

**VAT: Road Fuel Scale Charges – changing UK law to comply  
with EU law and streamlining the scheme**

**HM Revenue & Customs**

**Technical note**

**Publication date: 25 April 2012**

**Closing date for comments: 20 July 2012**

## Summary of Basic Information

<b>Subject of this consultation:</b>	This technical note is about legislating to bring the UK law on deemed supplies of road fuel used in private journeys into line with EU rules. The changes will obviate the need for two concessions currently applied in this area.
<b>Scope of this consultation:</b>	UK law is not fully compliant with EU law and must be changed so that it is. This note sets out what HMRC think is the best legislative approach to achieve this. It seeks comments on whether there are any better ways to achieve the objective, whether there are any further issues arising and on the Road Fuel Scale Charges (RFSCs) system in general.
<b>Who should read this:</b>	Many businesses, particularly small and medium sized businesses, which do not keep detailed mileage records covering all journeys, use RFSCs. However their impact on each business is normally small. Consequently, although responses from individuals and small businesses are welcome, trade, accountancy or legal bodies are most likely to want to comment.
<b>Duration:</b>	25 April 2012 to 20 July 2012
<b>Enquiries:</b>	Enquiries about the content or scope of the consultation or requests for meetings should be addressed to Phil Mattacks, VAT Deductions and Financial Services Team, Room 3C/12, 100 Parliament Street, London SW1A 2BQ; Tel 0207-147-0538; Email <a href="mailto:phil.mattacks@hmrc.gsi.gov.uk">phil.mattacks@hmrc.gsi.gov.uk</a>
<b>How to respond:</b>	Responses can be sent by Email or hard copy to Phil Mattacks at the above address
<b>Additional ways to be involved:</b>	As this is a technical consultation we are requesting written responses. However, if a discussion would be helpful then please contact Phil Mattacks at the above address to discuss arrangements.
<b>After the consultation:</b>	A response document, draft clauses and, if appropriate, secondary legislation will be exposed for further consultation in the Autumn.

**Getting to this stage:**

The House of Lords decision in the *Wilkinson* case (R v HM Commissioners of Inland Revenue ex parte Wilkinson [2005] UKHL 30) clarified the scope of HMRC's administrative discretion to make concessions that depart from the strict statutory position. In the light of that decision HMRC is reviewing its concessions. Most can continue in their current form but where an existing concession exceeds the scope of this discretion the concession will either be withdrawn or its effect legislated where it is appropriate to do so. A review of the RFSC concessions led to the conclusion that the UK legislation needed further reaching changes than simply legislating the concessions as they stood. Amending the law will remove the need for the concessions.

**Previous engagement:** None

## Introduction

At Budget 2012 the Government announced its intention to bring forward legislation to streamline UK law on RFSCs and by so doing remove the need for two concessions that HMRC operates relating to RFSCs.

This note sets out the issues and how the Government intends to address them. In doing this it sets out specific questions at some points which are summarised later in this document. However it is the purpose of this note to invite comments and questions generally on this area and comments and questions are therefore welcome related to all parts of it, whether a specific question is set out or not.

## 1 Background

### The basics on deemed supplies and road fuel

#### Deemed supplies

To prevent distortion between persons registered for VAT and those not registered for VAT, where goods forming part of the business assets of a taxpayer are used for private purposes, VAT must be charged. This is achieved by imposing a deemed supply of the goods by the taxpayer when the goods are put to private purposes. When a business's road fuel is used in making private journeys there is a deemed supply. This deemed supply is difficult to value unless detailed mileage records are kept. Businesses do not have to treat all fuel they buy as an asset of the business, either wholly or partly, but if they want to claim VAT incurred for business motoring they must be able to provide evidence of their business use.

