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Open consultation

Red diesel: call for evidence

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1. Introduction

At Spring Budget 2017 (<https://www.gov.uk/government/publications/spring-budget-2017-documents>) the government announced a call for evidence on the use of rebated gas oil (often called red diesel) in order to improve its understanding of how red diesel is used.

Red diesel use makes up over 15% of total diesel use. The supply chain that links end users to the original refinery is regulated, hence government has an understanding of the suppliers and distributors of red diesel. However, the government has less information about end users and the geographic spread of red diesel use. This information is relevant because of the impact diesel consumption has on air quality, especially in urban areas where multiple uses of red diesel may be concentrated in single locations.

The government would like to understand how red diesel use has changed and how it could change in future. A significant proportion of red diesel continues to be used in urban areas, and the government believe that the consumption of red diesel in the agricultural sector has decreased. Despite this, the government recognises the continued importance of red diesel to the agricultural sector. In the case of machinery, the government wants to understand how changes in technology and design have impacted on the use of red diesel. Diesel is being replaced in some road vehicles by alternative fuels, so an improved understanding of the extent that this could become a realistic option for non-road mobile machinery would be beneficial.

The government invites evidence on red diesel to explore the quantities used across different sectors and the value of the rebate to those industries which benefit.

This call for evidence is designed to improve the data sources available to government about red diesel use and to contribute to a better evidence base for future policies. It does not imply a change in the government's view on eligibility criteria for red diesel.

Anyone with an interest in red diesel is encouraged to share their views. This includes red diesel suppliers and industries and households who benefit from the use of red diesel. The government also invites environmental groups and representative bodies to submit their views.

Chapter 2 explains the history and technical nature of red diesel. Chapter 3 poses questions for respondents. Information about how to submit your responses can be found in Chapter 4. If respondents feel that there are issues that are not covered by the questions set out, but which are relevant to the government's call for evidence, they are welcome to submit additional evidence in their response.

2. What is red diesel?

"Red diesel" is the term used for gas oil that is intended for use other than as fuel in road vehicles. Gas oil intended for use in diesel engine road vehicles (DERV) has a duty rate of 57.95 pence per litre (ppl). Gas oil intended for other uses is entitled to a rebate of 46.81ppl giving an effective rate of 11.14ppl.

Red diesel is so called because it has been a requirement since 1961 for it to be marked with a red dye as well as chemical markers (other than in circumstances where a technical marking waiver is granted). This is to prevent its misuse in road vehicles.

Red diesel use accounts for 15% of total diesel for the UK. The reduced rate costs around £2.4 billion a year in revenue compared to if duty was charged at the main rate.

2.1 History

The rebate for gas oil has existed in one form or another since the inception of fuel duty in 1928. This was because fuel duty was intended to be a tax on motoring and gas oil was mainly used for heating.

The government withdrew the rebate for use in road vehicles in 1935 as a result of the development of diesel engine road vehicles. However, the rebate remained in place for all other uses, including those vehicles which already paid a lower rate of vehicle excise duty (VED) because their use of roads was incidental. Tractors and other agricultural machines became “excepted vehicles” that could use the road occasionally but were not classified as “road vehicles”. This avoided imposing additional costs on agriculture. However, the policy justification (that road use was incidental) has, over time, allowed the definition of excepted vehicles to be gradually widened.

In 1959 the entitlement to use rebated gas oil was extended to all vehicles used exclusively off-road, regardless of design, and also to subsidiary engines mounted on road vehicles where these are supplied from a separate fuel tank. In 1961, marking of rebated gas oil was introduced and a positive rate was re-imposed (a full rebate having been introduced in 1947 because of post-war fuel shortages). Since then the red diesel rate has continued to increase, usually, but not always, by the same percentage as the main rate. The red diesel rate has remained constant since 2011 as a result of the 7 year freeze in the main rate of fuel duty.

2.2 Uses of red diesel

The British standard for red diesel used as heating fuel is BS 2869 Class D which has a maximum permitted sulphur content of 1,000 parts per million (ppm). The British Standard for red diesel used in non-road mobile machines is BS 2869 Class B2 which has a maximum permitted sulphur content of 10 ppm. Some manufacturers recommend using fuel that conforms to the road standard EN 590.

