

VAT: road fuel scale charges

Who is likely to be affected?

VAT-registered businesses who use road fuel scale charges (RFSCs) to account for VAT on private use of road fuel purchased by the business.

General description of the measure

VAT law and practice on RFSCs will be streamlined and the process for the annual updating of the charges will be simplified. There will be minor changes to the way partially exempt businesses account for private use of business fuel.

Policy objective

Future amendments of the RFSCs will be taken out of the Budget process and HM Revenue & Customs (HMRC) will be able to publish them alongside the relevant guidance in a single place achieving reductions in burdens on small businesses and reduced costs for HMRC and HM Treasury.

The law will be updated to incorporate two extra statutory concessions which cannot be retained. A third extra statutory concession relating to private use of fuel by partially exempt businesses, which also cannot be retained but which cannot be incorporated in law, will be withdrawn and affected businesses will need to reflect this in their VAT calculations. UK law will be brought into line with EU law, making it more secure without changing the effect of current UK law.

Background to the measure

The measure was announced at Budget 2012 and followed by a consultation during the summer.

Detailed proposal

Operative date

Supplies of fuel to staff or family at below open market value (OMV) will be valued at OMV on and after the date that Finance Bill 2013 receives Royal Assent.

To prevent forestalling the OMV legislation will take effect retrospectively from 11 December 2012 (date of exposure of draft legislation) insofar as fuel is used after the new law comes into force. So supplies of fuel made between 11 December 2012 and Royal Assent to Finance Bill 2013 at below OMV will be valued at OMV to the extent that the actual use of the fuel is after the date of Royal Assent.

The annual revalorisation of RFSCs, previously a budget measure, will automatically be calculated by HMRC independent of the Budget process following Royal Assent.

Current law

The current UK law on the application of RFSCs is contained in sections 56 and 57 of the VAT Act 1994 (VATA1994). The table of charges is set out in section 57 and is updated annually via secondary legislation. This law works alongside three concessions published in HMRC Notices and Guidance.

The law, together with the concessions, gives businesses three options of accounting for VAT on road fuel applied to private use:

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

Whilst this implements EU law and the UK's derogation on deemed supplies of road fuel, sections 56 and 57 of VATA 1994 in isolation are ultra vires the EU Directive and the concessions are necessary to correct this. However, the concessions are not permissible under the guidance given to HMRC in the case of *Regina v. Her Majesty's Commissioners of Inland Revenue (Respondents) ex parte Wilkinson* and must be brought within the legislation or withdrawn.

Proposed revisions

Sections 56 and 57 of VATA 1994 will be repealed and deemed supplies of road fuel will fall back into the standard rules establishing deemed supplies in Schedule 4 of VATA 1994. The RFSCs will be an optional way of valuing deemed supplies of fuel and will be introduced in Schedule 6, the Valuation: Special Cases schedule, with the table set out in an HMRC notice. HMRC will be required to update the table annually, to a set formula, by an SI required to be made under Schedule 6.

Summary of impacts

Exchequer impact (£m)	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
	nil	nil	nil	nil	nil	nil
This measure is not expected to have an Exchequer impact.						
Economic impact	This measure is not expected to have any economic impacts.					
Impact on individuals and households	There is no impact on individuals because the measure only applies to VAT registered businesses.					
Equalities impacts	This measure has no equality impacts on the protected characteristics in the Equality Act 2010.					
Impact on business including civil society organisations	This measure is expected to have a negligible impact on businesses that are partially exempt as they will need to make minor adjustments to their VAT calculations to reflect the private use of road fuel.					
Operational impact (£m) (HMRC or other)	The additional savings for HMRC in implementing this change are anticipated to be negligible.					
Other impacts	<p><u>Small firms impact test:</u> it is anticipated that the impact on small businesses will be limited to those that are partially exempt for VAT and that the impact for those businesses will be negligible. This measure legislates to preserve the status quo.</p> <p>Other impacts have been considered and none have been identified.</p>					

Monitoring and evaluation

This measure will be kept under review through communication with affected taxpayer groups.