#### RFSCs as a simplification

To simplify and give certainty in this area the UK has obtained a derogation from the Principal VAT Directive (PVD) permitting the RFSC scheme for valuing deemed supplies of road fuel used in cars. A derogation is a permission to do things differently to the standard way set out by the Directive in specified circumstances. RFSCs are a simplification method for the valuation of deemed supplies in which the deemed supplies are valued at a fixed amount of assumed road fuel usage against vehicle emissions, rather than based on mileage records.

UK law on RFSCs is set out in the VAT Act in sections 56 and 57. Section 56 sets out the rules and section 57 sets out the scale charges (these being updated every year by a Statutory Instrument announced in the Budget). Section 56 of the Act and the current scale charges are

reproduced at Annex B1 and B2. Section 56 requires taxpayers to do the following:

- All VAT incurred on road fuel **must** be treated as input tax
- RFSCs must be declared whenever road fuel is used for private journeys
- If a charge for private use road fuel is made to staff then the RFSCs do not apply, **but** if the charge is less than the cost of the fuel then the RFSCs apply nonetheless.

UK law requires that the application of RFSCs is compulsory, but two concessions allow taxpayers discretion over use of the RFSC (the first two concessions listed below).

### The concessions applied to RFSCs

The UK has three concessions applicable to RFSCs, all of which are addressed in this document. They are as follows,

- ESC 3.1 in Notice 48 deals with small traders that do limited mileage. It is generally referred to as the double zero option. It allows that where any taxpayer opts not to treat any VAT on road fuel as input tax he need not account for output tax under the RFSCs. It is generally used when the output tax payable on the RFSCs would be more than the input tax deductible on road fuel. An extract from Notice 48 setting this concession out is at Annex A1. This concession will be referred to as the 'double zero concession'.
- Para 8.1(c) of Notice 700/64 sets out that businesses may claim input tax only on fuel used in business journeys if they keep detailed mileage records to back up the apportionment. An extract from Notice 700/64 is at Annex A2. This concession will be referred to as the 'mileage records concession'.
- HMRC guidance PE4450 sets out how partly exempt businesses may approach RFSCs. It states that where input tax on fuel is apportioned for partial exemption then the RFSC can be apportioned at the same rate. This is concessionary as nothing in the law says that the RFSC can be reduced from the standard scale amounts. This part of guidance is at Annex A3. This concession will be referred to as the 'PE concession'.

## 2. Changes required to current UK law and practice

HMRC's review of the concessions has highlighted some problems with the current law and these are set out below:

#### Road Fuel Scale Charges are currently not optional in the legislation

The UK's derogation from the PVD requires the scheme to be optional but section 56 makes it compulsory. Also the case law of the CJEU (in the *Lennartz C-97/90* line of cases) makes it clear that taxpayers have the right to bring VAT bearing assets within their business assets fully, only to the extent of business use or not at all as they so choose. The double zero and mileage records concessions correct these areas in a way that is fair but that is not within the scope of the UK law. The House of Lords in the case of *R v. HM Commissioners of Inland Revenue ex p Wilkinson* [2005] UKHL 30 set out the limits to HMRC's power to make concessions. HMRC cannot refrain from collecting tax that Parliament has imposed, even if collecting that tax would be unfair.

To correct this position the concessions must be legislated.

#### A deemed supply cannot be imposed where consideration is paid

Under the provisions of the PVD, where a real supply exists no deemed supply can be imposed. Consequently, UK law is wrong to impose RFSCs where a taxpayer makes a real charge for road fuel but that charge is less than cost price.

A Revenue and Customs Brief, issued on 25 April 2012, sets out what taxpayers should do if they think they have overdeclared output tax because of this defect in the legislation.

#### There are no legal vires for the Partial Exemption Concession

It is not possible to legislate for the PE concession because there are no provisions for deemed supplies to be reduced due to only partial recovery of input tax in the first place. Where there is no deduction of input tax there will be no deemed supplies but if there is any input tax deduction then full deemed supplies apply under the law.