Red diesel has a variety of uses. The box below outlines examples of red diesel use other than in motor vehicles.

2.3 Uses of red diesel other than in motor vehicles

- heating – red diesel used for heating is known as ‘35 second oil’. Use of red diesel for heating has declined with the availability of natural gas but it is still used ‘off-grid’ for the heating of commercial and public sector premises, and in agriculture for heating animal sheds and processes such as drying grain, as well as some household heating. Use of red diesel for industrial heat in kilns and furnaces has similarly declined
- stationary engines – this includes static generating sets, for instance back-up capacity at power stations and stand-by generators in places such as hospitals
- mobile machinery – red diesel can be used to operate machinery mounted on road vehicles so long as the machinery is supplied from a separate tank, for example transport refrigeration units. It is also used in mobile generating sets

- ships – including inland waterways. Private pleasure crafts can use red diesel but suppliers must retain and repay to HMRC the proportion of the rebate that relates to motive power rather than domestic use
- rail – this use has reduced with electrification but not all passenger lines have been electrified. Freight trains mostly run on red diesel

Red diesel cannot be used for the propulsion of road vehicles but can be used in 'excepted vehicles'. This includes unlicensed vehicles used exclusively on private property, such as some construction and airport vehicles. It also includes other categories of vehicles that can be used on the public road if certain design and/or use criteria are met. This concession reduces compliance burdens on businesses that employ off-road machinery which is not intended for use on the road but which may unavoidably make incidental use of the road network. Examples of this are an agricultural tractor, or a works truck such as a fork lift which can travel short distances on the road in defined circumstances. A full list of excepted vehicles is contained in Annex A.

2.4 Reliefs

Reliefs are offered on red diesel in certain circumstances, for instance:

- greenhouses growing eligible produce qualify for full repayment relief under the horticultural producers scheme. This relief allows the grower to reclaim all of the duty paid on any heavy oil used to heat the building or structure used for the growth of horticultural produce
- under the ship's stores relief or marine voyages relief duty can be reclaimed on red diesel used at sea other than in a private pleasure craft
- where red diesel is used to generate electricity for supply through a licensed supplier the duty can be reclaimed less any carbon price floor payment due

2.5 Red diesel licences

Furthermore, in exceptional cases, HMRC also issue licences to allow use of red diesel and kerosene as fuel to propel vehicles, including road vehicles.

Such licences are intended for vehicles that are not excepted vehicles but which do not normally travel on public roads at all. Authority is given only where a vehicle will use public roads in exceptional circumstances where it is unnecessarily obstructive to require the user not to use red diesel on the public road.

Licence holders are required to pay the duty differential between red diesel and the main rate in advance of the fuel being used. This means licence holders must estimate the fuel they will use and submit a return with payment for the additional duty. Further payments will be required if the estimate of consumption proves insufficient.

2.6 The supply chain

Red diesel is supplied to users through a controlled supply chain, where there is oversight of both wholesale and retail suppliers. HMRC approve suppliers under the Registered Dealers in Controlled Oil (RDCO) scheme before they can supply red diesel. Certain suppliers who only supply fuel in small pre-packaged containers of 20 litres or less do not need to be approved. HMRC will only grant approval

where the applicant is assessed as being a fit and proper person to supply controlled oil. Approved suppliers are required to take reasonable steps to make sure that their customer is properly entitled to receive the oil that is being supplied. Under the RDCO scheme suppliers are required to make periodic returns of the controlled oils supplied.

The government is aware in broad terms of which industries are supplied with red diesel but does not collect information from the users themselves. For example, when red diesel is supplied to a construction site that is not connected to mains power, there is no information on the proportion used in site vehicles such as digging machines and mobile cranes as opposed to that used in generating sets to heat the portable buildings for site staff.