Further advice

If you have any questions about this change, please contact Phil Mattacks on 020 7147 0538 (email: phil.mattacks@hmrc.gsi.gov.uk).

1 Valuation of certain supplies of fuel

Schedule 1 contains provision about the valuation of certain supplies of fuel for the purposes of value added tax.

SCHEDULE 1

Section 1

VALUATION OF CERTAIN SUPPLIES OF FUEL

Introductory

- 1 VATA 1994 is amended as follows.

Valuation of supplies for private use

- 2 In Schedule 6 (valuation: special cases), before paragraph 1 insert –

“PART 1

VALUATION OF SUPPLIES OF FUEL FOR PRIVATE USE

Option for valuation on flat-rate basis

- A1 (1) This paragraph applies if, in a prescribed accounting period, supplies of goods by a taxable person (“P”) arise by virtue of paragraph 5(1) of Schedule 4 (but otherwise than for a consideration) where road fuel which is or has previously been supplied to or imported or manufactured by P in the course of P’s business is provided for, or appropriated to, private use.
- (2) For this purpose “road fuel is provided for, or appropriated to, private use” if –
- (a) it is provided or to be provided by P –
 - (i) to an individual for private use in the individual’s own car or a car allocated to the individual, and
 - (ii) by reason of the individual’s employment,
 - (b) where P is an individual, it is appropriated or to be appropriated by P for private use in P’s own car, or
 - (c) where P is a partnership, it is provided or to be provided to any of the individual partners for private use in that partner’s own car.
- (3) P may opt for all supplies of goods within sub-paragraph (1) made by P in the prescribed accounting period to be valued on the flat-rate basis.
- (4) On the flat-rate basis, the value of all supplies made to any one individual in respect of any one car is that determined in accordance with an order under paragraph B1.
- B1 (1) The Treasury must, by order, make provision about the valuation of supplies on the flat-rate basis.
- (2) In particular, an order under this paragraph must –
- (a) set out a table (“the base valuation table”) by reference to which the value of supplies is to be determined until such

- time as the base valuation table is replaced under paragraph (b),
- (b) provide that at regular intervals –
 - (i) the amounts specified in the base valuation table are to be revalorised by the Commissioners in accordance with the order, and
 - (ii) a table (an “updated valuation table”) containing the revalorised amounts is to take effect (and replace any existing table) in accordance with the order, and
 - (c) require the Commissioners to publish any updated valuation table before it takes effect, together with a statement specifying the date from which it has effect.
- (3) An order under this paragraph may provide for the base valuation table and any updated valuation table to be implemented or supplemented by either or both of the following –
- (a) rules set out in the order which explain how the value is to be determined by reference to any table;
 - (b) notes set out in the order with respect to the interpretation or application of any table or any rules or notes.
- (4) Rules or notes may make different provision for different circumstances or cases.

Interpretation

- C1 (1) For the purposes of this Part of this Schedule –
- (a) any reference to an individual’s own car is to be construed as including any car of which for the time being the individual has the use, other than a car allocated to the individual,
 - (b) subject to sub-paragraph (2), a car is at any time to 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 or to any other person, and is so made available by reason of the individual’s employment and for private use, and
 - (c) fuel provided by an employer to an employee and fuel provided to any person for private use in a car which, by virtue of paragraph (b), is for the time being taken to be allocated to the employee is to be taken to be provided to the employee by reason of the employee’s employment.
- (2) For the purposes of this Part of this Schedule, in any prescribed accounting period a car is not regarded as allocated to an individual by reason of the individual’s 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 –
 - (i) was made available to that employee by reason of the employment, but
 - (ii) was not in that period ordinarily used by any one of them to the exclusion of the others,

- (b) in the case of each of the employees, any private use of the car made by the employee in that period was merely incidental to the employee's other use of it in that period, and
 - (c) in that period it was 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 car available to them.
- (3) In this Part of this Schedule –
- “employment” includes any office, and related expressions are to be construed accordingly;
 - “car” means a motor car as defined by paragraph 1A(4) and (5);
 - “road fuel” means hydrocarbon oil as defined by the Hydrocarbon Oil Duties Act 1979 (see section 1(2) of that Act) on which duty has been paid in accordance with that Act.
- (4) The Treasury may, by order, amend the definition of “road fuel” in sub-paragraph (3).