#### When correcting the law we can also address the following issues:

##### The presentation of the law and guidance material is in need of streamlining and simplification

At present taxpayers have to consider the law in sections 56 and 57 of the Act, a Public Notice on motoring (700/64) which does not set out

current scales, further concessions in Notice 48 and PE guidance and links to what the current scale charges are on the HMRC web site.

#### The annual revalorisation process needs to be made easier

The annual revalorisation process is currently part of the Budget and an annual Statutory Instrument is required. Changes to the law could make this an automatic process that takes place independently of the Budget thus saving Parliamentary time as well as HMRC resource.

### **3 How the Government intends to correct the position and improve the scheme**

#### **Retaining fair options for taxpayers**

Taxpayers have had the following three options under the UK law and concessions combined. They are:

- Claim no input tax on road fuel and declare no deemed supplies
- Maintain accurate mileage records so that business and private motoring can be identified and use them to either claim only VAT on road fuel used in business journeys or charge staff accurately for the fuel they use privately
- Claim all input tax on road fuel and declare RFSCs

These are all fair ways of treating road fuel. The planned changes will ensure that these options remain available to all taxpayers, but wholly under UK law that correctly implements the UK's derogation from the PVD. A copy of the UK's derogation is set out at Annex C.

#### **Outline of how the legal changes will be achieved**

It is not necessary to have a special rule imposing deemed supplies when business road fuel is used for private purposes. This is because the normal deemed supply rule in para 5 of Schedule 4 to the VAT Act already creates a deemed supply. Deemed supplies established under para 5 of Schedule 4 are subject to the normal valuation rules in Schedule 6.

The Government wants to retain the benefits of having a simplified system of scale charges as a means of valuing the private use of fuel. The intended way to address this area is to repeal most or all of section 56 and section 57. The scale charges will be set out in special rules for valuing deemed supplies of road fuel used in cars (as generated by Schedule 4) either within or introduced by Schedule 6.

The Government's preference is to put the detailed rules governing the annual revalorisation into secondary legislation to avoid overcomplicating the VAT Act. The scales will then be set out in either PN 700/64 or an Information Sheet, having the force of law in either case. HMRC will be required to update the RFSCs to reflect changes in fuel prices on an annual basis.



Parliamentary control of the system will be ensured by setting out in legislation the form of the scale charge and the method HMRC must use to update it in line with fuel prices. This system will continue until and unless the rules governing the annual update are themselves updated. Any such change will require an affirmative Statutory Instrument. Overall this will both simplify the setting out and updating of the scales (making it an automatic process that takes place independently of the Budget) and ensure that any future tax changes are only made after a parliamentary debate.

### **Question 1**

**The Government intends to set out detailed rules on how RFSCs must be calculated by HMRC in a Statutory Instrument introduced by Schedule 6. Do you agree that this is the best way?**

### **Ensuring consistency and fairness**

For businesses which charge employees an amount that is below the cost value of the fuel provided for private use, a provision will be made in Schedule 6 that will require that VAT is accounted for on the open market value of the fuel. This will ensure consistency with the VAT treatment of other businesses providing fuel private use. If accurate mileage records cannot substantiate the true value of the fuel supplied for private use, the RFSC can be used. This will be set out in HMRC guidance after the law has changed.

Taxpayers who do not keep accurate mileage records will continue to have a choice not to use the RFSCs by not claiming any VAT on road fuel as input tax. If VAT on road fuel is not treated as input tax then minor charges to employees for private use fuel will not be taxable supplies.

## The Partial Exemption (PE) concession

HMRC will have to withdraw this concession. HMRC intend to announce its withdrawal, after a transitional period, when the response document to this consultation is published.

The following ways have been identified by which partly exempt businesses can prevent any unfairness once the PE concession is withdrawn.

- Firstly, accurate mileage records can be kept and used to apportion input tax on road fuel, with only business journey fuel being brought into the business. Because no private motoring is funded no RFSCs will apply.
- Alternatively, partial exemption methods can be agreed that take into account full RFSCs being declared by ensuring full input tax recovery on road fuel used for private journeys.

