

Red diesel – the future – a consultation

At the Budget in 2020, the government announced that it will remove the entitlement to use red diesel from most sectors from April 2022. This means that most businesses across the UK using red diesel will need to use fuel taxed at the standard rate for white diesel from April 2022, which more fairly reflects the negative environmental impact of the emissions they produce.

The government (HM Treasury) launched a consultation to make sure it has not overlooked any exceptional reasons why other sectors should be allowed to continue to use red diesel beyond April 2022. The consultation closed on 1 October 2020.

Those entitled to use red diesel pay a duty rate of only 11.14 pence per litre (ppl), which is significantly less than those using standard road fuel diesel (duty rate of 57.95ppl), a saving of nearly 47ppl (an 81% discount). On top of this, red diesel is subject to a reduced 5% rate of VAT for supplies up to 2,300 litres. For commercial supplies over 2,300 litres, the standard 20% VAT rate applies. Users of red diesel are therefore paying far less for the harmful emissions they produce than individual car owners for example, even though the emissions produced from using one litre of diesel are broadly the same in both cases.

Red diesel accounts for around 15% of all the diesel used in the UK and is responsible for the production of nearly 14 million tonnes of CO₂ a year.

The low cost of running a diesel engine with red diesel has been cited as a barrier to entry for greener alternatives, whether these are powered by electricity, hybrid technologies or liquefied petroleum gas.

Biodiesel for non-road use and biodiesel blended with gas oil not for road fuel use are also currently subject to a rebated duty rate of 11.14ppl. The government announced at the Budget in 2020 that it would remove the application of reduced rates to biofuels from April 2022 in the same way as red diesel. This means that biodiesel for non-road use and biodiesel blended with gas oil not for road fuel use will also be subject to the standard biodiesel road fuel duty rate (currently 57.95 ppl), except for the sectors that will retain their entitlement to use red diesel from 1 April 2022.

Businesses will have until April 2022 to prepare before any changes take effect.

There is currently no plan to change the entitlement to use red diesel for the agriculture sector (as well as forestry, horticulture and fish farming), in railways, and where red diesel is used to power non-commercial heating systems, such as in homes, narrowboats and places of worship.

The government is keeping the tax treatment of rebated biofuels aligned with red diesel.

The government is considering whether to revisit the tax treatment of other rebated fuels, such as non-aviation kerosene and fuel oil, to support its environment and air quality objectives.

The government asked for views on whether there are users of red diesel that will have already purchased fuel now that they do not expect to have used up by April 2022. In particular, they wanted views on how frequently static electricity generators providing back-up power to buildings are refuelled.

It may mean that fuel suppliers and end users of red diesel must flush out their tanks, pumps and fuel supplies.

Fuel suppliers

The government understands that the chemical markers used to identify red diesel may remain in fuel tanks and pipes when these fuel suppliers switch to white diesel. The government wants to minimise the risk that white diesel that has had the full duty rate paid on it is sold contaminated with the red diesel marker. This could lead to those that had legitimately purchased white diesel being found to have committed an offence as if they had misused red diesel.

To mitigate the risk of this issue materialising, the government proposes that any fuel suppliers that switch a fuel tank from red to white diesel, in anticipation of the introduction of the tax changes (or after it has taken place), will need to flush out the tank and pump until no trace of marked rebated fuel remains.

Fuel users

While the use of red diesel by users that have lost their entitlement will be illegal from 1 April 2022, the government realises that marker residue may still be detected in the fuel tanks of their vehicles and machinery, even after they have switched to using white diesel. The government does not propose to mandate that users of red diesel have to flush out the tanks of their vehicles or machinery as this can be expensive. This approach also avoids damage to the environment that could arise from the unsupervised and unsafe disposal of red diesel.

The government therefore expects these users to ensure that they do not purchase red diesel for use from 1 April 2022 and run down their existing stocks of red diesel before that date.

In cases where HMRC compliance officers find that vehicles and machinery that have lost their entitlement still have some red diesel marker in their fuel supplies, these vehicles and machinery, as well as the fuel, would be liable to be seized.

Other fuels

Beyond red diesel and rebated biodiesel, other fuels are currently subject to fuel duty at rebated rates for certain uses. This includes:

- a) Kerosene to be used as a motor fuel off road or in an excepted vehicle, subject to a rate of 11.14ppl
- b) Kerosene used for heating, which is subject to a nil rate of fuel duty
- c) Fuel oil, subject to a rate of 10.70ppl
- d) Heavy oil other than fuel oil, gas oil or kerosene used as fuel, subject to a rate of 10.70ppl

Changes to the duty and rebate rates are under consideration.

HMRC will publish draft legislation for consultation in 2021.