2.7 International comparisons

The UK is not unique in offering a rebated fuel for off-road usage. Examples of other countries that allow the use of such fuel and the circumstances in which it may be used include:

- Republic of Ireland – there is a red diesel equivalent which is referred to as green diesel as the dye used to mark it is green. It can be used for non-road mobile machinery
- Canada – there is 'coloured fuel'; diesel mixed with a specific dye which is taxed at a lower motor fuel tax rate. This can be used in ships and boats, locomotives, tractors and unlicensed motor vehicles. Industrial machines are also eligible when used off the road. Coloured fuel can also be used to operate an engine separate from that used to power a motor vehicle
- United States – 'dyed gas' is available for use in off-road vehicles such as farm tractors, heavy construction equipment and generators. This fuel is not taxed

3. Questions

3.1 Users of red diesel

The government is interested in gathering further information about the end use of red diesel. The government welcomes views from individuals and companies about how they use the fuel. Please provide relevant evidence on usage of red diesel applicable to your industry, particularly in relation to:

- the purpose and type of use, such as business, public sector or domestic. Where red diesel is used as motor fuel it would be useful to know what types of machinery, including excepted vehicles, it is used to power and what they are used for
- where in the country diesel is used. Please include details of the locations where you use red diesel, and if it is used as a motor fuel the number of any machines, including excepted vehicles operating at those locations
- whether you consider that there are any viable alternative fuels available to you to power such machinery or equipment

If you know your Standard Industrial Classification code, please also provide this.

You are invited to provide any evidence you deem relevant to this call for evidence, not limited to the information requested.

3.2 Suppliers of red diesel

The government monitors the red diesel supply chain closely, in order to ensure successful regulation of suppliers and distributors. The government would be interested in views on the operation of this supply chain. Evidence is welcomed from both RDCOs and exempt suppliers on the following aspects:

- the quantities of red diesel you provide
- where in the country you distribute red diesel to, particularly details on the split between urban and rural areas

You are invited to provide any evidence you deem relevant to this call for evidence, not limited to the information requested.

3.3 General information

The government invites further views from any interested groups. Please submit any evidence that you feel would be valuable. The government is interested in gathering your views on the following:

- the current list of “excepted vehicles” listed in Annex A and whether the definitions are clear enough
- your opinions on the red diesel licence scheme
- your opinions on the range of other uses for which red diesel is permitted, as referenced in Chapter 2, Box 2.A
- your opinions on the environmental effect of red diesel use, particularly in urban areas where use is more concentrated

4. Next steps

4.1 Submitting your responses

Responses are requested by 30 June 2017. The government cannot guarantee that responses received after this date will be considered.

The government invites feedback on the annexes to this document, in addition to the specific questions raised in the consultation document.

Responses can be sent by email to ETTanswers@HMTreasury.gsi.gov.uk.

Alternatively, they can be posted to:

Red Diesel
 Energy and Transport Tax Team
 Business and International Tax Group
 HM Treasury
 1 Horse Guards Road
 London
 SW1A 2HQ

When responding, please state whether you are doing so as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make clear who the organisation represents and, where applicable, how the views of members were assembled. In the case of representative bodies, please provide information on the number and nature of people or organisations that the body represents.

4.2 Confidentiality

The government will provide a list of the organisations that respond to this call for evidence and a summary of the responses received. Names of individuals or personal details will not be made public.

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

If you would like the information that you provide to be treated as confidential, please mark this clearly in your response. However, please be aware that under the FOIA, there is a Statutory Code of Practice with which public authorities must comply and which deals, among other things, with obligations of confidence. In view of this, it would be helpful if you could explain why you regard the information you 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.

In the case of electronic responses, general confidentiality disclaimers that often appear at the bottom of emails will be disregarded unless an explicit request for confidentiality is made in the body of the response.