### Question 2

**Do any problems exist that would mean the withdrawal of the PE concession needs to be rescheduled or delayed?**

## Simplifying RFSC application for taxpayers

The Government intends that the table of scale charges (with force of law) plus clear guidance on their use will be published in one place so that taxpayers can easily establish their options, obligations and liabilities. There is no intention to change the method by which RFSCs are calculated. The Government's preferred option is for this all to go into one HMRC notice (probably 700/64 but possibly a RFSC notice) that will be updated every year to reflect movements in fuel prices.

### Question 3

- a) Is this the best way to simplify and bring together all material on motoring costs?**
- b) Do you have any comments or suggestions on how the taxation of road fuel can be simplified for small and medium size businesses?**

## 4 Impacts

The table below sets out the Government's view on what the impact of the legislative changes will be. This section gives all interested parties the opportunity to comment on what impact the changes will have and to point out anything that may have been overlooked. In particular the Government invites comment from charities, small businesses or bodies representing their interests.

Exchequer impact	2012-13	2013-14	2014-15	2015-16	2016-17
	Neg	Neg	Neg	Neg	Neg
Economic impact	This measure is expected to have no significant economic impacts				
Impact on individuals and households	N/A – only applies to VAT registered businesses				
Equalities impact	No equality groups have been identified as being impacted differently from this change				
Impact on businesses and civil society organisations	We believe there is no impact on businesses in civil society organisations as the objective is simply to legislate the current scale charges. As both the RFSCs and the current options available to taxpayers will continue no significant compliance costs will arise in transition				
Operational impact for HMRC or public sector delivery organisations	No impact				
Other impacts	We believe there is no impact on small businesses as the objective is simply to legislate the current scale charges.				

#### Question 4

**Do you agree that the legislative changes will have no significant impacts? If you do not agree then what impacts do you think will result from the legislative changes?**

## **5 Summary of questions**

### **From section 3 – How the Government intends to correct the position and improve the scheme**

#### **Question 1**

**The Government intends to set out detailed rules on how RFSCs must be calculated by HMRC in a Statutory Instrument introduced by Schedule 6. Do you agree that this is the best way?**

#### **Question 2**

**Do any problems exist that would mean the withdrawal of the PE concession needs to be rescheduled or delayed?**

#### **Question 3**

- a) Is this the best way to simplify and bring together all material on motoring costs?**
- b) Do you have any comments or suggestions on how the taxation of road fuel can be simplified for small and medium size businesses?**

### **From Section 4 - Impacts**

#### **Question 4**

**Do you agree that the legislative changes will have no significant impacts? If you do not agree then what impacts do you think will result from the legislative changes?**

## **6 Other matters**

### **Who is being consulted?**

This document is being circulated to accountancy bodies, legal bodies, small and medium size business bodies all of which are represented on the Joint VAT Consultative Committee (JVCC). Those circulated are welcome to pass the document on to any further stakeholder persons or bodies they think will be interested. The document will also be on the HMRC web site consultations page and accessible via link from the HM Treasury web site Tax Consultation Tracker.

### **How to respond**

Responses should be with HMRC by 20 July 2012. They may be sent by Email or hard copy to; -

Phil Mattacks,  
Deductions and Financial Services Team, VAT Directorate  
Room 3C/12,  
100 Parliament Street,  
London SW1A 2BQ

Tel 0207-147-0538 – Email [phil.mattacks@hmrc.gsi.gov.uk](mailto:phil.mattacks@hmrc.gsi.gov.uk)

HMRC will publish the responses to this consultation when it is complete. The form of the publication will depend on what responses are received.

### **Confidentiality**

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer

generated by your IT system will not, of itself, be regarded as binding on HM Revenue and Customs (HMRC).