PART 2

OTHER PROVISIONS”

- 3 In paragraph 6 of that Schedule (valuation of supplies of goods by virtue of paragraph 5(1) of Schedule 4 etc), in sub-paragraph (1), after “except where” insert “the person making the supply opts under paragraph A1(3) above for valuation on the flat-rate basis or”.
- 4 Omit sections 56 and 57 (fuel for private use).
- 5 In section 97(4) (orders subject to affirmative procedure), in paragraph (f), after “paragraph” insert “B1, C1(4),”.

Supplies to employees etc at less than open market value

- 6 After paragraph 2 of Schedule 6 insert –
- “2A (1) This paragraph applies if –
 - (a) a taxable person (“P”) makes a supply of road fuel,
 - (b) the recipient of the supply is –
 - (i) connected with P, or
 - (ii) an employee or partner of P or a person who is connected with such an employee or partner,
 - (c) the value of the supply would (in the absence of this paragraph) be less than its open market value, and
 - (d) the recipient of the supply is not entitled to credit for the whole of the input tax arising on the supply.
 - (2) The value of the supply is to be taken to be an amount equal to its open market value.
 - (3) For the purposes of this paragraph –

- (a) “road fuel” means hydrocarbon oil as defined by the Hydrocarbon Oil Duties Act 1979 (see section 1(2) of that Act) on which duty has been paid in accordance with that Act, and
- (b) any question whether a person is connected with another is to be determined in accordance with section 1122 of the Corporation Tax Act 2010.”

Commencement and transitional provision

- 7 (1) The amendments made by paragraphs 2 to 5 come into force in relation to prescribed accounting periods beginning on or after 1 February 2014.
- (2) Subject to that, section 56 of VATA 1994 has effect on and after 11 December 2012 as if in subsection (2) of that section for the words after “it is supplied” there were substituted “for consideration.”
- 8 (1) The amendment made by paragraph 6 is to be treated as coming into force on 11 December 2012 and has effect in relation to—
 - (a) supplies of goods on or after the commencement day, and
 - (b) supplies of goods in the period beginning with 11 December 2012 and ending immediately before the commencement day, if and to the extent that the goods are not made available before the end of that period to the person to whom they are supplied.
- (2) “The commencement day” means the day on which this Act is passed.

EXPLANATORY NOTE

VAT: EVALUATION OF CERTAIN SUPPLIES OF FUEL

SUMMARY

1. This clause updates UK VAT law on how the use of business road fuel for private journeys should be taxed. It brings two concessions into law and brings UK law clearly within its European vices. It imposes no additional burdens on taxpayers in doing so and preserves all options previously available to taxpayers. The clause establishes an option for taxpayers to account for VAT on the private use of road fuel on a flat rate basis and provides for a table of charges for private use of road fuel, similar to the one that is currently set out in section 57 of the Value Added Tax Act 1994 (VATA), to be set out to this purpose. It takes the annual revalorisation of that table to take account of changes in pump prices of road fuel out of the Budget process. Instead HM Revenue & Customs (HMRC) will be required to update the table in the future, outside of the Budget process and to a formula set out in a Treasury Order approved by Parliament.