5. Annex A: Excepted vehicles

Vehicle	Conditions
Tractors	To qualify as an excepted vehicle, the tractor must be an agricultural tractor designed and constructed primarily for use otherwise than on roads. It must not be used on public roads except for: a) purposes relating to agriculture, horticulture or forestry, b) cutting verges bordering public roads, c) cutting hedges or trees bordering public roads or bordering verges which border public roads d) from 1 November 2013, gritting of roads, including travel to and from where gritting takes place, and for the collection of equipment and material for gritting

Light agricultural vehicles	To qualify under this category the vehicle must: a) have a revenue weight not exceeding 1,000 kilograms, b) be designed and constructed so as to seat only the driver, c) be designed and constructed primarily for use otherwise than on roads, and d) be used only for purposes relating to agriculture, horticulture forestry or for gritting roads. The revenue weight of a vehicle is either the maximum weight of the vehicle or the design weight as defined in section 60A of the Vehicle Excise and Registration Act 1994. Quad bikes and similar single-seater machines used for agricultural, horticultural or forestry work fit into this category
Agricultural material handlers	To qualify as an agricultural material handler, the vehicle must be designed to lift goods or burden and be designed and constructed primarily for use otherwise than on roads. Agricultural material handlers must not be used on public roads except for: a) agricultural, horticultural or forestry work, b) cutting verges bordering public roads, c) cutting hedges or trees bordering public roads or bordering verges which border public roads, or d) since 1 November 2013, the gritting of roads, including travel to and from where gritting takes place and for the collection of equipment and material for gritting
Agricultural engines	This category is restricted to purpose-built vehicles that: a) are designed and used solely for purposes relating to agriculture, horticulture or forestry, b) are used on public roads only for proceeding to and from the place where the vehicle is to be or has been used for those purposes, and c) when so proceeding do not carry any load except such as is necessary for its propulsion or for the operation of any machinery built-in or permanently attached to the vehicle. This category includes but is not limited to combine harvesters, crop sprayers, forage harvesters and pea viners
Agricultural processing vehicles	These are specialist agricultural vehicles that: a) are used for the conveyance of built-in machinery for processing agricultural, horticultural or forestry produce that is used while the vehicle is stationary b) are used on public roads only for proceeding to and from the place where that machinery is to be used, and c) when so proceeding do not carry any load except such as is necessary for their propulsion or for the operation of the processing machinery. This category includes mobile seed cleaning machines or feed milling machines
Vehicles used between different parts of the land	A vehicle in this category must: a) be used only for purposes relating to agriculture, horticulture or forestry, b) be used on public roads only in passing between different areas of land occupied by the same person, c) not travel a distance on public roads in passing between two such areas that exceeds 1.5 kilometres, and d) have a nil licence (as defined in Section 62 of the Vehicle Excise and Registration Act 1994) in force
Mowing machines	The mowing machine must be a complete vehicle, whether pedestrian-operated or 'ride-on'. The machinery must be built into the vehicle for it to qualify under this category
Snow	A vehicle is an 'excepted vehicle' when it is being used to clear snow from public roads by means of a snow plough or similar device (whether or not forming part of the

clearing vehicles	vehicle) or when it is travelling to or from the place where it is to be or has been used for that purpose
Gritters	A vehicle in this category must be constructed or adapted, and used, solely for the conveyance of machinery for spreading material on roads to deal with frost, ice or snow (with or without articles or material used for the purposes of the machinery). Many of these vehicles are converted HGVs that are used as gritters in the winter months. If the gritting equipment is fitted in a workshop and is attached for the duration of the winter, the vehicle is deemed to meet the requirements of the law as being used 'solely' for gritting. The following do not qualify in this category: a) vehicles towing gritting equipment mounted on trailers, b) vehicles into which gritting equipment is merely dropped or held in place with straps, c) drop-sided vehicles carrying grit or other suitable material for manual spreading
Mobile cranes	A vehicle in this category must be designed and constructed as a mobile crane which: a) is used on public roads only as a crane in connection with work carried out at a site in the immediate vicinity of where it is being used or for the purpose of proceeding to and from the place where it is to be used, b) when so proceeding does not carry any load except such as is necessary for its propulsion or the operation of built-in lifting apparatus, and c) has a revenue weight exceeding 3,500 kilograms. The category does not include load carrying vehicles such as vans with access platforms. Where a mobile crane is dependent on another vehicle only for transport to and from the place where it will be used, whether carried or trailer-mounted, the crane itself may use red diesel, but the carrier or towing vehicle has no red diesel entitlement
Mobile pumping vehicles	A vehicle in this category is one which: a) is constructed or adapted for use and used for the conveyance of a pump and jib, b) is used on public roads only when the vehicle is stationary and the pump is being used to pump material from a point in the immediate vicinity to another such point or when proceeding to or from a place where the pump is to be or has been used, and c) when so proceeding does not carry the material that is to be or has been pumped or any other load except such as is necessary for the propulsion or equipment of the vehicle or for the operation of the pump. The pump and jib must be built in as part of the vehicle. The material pumped must be delivered to a desired height or depth through piping that is attached to the pump and jib and is raised or lowered to that height or depth by operation of the jib. Vehicles without boom-mounted pumps such as mobile batching plants are not in this category nor are load carrying vehicles fitted with boom-mounted pumps, such as gully-suckers
	To qualify in this category the vehicle must be designed, constructed and used for the purpose of trench digging or any kind of excavating or shovelling work. It must only use the public road for that purpose or for the purpose of proceeding to and from the place where the vehicle is to be or has been used for that purpose. When so proceeding it must not carry any load except such as is necessary for its propulsion or equipment. Digging machines may include earth scraping machines, mobile drilling rigs and road