HMRC will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

## Annex – Relevant (current) Government and European Union Legislation and Extra Statutory Material

A1

### **3.1 VAT: VAT on purchase of road fuel**

The Value Added Tax Act 1994 section 56 (formerly Finance Act 1986 section 9) requires payment of a scale charge when road fuel purchased by a business is used for private journeys. However, where a registered person claims no input tax on purchases of road fuel, whether for business or private journeys, the VAT scale charge will not apply.

A2

## **8. Road fuel bought for business**

### **8.1 My business pays for road fuel, what can I do about the VAT incurred?**

There are four options you can:

(a) claim all of the VAT because 100 per cent is used for business purpose (see paragraph 8.2)

(b) claim all VAT charged and apply the fuel scale charge (see paragraph 8.2)

(c) use detailed mileage records to separate your business mileage from private mileage (see paragraph 8.3) or

(d) claim no input tax (see paragraph 8.6).

...

### **8.3 In what circumstances do I need to separate my business mileage from private mileage?**

If your business funds both business and private motoring and you wish to recover some of the VAT, but do not want to apply the fuel scale charge (see section 9) you must keep detailed mileage records.

A3

## PE4450 - Other Partial Exemption issues: Petrol scale charges

Where a partly exempt business uses a vehicle for private motoring the input tax incurred on the petrol can be fully recovered provided the petrol scale charge is declared in the same way as a fully taxable business. In order to recover this input tax, the business and private motoring petrol expenses must be separated. The input tax in respect of any private motoring is fully recoverable. The input tax in respect of business motoring is recoverable to the extent that the vehicle involved is used to make taxable supplies.

For businesses that are unable to separate business and private motoring, the scale charge may be reduced to equal the percentage of input tax recoverable under the partial exemption method. This means, for example, that where only 80% of the input tax is recoverable, only 80% of the appropriate scale charge will be declared. When the annual adjustment is carried out, the scale charge must also be adjusted. When using an outputs-based method a business should include the full value (excluding VAT) of the scale charge within the partial exemption calculation.

### B1

#### 56 Fuel for private use.

(1) The provisions of this section apply where, in any prescribed accounting period, fuel which is or has previously been supplied to or imported or manufactured by a taxable person in the course of his business—

(a) is provided or to be provided by the taxable person to an individual for private use in his own vehicle or a vehicle allocated to him and is so provided by reason of that individual's employment; or

(b) where the taxable person is an individual, is appropriated or to be appropriated by him for private use in his own vehicle; or

(c) where the taxable person is a partnership, is provided or to be provided to any of the individual partners for private use in his own vehicle.

(2) For the purposes of this section fuel shall not be regarded as provided to any person for his private use if it is supplied at a price which—

(a) in the case of fuel supplied to or imported by the taxable person, is not less than the price at which it was so supplied or imported; and

(b) in the case of fuel manufactured by the taxable person, is not less than the aggregate of the cost of the raw material and of manufacturing together with any excise duty thereon.



(3) For the purposes of this section and section 57—

(a) “fuel for private use” means fuel which, having been supplied to or imported or manufactured by a taxable person in the course of his business, is or is to be provided or appropriated for private use as mentioned in subsection (1) above;

(b) any reference to fuel supplied to a taxable person shall include a reference to fuel acquired by a taxable person from another member State and any reference to fuel imported by a taxable person shall be confined to a reference to fuel imported by that person from a place outside the member States;

(c) any reference to an individual's own vehicle shall be construed as including any vehicle of which for the time being he has the use, other than a vehicle allocated to him;

(d) subject to subsection (9) below, a vehicle shall at any time be taken to be allocated to an individual if at that time it is made available (without any transfer of the property in it) either to the individual himself or to any other person, and is so made available by reason of the individual's employment and for private use; and

(e) fuel provided by an employer to an employee and fuel provided to any person for private use in a vehicle which, by virtue of paragraph (d) above, is for the time being taken to be allocated to the employee shall be taken to be provided to the employee by reason of his employment.