DETAILS OF THE CLAUSE

2. Paragraph 2 amends Schedule 6 VATA (valuation: special cases) by inserting a new Part 1 to that Schedule which provides an optional flat rate scheme for valuing deemed supplies which arise when a business's road fuel is used in private journeys for no consideration.
3. New paragraph A1 sets out the conditions to determine when a deemed supply (for no consideration) of road fuel, which arises by virtue of paragraph 5(1) of Schedule 4 VATA, may be valued on a flat-rate basis. The supply must have arisen in circumstances where an individual uses road fuel, which the taxable person has acquired as a business asset, for private journeys. The taxable person may opt for all such supplies made to be valued under the flat rate scheme. If the taxable person opts to use the flat rate scheme for such deemed supplies all such supplies to all individuals in the relevant prescribed accounting period are to be valued on the flat-rate basis.
4. New paragraph B1 requires HM Treasury to make provision for the valuation of supplies on a flat-rate basis and to set out in an order a base valuation table which determines how supplies are to be valued. It enables HM Treasury to set out detailed rules on how the table is to be interpreted. An order under this provision must also require the Commissioners of HMRC to regularly revalorise the amounts in the base table so as to reflect changes in road fuel prices and to set out

the revalorised figures in an updated valuation table which must be published by HMRC. The updated valuation table must be published before it takes effect together with a statement specifying the date from which the table has effect.

5. New paragraph C1 preserves a number of necessary rules and definitions that are currently in sections 56 and 57 VATA and brings them into Schedule 6. These stipulate which cars fall within the flat rate scheme, set out what happens if an employee drives more than one car or one car is driven by several employees and define “employment”, “car” and “road fuel”. This paragraph also provides a power for HM Treasury to amend the definition of road fuel.
6. Part 2 places all of the previously enacted paragraphs of Schedule 6 VATA under a new Part of that Schedule and a new heading. This does not change any of those paragraphs or how they should be construed.
7. Paragraph 3 provides for an exception to the standard rule for valuing deemed supplies so that, where a taxable person has opted to use the flat rate scheme for deemed supplies of road fuel, the standard valuation rule does not apply.
8. Paragraph 4 repeals sections 56 and 57 VATA.
9. Paragraph 5 amends section 97 VATA so that any order made under new Part 1 of Schedule 6 is subject to affirmative resolution procedures.
10. Paragraph 6 inserts a new paragraph 2A into Part 2 of Schedule 6. This is an anti-avoidance provision and replaces a previous anti-avoidance rule which appeared in section 56(2). It prevents under-taxation of private use of fuel by the charging of an artificially low consideration by a taxable person to his employee. It automatically values any supply for consideration made by a taxable person to an employee or partner, or another connected person, which is charged at less than an open market value (OMV), at the OMV.
11. Paragraph 7(1) sets out that the new flat-rate scheme will come into force on 1 February 2014. Paragraph 7(2) amends section 56(2) VATA with effect from 11 December 2013 to ensure that there is only one anti-avoidance rule in force.
12. Paragraph 8 provides for the new anti-avoidance rule in new paragraph 2A of Schedule 6 VATA to be treated as coming into force on 11th December 2012 and has effect for any supplies of road fuel made between 11th December 2012 and Royal Assent to the Finance Bill 2013, that were at made at less than the OMV, but only to the

extent that the fuel supplied has not been made available to the person receiving the supply before Royal Assent.

BACKGROUND NOTE

13. This measure achieves four objectives. These are (a) to bring two concessions into law, (b) to amend the current legislation so that it is compatible with EU law, (c) to streamline how the law is set out to aid small business's understanding; and, (d) to simplify how the valuation tables are updated over time.
14. The changes made preserve all of the options for dealing with private use of business road fuel that are currently available. These are: (a) to treat all road fuel purchased as a business asset and declare scale charges to account for private use under the optional flat rate scheme; (b) keep accurate records of mileage split between business and private journeys (such records can be used to either apportion fuel purchases so that only fuel for business journeys is counted as a business asset, or to accurately value deemed supplies of fuel); and, (c) not to treat road fuel as a business asset, in which case no deemed supplies can arise. HMRC will provide improved guidance for taxpayers so that they may choose the option that best suits them with the minimum of compliance cost in doing so.
15. If you have any questions about this change, or comments on the legislation, please contact Phil Mattacks on 020 7147 0538 (email: phil.mattacks@hmrc.gsi.gov.uk).