Digging machines	<p>planing or abrading machines used to remove the road surface. A tractor mounting a permanently-attached front shovel may also be classed as a digging machine. Shot-blasting vehicles used to remove paint or other material from the surfaces of bridges, girders and the like do not qualify. Where digging machines or drilling rigs are transported on another vehicle, the combination of digging equipment and transport would qualify in the digging machine category only where the transporting vehicle was designed and constructed solely to accommodate and facilitate the operation of the specific digging or drilling unit. To meet this requirement, the transporting vehicle must have purpose-built provision for loading and unloading the specific unit, have any necessary ancillary equipment permanently fitted, have no additional load carrying capacity, and must necessarily remain connected to the unit while it is in use. Vehicles adapted for the purpose of transporting a digging machine or drilling unit do not qualify. Where a digging machine or drilling unit is dependent on another vehicle only for transport to and from the place where it will be used, whether carried or trailer-mounted, the digging equipment itself may use red diesel, but the carrier or towing vehicle has no red diesel entitlement</p>
Works trucks	<p>To qualify as a works truck the vehicle must be a goods vehicle designed for use in private premises. It must only be used on public roads: a) for carrying goods between private premises and a vehicle on a road within one kilometre of those premises, b) in passing from one part of private premises to another, c) in passing between private premises and other private premises in a case where the premises are within one kilometre of each other, or d) in connection with road works at the site of the works or within one kilometre of the site of the works. In the context of this category a goods vehicle is a vehicle constructed or adapted for use and used for the conveyance of goods or burden of any description (whether in the course of trade or not). Typical works trucks include fork lift trucks, 'shunt' vehicles designed to haul articulated trailers and their goods around sites and special vehicles which lift and move freight containers around sites. Typically, the vehicle will have a maximum speed well below road traffic speeds of 30 mph+ and will lack many of the features, such as braking and lighting systems, required under the Road Traffic Act 1988. A tractor towing a trailer is not a works truck</p>
Road rollers	<p>Self-propelled vehicles with one, two or three drums and walk-behind rollers qualify in this category</p>
Road surfacing vehicles	<p>A vehicle in this category is one which: a) is designed and constructed to perform an operation necessary to construct or restore the surface of a road, b) does not carry any load on a public road except as is necessary for its propulsion or for the operation of any machinery built-in or permanently attached to the vehicle, and c) has a maximum speed not exceeding 20 kilometres per hour. Vehicles such as asphalt pavers qualify in this category</p>
Tar	<p>To qualify in this category, the tar sprayer must be constructed or permanently adapted, and used solely for spraying tar on to the road or for proceeding to and from the place where it is to be or has been used for that purpose. Hot boxes used to</p>

sprayer

transport and maintain tar at a desired temperature do not qualify in this or any other category