(4) Where under section 43 any bodies corporate are treated as members of a group, any provision of fuel by a member of the group to an individual shall be treated for the purposes of this section as provision by the representative member.

(5) In relation to the taxable person, tax on the supply, acquisition or importation of fuel for private use shall be treated for the purposes of this Act as input tax, notwithstanding that the fuel is not used or to be used for the purposes of a business carried on by the taxable person (and, accordingly, no apportionment of VAT shall fall to be made under section 24(5) by reference to fuel for private use).

(6) At the time at which fuel for private use is put into the fuel tank of an individual's own vehicle or of a vehicle allocated to him, the fuel shall be treated for the purposes of this Act as supplied to him by the taxable person in the course or furtherance of his business for a consideration determined in accordance with subsection (7) below (and, accordingly, where the fuel is appropriated by the taxable person to his own private use, he shall be treated as supplying it to himself in his private capacity).

(7) In any prescribed accounting period of the taxable person in which, by virtue of subsection (6) above, he is treated as supplying fuel for private use to an individual, the consideration for all the supplies made to that individual in that period in respect of any one vehicle shall be that which, by virtue of section 57, is appropriate to a vehicle of that description, and that consideration shall be taken to be inclusive of VAT.

(8) In any case where—

(a) in any prescribed accounting period, fuel for private use is, by virtue of subsection (6) above, treated as supplied to an individual in respect of one vehicle for a part of the period and in respect of another vehicle for another part of the period; and

(b) at the end of that period one of those vehicles neither belongs to him nor is allocated to him, subsection (7) above shall have effect as if the supplies made to the individual during those parts of the period were in respect of only one vehicle.

(9) In any prescribed accounting period a vehicle shall not be regarded as allocated to an individual by reason of his employment if—

(a) in that period it was made available to, and actually used by, more than one of the employees of one or more employers and, in the case of each of them, it was made available to him by reason of his employment but was not in that period ordinarily used by any one of them to the exclusion of the others; and

(b) in the case of each of the employees, any private use of the vehicle made by him in that period was merely incidental to his other use of it in that period; and

(c) it was in that period not normally kept overnight on or in the vicinity of any residential premises where any of the employees was residing, except while being kept overnight on premises occupied by the person making the vehicle available to them.

(10) In this section and section 57—

- “employment” includes any office; and related expressions shall be construed accordingly;
- “vehicle” means a mechanically propelled road vehicle other than—

(a) a motor cycle as defined in section 185(1) of the **M1**Road Traffic Act 1988 or, for Northern Ireland, in Article 37(1)(f) of the **M2**Road Traffic (Northern Ireland) Order 1981, or

(b) an invalid carriage as defined in that section or, for Northern Ireland, in Article 37(1)(g) of that Order.

## B2

<i>Description of vehicle: vehicle's CO<sub>2</sub> emissions figure</i>	<i>12 month period £</i>	<i>3 month period £</i>	<i>1 month period £</i>
120 or less	630.00	157.00	52.00
125	945.00	236.00	78.00
130	1,010.00	252.00	84.00
135	1,070.00	268.00	89.00
140	1,135.00	283.00	94.00
145	1,200.00	299.00	99.00
150	1,260.00	315.00	105.00

155	1,325.00	331.00	110.00
160	1,385.00	346.00	115.00
165	1,450.00	362.00	120.00
170	1,515.00	378.00	126.00
175	1,575.00	394.00	131.00
180	1,640.00	409.00	136.00
185	1,705.00	425.00	141.00
190	1,765.00	441.00	147.00
195	1,830.00	457.00	152.00
200	1,890.00	472.00	157.00
205	1,955.00	488.00	162.00
210	2,020.00	504.00	168.00
215	2,080.00	520.00	173.00
220	2,145.00	536.00	178.00
225 or more	2,205.00	551.00	183.00

The values listed are VAT inclusive so the VAT amounts are the values times one sixth.