Order made by the Treasury, laid before the House of Commons under section 97(3) of the Value Added Tax Act 1994, for approval by resolution of that House within twenty-eight days beginning with the date on which the Order was made, subject to extension for periods of dissolution, prorogation or adjournment for more than four days.

S T A T U T O R Y I N S T R U M E N T S

2013 No.0000

VALUE ADDED TAX

**The Value Added Tax (Flat-rate Valuation of Provision of Fuel
for Private Use) Order 2013**

<i>Made</i>	- - - -	<i>2013</i>
<i>Laid before the House of Commons</i>		<i>2013</i>
<i>Coming into force</i>	- -	<i>1st February 2014</i>

The Treasury make the following Order in exercise of the powers conferred by paragraph B1 of Schedule 6 to the Value Added Tax Act 1994(a).

Citation and commencement

1. This Order may be cited as the Value Added Tax (Flat-rate Valuation of Provision of Fuel for Private Use) Order 2013 and comes into force on 1st February 2014.

Flat-rate basis of valuation of provision of fuel for private use

2. Where a person opts for valuation on the flat-rate basis in accordance with paragraph A1 of Schedule 6 to the Value Added Tax Act 1994 (valuation of supplies of fuel for private use), the valuation of all supplies of road fuel made to any one individual in respect of any one car for a prescribed accounting period is to be determined in accordance with—

- (a) the valuation table, and
- (b) the notes to that table which are set out in Schedule 2 to this Order.

3. The “valuation table” is—

- (a) the current updated valuation table published under article 6, or
- (b) if no table has been published under article 6, the table set out in Schedule 1 to this Order (“the base valuation table”).

Revalorisation of the flat-rate valuation of supplies

(a) 1994 c. 23; paragraphs A1 and B1 were inserted by section cxx of, and Schedule cxx to, the Finance Act 2013 (c.xx).

4. The Commissioners^(a) must revalorise the amounts specified in the base valuation table in accordance with the method set out in Schedule 3 to this Order.

5. On each occasion that the Commissioners revalorise, a table (an “updated valuation table”) containing the revalorised amounts is to take effect (and replace any existing valuation table) from the date the Commissioners specify (“the revalorisation start date”).

6. The Commissioners must publish the updated valuation table before the revalorisation start date together with a statement specifying the revalorisation start date.

7. The Commissioners must revalorise in such time that each revalorisation start date is no more than twelve months after the previous revalorisation start date.

Date *name*
name
Two of the Lords Commissioners of Her Majesty’s Treasury

(a) Section 96(1) of the Value Added Tax Act 1994 (c. 23) defines “the Commissioners” as the Commissioners of Customs and Excise, however, section 50(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11) provides for the latter to be taken as a reference to the Commissioners for Her Majesty’s Revenue and Customs.

Notes to the valuation table

1. For a car of a description in the first column of the valuation table, the value on the flat-rate basis of all supplies of road fuel made to any one individual in respect of that car for a prescribed accounting period is that specified under whichever of the second, third or fourth columns that corresponds with the length of the prescribed accounting period.

2. If a CO₂ emissions figure is specified in relation to a car in an EC certificate of conformity or a UK approval certificate, the car's CO₂ emissions for the purposes of the valuation table is determined as follows—

- (a) if only one figure is specified in the certificate, that figure is the car's CO₂ emissions figure for those purposes.
- (b) if more than one figure is specified in the certificate, the figure specified as the CO₂ (combined) emissions figure is the car's CO₂ emissions figure for those purposes.
- (c) if separate CO₂ emissions figures are specified for different fuels, the lowest figure specified, or, in a case within (b), the lowest CO₂ emissions (combined) figure specified is the car's CO₂ emissions figure for those purposes.
- (d) if the car's CO₂ emissions figure (determined in accordance with (a) to (c)) is not a multiple of 5, it is rounded down to the nearest multiple of 5 for those purposes.

