

**EXPLANATORY MEMORANDUM TO
THE VALUE ADDED TAX (CONSIDERATION FOR FUEL PROVIDED FOR
PRIVATE USE) ORDER 2008**

2008 No. 722

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs and is laid before the House of Commons by Command of Her Majesty.

2. Description

2.1 VAT is payable if road fuel of a business is used for private motoring. The amounts are set out in Table A of section 57(3) of the Value Added Tax Act 1994, which applies flat rate values to vehicles based on their CO₂ emissions. Section 57(4) provides that the Treasury may by order taking effect from the beginning of any prescribed accounting period substitute a new table for Table A. New tables have been substituted annually to ensure that the flat rates reflect the increase in road fuel costs. This measure introduces a new table, and varies the figures in Note 6 of the Notes. The increase takes effect from a taxable person's first prescribed accounting period started after 30 April 2008. Where a vehicle does not have a CO₂ emissions figure the Notes to the table apply a CO₂ emissions figure by reference to the vehicle's engine size.

2.2 The flat rates have been calculated in line with the average cost of fuel applicable in March 2008.

3. Matters of special interest to the Select Committee on Statutory Instruments.

None

4. Legislative Background

The UK has a derogation (Council Decision 659/2006/EC) from the EC Sixth Council Directive (77/388/EEC)¹. The derogation authorises the UK to fix, on a flat rate basis, the proportion of Value Added Tax relating to expenditure on fuel used for private purposes in business cars. The rates are to be established on the basis of the CO₂ emissions level of the type of vehicle and reflect fuel consumption. The derogation is operative until 31st December 2015. The amounts of the flat rates must be adjusted annually to reflect changes in the average cost of fuel. This measure gives effect to the derogation.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Financial Secretary to the Treasury Jane Kennedy M.P , has made the following statement regarding Human Rights:

¹ Recast as Council Directive 2006/112/EC, OJ L 347, 11.12.2006.

“In my view the provisions of the Value Added Tax (Consideration for Fuel Provided for Private Use) Order 2008 are compatible with the Convention rights.”

7. Policy background

7.1 VAT is payable if a business provides road fuel that is used, not for the purposes of the business, but for private motoring. Table A in section 57(3) of the Value Added Tax Act 1994 applies to calculate the figure that represents the tax inclusive value of the supply. This provides flat rates based on CO₂ emissions in line with the terms of the derogation.

7.2 The annual revalorisation amends the value of the existing fuel scale charge to reflect any change in the fuel price. This adjustment is necessary for the UK to satisfy the terms of the derogation.

7.3 This year, additional CO₂ bands have been added for direct tax purposes. The VAT fuel scale charge table has therefore been restructured to fulfil our undertaking that direct and indirect tax bands would remain aligned, and to support the Government’s wider environmental policy. The major business sectors in this area are aware of the revised bandings for direct tax purposes and will have already undertaken the very minor changes required to their systems.

8. Impact

8.1 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is negligible

9. Contact

Colin Scott-Morton at Her Majesty’s Revenue & Customs, Tel: 020 7147 0483 or e-mail: colin.scott-morton@hmrc.gsi.gov.uk can answer any queries regarding the instrument.