## C

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (1), and in particular Article 27(1) thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) By letter registered by the Secretariat-General of the Commission on 7 April 2005, the United Kingdom requested authorisation to derogate from Articles 5(6) and 11(A)(1)(b) of Directive 77/388/EEC.

(2) In accordance with Article 27(2) of Directive 77/388/EEC, the Commission informed the other Member States by letter dated 26 October 2005 of the request made by the United Kingdom. By letter dated 27 October 2005, the Commission notified the United Kingdom that it had all the information it considered necessary for appraisal of the request.

(3) The United Kingdom wishes to replace the derogation, provided for by Council Decision 86/356/EEC of 21 July 1986 authorising the United Kingdom to apply flat-rate measures in respect of the non-deductible

value added tax charged on fuel expenditure in company cars (2), which authorised special simplification measures in order to determine on a flat-rate basis the proportion of value added tax (VAT) relating to expenditure on fuel in business cars partly used for private purposes. This procedure relieves taxable persons of the need to keep detailed mileage records in order to calculate, for each car, the exact amount of VAT related to private and business motoring. Like this system, the proposed new system will be optional for taxable persons.

(4) The current system is based on the type of fuel used and the engine size of the car. The United Kingdom wishes to amend this system and base it on the level of carbon dioxide (CO<sub>2</sub>) emissions from the car, as there is a proportional correlation between emissions and fuel consumption and therefore with expenditure on fuel. This means that a flat-rate scale system based on CO<sub>2</sub> emissions could achieve the same objective of taxing fuel expenditure incurred by a business for private motoring. At the same time, the United Kingdom also expects to achieve greater accuracy in determining the charge for private consumption by increasing, and therefore refining, the number of scale bands in comparison with the existing bands.

(5) This arrangement has effectively enabled the United Kingdom to simplify the procedure for charging tax in relation to expenditure on fuel for business cars and the proposed system, based on CO<sub>2</sub> emissions, will have a similar effect. Private consumption should be more accurately reflected under the new system. 3.10.2006 EN Official Journal of the European Union L 272/15 (1) OJ L 145, 13.6.1977, p. 1. Directive as last amended by Directive 2006/69/EC (OJ L 221, 12.8.2006, p. 9). (2) OJ L 212, 2.8.1986, p. 35.

(6) The authorisation should be limited in time, so that in the light of the experience gained up to that date an assessment may be made as to whether or not the derogation is still justified.

(7) Decision 86/356/EEC should be repealed after a certain period but in any case at the entry into force of the national provisions introducing the new special measure, in order to avoid a situation in which authorisations for both systems exist at the same time.

(8) The United Kingdom should inform the Commission of the national provisions introducing the new special measure as soon as they have been adopted and should ensure that this measure will not enter into force before 30 April 2007.

(9) The derogation has no negative impact on the Community's own resources accruing from VAT,

HAS ADOPTED THIS DECISION:

*Article 1*

By way of derogation from Articles 5(6) and 11(A)(1)(b) of Directive 77/388/EEC, the United Kingdom is authorised, from 1 May 2007 until 31 December 2015, 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.

*Article 2*

The proportion of the tax referred to in Article 1 shall be expressed in fixed amounts, established on the basis of the CO<sub>2</sub> emissions level of the type of vehicle, that reflect fuel consumption. The United Kingdom shall adjust these fixed amounts annually to reflect changes in the average cost of fuel.

*Article 3*

The system set up on the basis of this Decision shall be optional for taxable persons.

*Article 4*

Decision 86/356/EEC is repealed on 30 April 2007. The United Kingdom shall inform the Commission of the national provisions referred to in Article 1 as soon as they have been adopted.

*Article 5*

This Decision is addressed to the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 25 September 2006.

*For the Council*

*The President*

M. PEKKARINEN