3. If no EC certificate of conformity or UK approval certificate is issued in relation to a car, or no emissions is specified in relation to it in any such certificate, the car's CO₂ emissions figure for those purposes is—

- (a) 140 (if its cylinder capacity is 1,400 cubic centimetres or less),
- (b) 175 (if its cylinder capacity exceeds 1,400 cubic centimetres but does not exceed 2,000 cubic centimetres), and
- (c) 225 or more (if its cylinder capacity exceeds 2,000 cubic centimetres).

4. In the case of a car having an internal combustion engine with one or more reciprocating pistons, its cylinder capacity is the capacity of its engine as calculated for the purposes of the Vehicle Excise and Registration Act 1994(a).

5. In any case where—

- (a) in a prescribed accounting period, there are supplies of fuel for private use to an individual in respect of one car for a part of the period and in respect of another car for another part of the period, and
- (b) at the end of that period one of those cars neither belongs to, nor is allocated to, the individual,

the flat-rate value of the supplies is determined as if the supplies made to the individual during those parts of the period were in respect of only one car.

6.—(1) Where paragraph 4 applies, the value of the supplies is to be determined as follows—

- (a) If each of the two or more cars falls within the same description of car specified in the valuation table, the value specified in that valuation table for that description of car applies as if only one of the cars were to be considered throughout the whole period, and
- (b) if one of those cars falls within a description of car specified in that Table which is different from the others, the value of the supplies is the aggregate of the relevant fraction.

(a) 1994 c. 22; Schedule 1, Paragraph 1(2B) inserted by section 20(1) of the Finance Act 2002; Regulation 43 of the Road Vehicles (Registration and Licensing) Regulations 2002, SI 2002/2742, to which there are amendments not relevant to this Order.

(2) “The relevant fraction” in relation to any car is that which the part of the prescribed accounting period in which fuel was supplied for private use in respect of the car bears to the whole of that period.

7. “CO₂ emissions figure” means a CO₂ emissions figure expressed in grams per kilometre driven.

8. “EC certificate of conformity” means a certificate of conformity issued by a manufacturer under any provision of the law of a Member State implementing Article 6 of Council Directive 70/156/EEC(**a**).

9. “UK approval certificate” means a certificate issued under—

(a) Section 58(1) or (4) of the Road Traffic Act 1988(**b**), or

(b) Article 31A(4) or (5) of the Road Traffic (Northern Ireland) Order 1981(**c**).

(a) OJ No L 42, 23.2.1970, p1.

(b) 1988 c. 52.

(c) S.I. 1981/154 (NI 1); to which there are amendments not relevant to this Order.

SCHEDULE 3

Article 4

Method for revalorisation of amounts specified in the base valuation table

1. The amounts in the base valuation table are to be revalorised in accordance with the following steps—

2. Step 1 – establishing the current fuel price

In respect of each fuel (petrol and diesel) the current average retail price of a litre of fuel in the UK is to be ascertained from reliable data. The resulting figures (“the current fuel prices”) are to be rounded down to the nearest whole penny.

3. Step 2 – calculating the prospective excise duty differences

If the Commissioners believe that, in the calendar year beginning on the date that they undertake the revalorisation, there is likely to be a change in the rate of excise duty liable to be charged on road fuel, the prospective increase or decrease in the amount of excise duty chargeable per litre of each of the fuels is to be calculated by—

- (i) adding the amount of VAT that is applicable to the increased or decreased amount of excise duty chargeable. The resultant figures are to be rounded down to the nearest whole penny,
- (ii) dividing the number of days of the calendar year immediately following the date of revalorisation that the increase or decrease in excise duty is likely to apply by 365 (or 366 in a leap year) and expressing the result of that calculation as a percentage rounded down to two decimal places, and
- (iii) multiplying the increased or decreased amount calculated in accordance with (i) in respect of each of the fuels by the percentage calculated in accordance with (ii). Each figure is to be rounded down to the nearest whole penny.

