” means use—
 - (a) as fuel for any engine, motor or other machinery,
 - (b) as an additive or extender in any substance so used, or
 - (c) for the production of bioethanol blend.
- (3) The rate of duty under this section shall be £0.2852 a litre.

6AE Excise duty on blends of bioethanol and hydrocarbon oil

- (1) A duty of excise shall be charged on bioethanol blend—
 - (a) imported into the United Kingdom, or
 - (b) produced in the United Kingdom and delivered for home use from a refinery or other premises used for the production of hydrocarbon oil or from any bonded storage for hydrocarbon oil, not being bioethanol blend chargeable with duty under paragraph (a) above.
- (2) In this Act “bioethanol blend” means any mixture that is produced by mixing—
 - (a) bioethanol, and
 - (b) hydrocarbon oil not charged with excise duty.
- (3) The rate at which the duty shall be charged on any bioethanol blend shall be a composite rate representing—
 - (a) in respect of the proportion of the blend that is hydrocarbon oil, the rate that would be applicable to the blend if it consisted entirely of hydrocarbon oil of the description that went into producing the blend, and
 - (b) in respect of the proportion of the blend that is bioethanol, the rate that would be applicable to the blend if it consisted entirely of bioethanol.
- (4) A reference in subsection (3) to a proportion is to a proportion by volume to the nearest 0.001%.
- (5) If the Commissioners are not satisfied as to the proportion of bioethanol in any bioethanol blend, the rate of duty chargeable shall be the rate that would be applicable to the blend if it consisted entirely of hydrocarbon oil of the description that went into producing the blend.

- (6) Where imported bioethanol blend is removed to a refinery, the duty chargeable under subsection (1) above shall, instead of being charged at the time of the importation of the blend, be charged on the delivery of any goods from the refinery for home use and shall be the same as that which would be payable on the importation of like goods.

6AF Application to bioethanol and bioethanol blend of provisions relating to hydrocarbon oil

- (1) The Commissioners may by regulations provide for—
- (a) references in this Act, or specified references in this Act, to hydrocarbon oil to be construed as including references to—
 - (i) bioethanol;
 - (ii) bioethanol blend;
 - (b) references in this Act, or specified references in this Act, to duty on hydrocarbon oil to be construed as including references to duty under—
 - (i) section 6AD above;
 - (ii) section 6AE above;
 - (c) bioethanol, or bioethanol blend, to be treated for the purposes of such of the following provisions of this Act as may be specified as if it fell within a specified description of hydrocarbon oil.
- (2) Where the effect of provision made under subsection (1) above is to extend any power to make regulations, provision made in exercise of the power as extended may be contained in the same statutory instrument as the provision extending the power.
- (3) In this section “specified” means specified by regulations under this section.
- (4) Regulations under this section may make different provision for different cases.
- (5) Paragraph (b) of subsection (1) above shall not be taken as prejudicing the generality of paragraph (a) of that subsection.”
- (4) In section 6A(1) of that Act (fuel substitutes) for “which is not hydrocarbon oil, biodiesel or bioblend” substitute “which is not—
- (a) hydrocarbon oil,
 - (b) biodiesel,
 - (c) bioblend,
 - (d) bioethanol, or
 - (e) bioethanol blend.”
- (5) At the end of section 11(6) of that Act (rebate on heavy oil: exception) add “or bioethanol blend”.
- (6) At the end of section 13AA of that Act (restrictions on use of rebated kerosene) add—
- “(7) Nothing in this section has the effect of allowing a rebate on bioblend or bioethanol blend.”

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(7) In section 14 of that Act (rebate on light oil for use as furnace fuel) after subsection (1) insert—

“(1A) No rebate shall be allowed under this section in respect of bioethanol blend.”

(8) In section 22 of that Act (prohibition on use of petrol substitutes on which duty has not been paid)—

(a) after subsection (1AA) insert—

“(1AB) Where any person—

(a) puts any bioethanol to a chargeable use (within the meaning of section 6AD above), and

(b) knows or has reasonable cause to believe that there is duty charged under section 6AD above on that bioethanol which has not been paid and is not lawfully deferred,

his putting the bioethanol to that use shall attract a penalty under section 9 of the Finance Act 1994 (c. 9) (civil penalties), and any goods in respect of which a person contravenes this section shall be liable to forfeiture.”, and

(b) in subsection (1A) for “subsection (1) or (1AA) above.” substitute “subsection (1), (1AA) or (1AB) above.”

(9) In section 27(1) of that Act (interpretation) after the definition of “biodiesel” insert—

““bioethanol” has the meaning given by section 2AB above;

“bioethanol blend” has the meaning given by section 6AE(2) above;”.

(10) This section shall come into force on 1st January 2005.

(11) But no duty shall be charged under section 6AD or 6AE of that Act (inserted by subsection (3) above) in respect of the chargeable use of any goods, or the setting aside of any goods for a chargeable use, if before 1st January 2005—

(a) the goods were used or set aside for a chargeable use within the meaning of section 6A of that Act, and

(b) a duty of excise was charged under that section on that use or setting aside.