Contents:
1. New principal EC VAT directive
2. Definition of biodiesel in Hydrocarbon Oil Duties Act 1979: Further guidance
3. Motor and heating fuels - revised Public Notice 179
4. Motor and heating fuels - revised Public Notice 179A
5. Intrastat - changes from 1 January 2007

Further information

1. New principal EC VAT directive

On 28 November 2006 the EU Council of Ministers adopted a revised (re-cast) EC VAT Directive (Directive 2006/112) to replace both the First and the Sixth EC VAT Directives. The text of this new principal EC VAT Directive will be published in the Official Journal of the European Communities on 11 December and its provisions will come into force on 1 January 2007. The new Directive will not change current EC and UK VAT law.

Background

The new principal EC VAT Directive is a revision or re-cast of the current EC First and Sixth VAT Directives. The need for a recast arose because the current Sixth VAT Directive has been amended no fewer than 31 times, sometimes quite extensively, with the result that in terms of both its structure and content the legislation is difficult to access and to comprehend, even for tax professionals. One of the main objectives of the re-cast has been to extensively re-organise the provisions and to set them out in a clearer, more logical and coherent way so as to make the legal text more accessible to EU businesses, tax officials and others who may need to refer to EC VAT law. The exercise has also provided an opportunity to align all the different language versions so they are consistent.
Impact on businesses

The new Directive does not change EC or UK VAT law. The only impact on businesses is that they will now have an EC VAT law text that they should find easier to access and simpler to understand. The material has been extensively reorganised to provide a much simpler and clearer structure with additional headings and sub-headings and a significant reduction in confusing cross-references. As it will take some time to amend references to the current Sixth VAT Directive in UK VAT law and Public Notices, businesses will need to familiarise themselves with the provisions of the new principal VAT Directive. To help with this task, at Annex XII of the new Directive, there is a correlation table that lists all the Sixth VAT Directive articles and their equivalent in the new Directive. On this issue it should be noted that any references made in UK law to the repealed First and Sixth VAT Directives must be construed as references to the new Directive and thus read in accordance with the correlation table.

2. Definition of biodiesel in Hydrocarbon Oil Duties Act 1979: Further guidance

Background


The Government has confirmed that the current definition of biodiesel in the Hydrocarbon Oil Duties Act 1979 will be amended to bring a new fuel within its scope. The great majority of those commenting on the review saw no need to amend the definition in terms of the way it deals with current types of biodiesel, however, and the definition will remain otherwise unchanged, although it will continue to be kept under review.

Interpretation

HMRC will accept as biodiesel any fuel that is shown to meet the definition, and has recently issued further guidance on biofuels to its staff. This guidance was informed by the review and the events leading up to it. The guidance confirms that 'diesel quality' should not be used to decide whether a fuel met the specification, so that HMRC will interpret the requirement for the fuel to be as 'diesel quality' simply as meaning that the fuel is a substitute for diesel rather than petrol.
Testing biodiesel

HMRC regulations do not make it a requirement for producers to provide analytical tests of their fuel as proof that it qualifies as biodiesel. However, it is difficult to imagine that there is any other way of providing the necessary evidence and producers have accepted that without proof there is no entitlement to a reduced duty rate. HMRC have recently issued the following guidance to their staff on this subject and will be publishing it with the outcome of the review.

HMRC expect that anyone producing biofuels commercially will have their fuel analysed and tested on a regular basis as a part of normal quality control. These tests should give details of the sulphur/ester content and ideally show a breakdown of the composition of the fuel.

The recipe or formulation for biodiesel production will often be enough to determine whether the finished product can meet the full biodiesel specification – for example anything that would reduce the ester content below 96.5% through having a low or nil ester content itself, eg alcohol, terpine, water. However, the recipe alone does not provide proof that a product meets (or fails to meet) the specification.

Tests should be carried out on the ‘finished fuel’ and not on the raw materials used in production. Producers should ensure that the fuel that is tested does not undergo any further process and that it is identical to the fuel put out for sale.

Frequency of testing

Testing should always be done when there is a change of recipe, the raw materials used and/or the production method.

The following table is a guideline to the minimum frequency and level of tests we could reasonably expect.

<table>
<thead>
<tr>
<th>Production (litres per month)</th>
<th>Frequency of testing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Below 1,000</td>
<td>Annually</td>
</tr>
<tr>
<td>1000 to 5,000</td>
<td>Six monthly</td>
</tr>
<tr>
<td>5,001 to 10,000</td>
<td>Quarterly</td>
</tr>
<tr>
<td>10,001 to 30,000</td>
<td>Monthly</td>
</tr>
<tr>
<td>Above 30,000</td>
<td>By batch</td>
</tr>
</tbody>
</table>
3. Motor and heating fuels - revised Public Notice 179

Further to Business Brief 12/05 issued on 15 June 2005, this Business Brief article announces the publication of the revised Public Notice 179 Motor and heating fuels: General information and accounting for Excise Duty & VAT (November 2006). This Public Notice is now available either from our National Advice Service on 0845 010 9000 or via our website: www.hmrc.gov.uk.

4. Motor and heating fuels - revised Public Notice 179A

Further to Business Brief 09/06 and Business Brief 17/06 issued earlier this year, this Business Brief article announces the publication of the revised Public Notice 179A Aviation Turbine Fuel (Avtur). This Public Notice is now available either from our National Advice Service on 0845 010 9000 or via our website: www.hmrc.gov.uk.

5. Intrastat - changes from 1 January 2007

This Business Brief article explains how businesses trading with other EU Member States could be affected by these changes.

Changes in Intrastat thresholds

- The exemption threshold (previously called the assimilation threshold) is increased from £225,000 to £260,000.
- The delivery terms threshold is increased from £14,000,000 to £14,500,000.

Background

Community legislation requires the UK to collect information on intra-EU trade for statistical purposes and sets minimum requirements for the quantity of trade covered. These requirements determine the level at which the exemption threshold is set in the UK. The same threshold is applied independently to arrivals (intra-EU imports) and dispatches (intra-EU exports).

Those traders with an annual intra-EU trade in goods above the specified exemption threshold are required to provide monthly statistical returns (Intrastat Supplementary Declarations).
Community legislation requires the UK to collect information to enable the accurate calculation of statistical value. These requirements determine the level at which the delivery terms threshold is set in the UK. The same threshold for delivery terms applies to arrivals and dispatches.

Traders with annual EU trade above the delivery terms threshold are required to supply additional information relating to delivery terms on their statistical returns.

The revised thresholds are implemented by Statutory Instrument 2006/3216.

Further information

Further information on trade statistics can be found online at www.uktradeinfo.com or by phoning uktradeinfo Customer Services on 01702 367485.

For further information and advice, please contact HM Revenue & Customs’ National Advice Service on 0845 010 9000.

The views expressed in this Business Brief are those of HM Revenue & Customs.

MEDIA ENQUIRIES ONLY:
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GENERAL ENQUIRIES:
For general enquiries please contact HM Revenue & Customs’ National Advice Service on 0845 010 9000.

This release and other information about HM Revenue & Customs can be found at our website: www.hmrc.gov.uk.