4. Step 3— calculating the excise duty inclusive fuel price

For each fuel, the prospective excise duty difference calculated in accordance with step 2 is to be added to, or deducted from, the current fuel price. The resultant figure is the “duty inclusive fuel price”.

5. Step 4 – calculating the percentage price difference

The percentage price difference for each of the fuels is to be calculated using the following formula—

$$\frac{A}{B} \times \frac{100}{1}$$

where (*A*) represents the duty inclusive fuel price for each fuel and (*B*) represents the price as at 1 March 2013 (as set out in the base valuation table) of that fuel. The resulting percentages are to be rounded down to two decimal places.

6. Step 5 – calculating the weighted percentage price difference

If the percentage price difference for each fuel is not the same, the average is to be calculated by weighting according to the relative number of petrol and diesel company cars in use in the UK (ascertained from reliable data) by using the following formula—

$$\left(Cx \frac{E}{E + F} \right) + \left(Dx \frac{F}{E + F} \right)$$

where (*C*) and (*D*) represent the percentage price differences for petrol and diesel respectively and (*E*) and (*F*) are the numbers of petrol and diesel cars in use respectively. The resulting percentage is to be rounded down to two decimal places.

7. Step 6 – calculating the increase or decrease in the amounts in the table

Each amount specified in the base valuation table is to be amended by multiplying that amount by the weighted percentage price difference rounded down to the nearest whole pound.

EXPLANATORY NOTE

(This note is not part of the Order)

Value Added Tax (“VAT”) is payable if road fuel acquired by a business is used for private motoring. Council Decision 659/2006/EC of 25th September 2006 (O.J. No. L 272. 3.10.2006, p.15) authorises the United Kingdom to fix, on a flat-rate basis, the proportion of VAT that relates to expenditure on fuel incurred by a business which is used for private purposes. That proportion is required to be expressed in fixed amounts and is to be established on the basis of the CO₂ emissions level of the type of vehicle to reflect fuel consumption. The amounts must be adjusted annually to reflect changes in the average cost of fuel.

Paragraph A1 of Schedule 6 to the Value Added Tax Act 1994 provides that, where fuel is provided for (or appropriated to) private use, a taxpayer may opt to value all such supplies on a flat-rate basis. Paragraph B1 of that Schedule provides that the Treasury must by order make provision for the flat-rate valuation of those supplies.

Article 2 provides that the flat-rate basis for the valuation of supplies of road fuel for private use must be determined in accordance with the valuation table and the notes to that valuation table.

Article 3 defines what is meant by “valuation table” and introduces the base valuation table which is set out in Schedule 1.

Article 4 provides that the Commissioners are required to revalorise the amounts of the flat-rate charge and must do so in accordance with the method set out in Schedule 3.

Article 5 provides that each time the amounts of the flat-rate charge are revalorised an updated valuation table is to take effect from a date specified by the Commissioners.

Article 6 requires the Commissioners to publish the updated valuation table and to publish a statement specifying the date from which that table is to take effect.

Article 7 provides that the Commissioners must revalorise at least once in each twelve month period.

A Tax Information and Impact Note covering this instrument will be published on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.

**EXPLANATORY MEMORANDUM TO
The Value Added Tax (Flat-rate Valuation of Provision of Fuel for Private Use)
Order 2013**

1. This explanatory memorandum has been prepared by HM Revenue & Customs (HMRC) and is laid before the House of Commons by Command of Her Majesty.

2. **Purpose of the instrument**

This instrument makes provision for the optional flat-rate basis of valuing supplies of a business's road fuel for private use where those supplies fall within paragraph A1 of Part 1 of Schedule 6 to the Value Added Tax Act 1994 ("VATA"). It also imposes a requirement on HMRC to regularly revalorise the flat-rate values in accordance with the method set out in the instrument and requires HMRC to publish updated valuation tables and the date from which they are to take effect.

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

None.

4. **Legislative Context**

4.1 VAT is payable if road fuel acquired by a business is used for private motoring. Council Decision 659/2006/EC of 25th September 2006 (O.J. No. L 272. 3.10.2006, p.15) authorises the United Kingdom to fix, on an optional flat-rate basis, the proportion of VAT that relates to expenditure on fuel incurred by a business which is used for private purposes. That proportion is required to be expressed in fixed amounts and is to be established on the basis of the CO₂ emissions level of the type of vehicle to reflect fuel consumption. The amounts must be adjusted annually to reflect changes in the average cost of fuel.

4.2 Paragraph B1 of Part 1 of Schedule 6 to VATA was inserted by the Finance Act 2013. It requires Her Majesty's Treasury ("HMT") to make provision for the valuation, on a flat-rate basis, of supplies of road fuel for private use, for the regular revalorisation by HMRC of those values and the publication of updated valuation tables. This instrument is the first to be made under that provision.

4.3. The effect of this instrument is to set out in secondary legislation a base valuation table, the method by which the values set out in that table will be re-valorised, that the values must be revalorised at least every twelve months and that HMRC must publish updated valuation tables and the date from which such tables take effect. The instrument also sets out notes to the valuation table which are to be used in conjunction with the table when

determining the flat-rate value of supplies of a business's road fuel for private use.

5. Territorial Extent and Application

This instrument applies to the whole of the United Kingdom.

6. European Convention on Human Rights

The Exchequer Secretary to the Treasury, David Gauke, has made the following statement regarding Human Rights.

“In my view the provisions of the Value Added Tax (Flat-rate Valuation of Provision of Fuel for Private Use) Order 2013 are compatible with the Convention rights”.

7. Policy background

7.1 VATA was amended by the Finance Act 2013, effective from 1 February 2014, to update and streamline how taxpayers account for VAT on supplies of road fuel that arise where a business's road fuel is used for private journeys for no consideration. The new flat-rate basis of valuing such supplies gives taxpayers clear and simple options which are all provided for in law rather than by concession.

7.2 This instrument is an integral and essential part of the new flat-rate basis. It sets out the base table of valuations, notes on its interpretation and the method by which HMRC is required to update it over time to reflect changes in fuel prices. The updated tables will appear in HMRC publications alongside clear and simple guidance on taxpayer options and their practical effect.

7.3 This achieves the policy objectives of having a properly set out flat-rate basis of valuation available to taxpayers, making it accessible to, and understandable by, small businesses and removing the routine updating of tables from the budget process without weakening Parliamentary control of taxation.

8. Consultation outcome

8.1 Consultation with business took place from 24 April 2012 to 20 July 2012. This set out how HMRC intended to update road fuel rules and invited comments.

8.2 Comments were supportive of the changes. A Summary of Responses was published on 11 December 2012.

9. Guidance

HMRC will publish the flat-rate updated valuation tables alongside guidance on the options available to business and how to operate the flat-rate basis of valuation.

10. Impact

10.1 No significant economic effects are expected from the changes.

10.2 The cost to HMRC and taxpayers of updating the flat rate basis provisions is estimated to be negligible.

10.3 A Tax Information and Impact Note covering this instrument will be published on the HMRC website at;
<http://www.hmrc.gov.uk/thelibrary/tiins.htm>.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on small firms employing up to 20 people, the approach taken is to have clear and simple rules set out in clear guidance.

11.3 Although the consultation invited responses from small businesses none commented. The needs of small businesses were represented by accountancy bodies that advise small business.

12. Monitoring & review

12.1 HMRC will update the values in use at least annually as required by the instrument to reflect changes in fuel prices.

12.2 HMRC will monitor how the flat-rate basis of valuation is meeting taxpayer needs for simplification and amend the system if necessary through an Order made by HM Treasury.

12.3 If developments in technology overtake the flat-rate valuation so that it no longer meets business needs the flat-rate valuation scheme will be reviewed and amended as necessary.

13. Contact

Phil Mattacks at HMRC Tel: 0207 147 0538 or email: phil.mattacks@hmrc.gsi.gov.uk can answer any queries regarding this instrument.