

TAXATION IN EUROPE

Excise duties and mechanisms for partial refunds on diesel in Europe

CNR presents its European overview of the taxation applied to commercial diesel in Europe and details the arrangements for partial refunds of excise duties put in place in each country.

As of 21 June 2019, nine out of twenty-eight European States apply a difference in taxation between “commercial and non-commercial use of gas oil used as propellant”.

New in this June 2019 overview:

- *Croatia is putting in place its system with professional excise duties of €33/hl, the minimum authorised by Europe.*
- *Luxembourg, which has long been close to the European floor (€33.50/hl), is starting a small fiscal turn and is increasing its excise duties to €35.5/hl. To be monitored...*

The disparity in the rates of taxation on diesel in Europe constitutes, after that of driving staff costs, an important source of competitive distortions in the road transport sector. This situation has been found to be incompatible with the normal functioning of the common market and, since 1992, in the spirit of harmonisation, Europe has set minimum rates of taxation applicable to motor fuels. Today, the rules relating to excise duty rates in Europe are contained in Directive 2003/96/EC of 27 October 2003, the so-called “energy directive”, structuring the Community framework for the taxation of energy products and electricity. This directive lays down the principle of a minimum rate for all, but nonetheless provides exceptions.

The principle: a minimum Community rate applicable to diesel

The Directive sets a minimum rate of taxation on diesel below which Member countries cannot go. Initially set at €24.50/hl¹ by Directive 92/82/EEC of 19 October 1992, the minimum Community rate applicable to diesel was raised to €30.20/hl in 1 January 2004, then to €33/hl, in 1 January 2010.

This rate of €33/hl is the minimum rate still in force today.

For member countries that have not adopted the single currency², this rate is converted to the national currency at the official exchange rate of 1 October of the current year for the next year.

Exception 1: exemptions from the minimum thresholds granted depending on the country’s living standards

Exemptions from the minimum thresholds were able to be negotiated according to the differentials in the living standard of the countries, notably at the time of the entry of countries from Central and Eastern Europe (CEE) in May 2004. Until 1 January 2012, countries “facing difficulties in the application of the minimum levels of taxation” were thus able to benefit from transitional periods.

Currently, if the law is strictly interpreted, no country is supposed to benefit from this type of exemption any more.

¹ €/hl: euros per hectolitre (100 litres); can be read as euro cents per litre

² Bulgaria, Croatia, Denmark, Hungary, Poland, Czech Republic, Romania, the United Kingdom and Sweden.

Exception 2: a difference in taxation between “commercial and non-commercial use of gas oil used as propellant”

A second exception in Article 7.2 of Directive 2003/96/EC gives the EU Member States the possibility of establishing a difference in taxation between “commercial and non-commercial use of gas oil”.

Specifically, the text provides that this difference may be used in the case “of the transport of goods on, behalf of others or on one’s own account, carried out by means of a motor vehicle or a coupled combination of vehicles intended exclusively for the carriage of goods by road and having a maximum authorised load weight equal to or greater than 7.5 tonnes”.

This difference in taxation can also be established “for the regular or occasional transport of passengers by a motor vehicle of category M2³ or M3⁴”.

An important restriction in Article 7.2 of Directive 2003/96/EC is that this rate “for commercial use” may not be lower than that which was applied at the pumps on 1 January 2003⁵.

³ Vehicles designed and constructed for the carriage of passengers comprising, in addition to the driver's seat, more than eight seats and having a maximum mass not exceeding 5 tonnes

⁴ Vehicles designed and constructed for the carriage of passengers comprising, in addition to the driver's seat, more than eight seats and having a maximum mass exceeding 5 tonnes.

⁵ €39.19/hl for France

Countries applying a difference in taxation between “commercial and non-commercial use of gas oil”

Currently, nine European States have put in place a differentiated taxation for diesel “for commercial use”, on the basis of Article 7.2 of Directive 2003/96/EC.

The National Road Transport Committee regularly updates the different practices that exist today in the EU member countries. This information could be useful to carriers who would like to obtain a partial refund for fuel purchased in a member country practising such a differentiation.

Excise duty refund mechanisms are often complex and difficult to understand⁶ as direct taxation remains the exclusive jurisdiction of the Member States. As long as they respect the European minima, excise duty can be modified at the discretion of national policies. In these conditions, it should be recalled that the information provided below was valid at the date of drafting. The values for gross excise duties indicated below are taken from the Oil Bulletin published by the European Commission.

- **Belgium: “Droit d’accise spécial” [Special excise duty]**

In Belgium, reimbursement of part of the “special excise duty” has been in existence since 1 January 2004. It is not capped in volume. It evolves in accordance with the special excise duty on diesel according to a complex system with “positive and negative ratchet effects”.

- ✓ As of 21 June 2019, excise duty in Belgium stood at €60.02/hl.
- ✓ Currently, this partial refund rate stands at €24.76/hl.
- ✓ The net rate of excise duties applicable to commercial diesel is therefore €35.26/hl.

- **Croatia**

Carriers operating vehicles of a GVWR greater than or equal to 7.5 tonnes purchasing diesel in Croatia, may apply for a refund of part of the excise duty since 1 January 2019. This refund is not capped in volume.

- ✓ As of 21 June 2019, excise duty in Croatia stood at €41.32/hl.
- ✓ The rate of refund corresponds to the difference between the rate of excise duty applied to diesel and the Community minimum rate applicable to diesel (€33/hl)⁷.
- ✓ The net rate of excise duties applicable to commercial diesel is therefore €33/hl.

- **Spain: “Gasoleo profesional” [Commercial diesel]**

The measure for a partial refund of excise duty for heavy goods vehicles with a GVWR greater than or equal to 7.5 tonnes has existed since 2007. It is capped at 50,000 litres per vehicle and per year. Unlike in France, there is no single lump sum refund rate. The refunds are given strictly depending on the supply regions and the rate that they practise. Above all, payments are taken into account directly at the station using business cards dedicated to companies and authorized by the AEAT⁸. A card issued in another member state may be used for the purchase of commercial diesel in Spain. The provider must respect the requirements set out in Order HAP / 290/2013 of 19 February 2013⁹.

If they do not have cards, carriers can register on the website of the Office of the National Agency of Tax Administration¹⁰ that will refund the diesel fuel bought in Spain.

⁶ Some specialised companies offer carriers their services for the recovery of this tax in Europe.

⁷ Article 104, paragraph 5 of the Croatian Excise Act (Narodne novine, no. 106/2018)

⁸ Agencia Estatal de Administración Tributaria : www.agenciatributaria.es

⁹ <https://www.boe.es/buscar/pdf/2013/BOE-A-2013-2084-consolidado.pdf>

¹⁰ Sede electrónica de la Agencia Estatal de Administración Tributaria : <https://www.agenciatributaria.gob.es/>

- ✓ As of 21 June 2019, excise duty in Spain stood at €37.90/hl.
- ✓ The rate of refund corresponds to the difference between the rate of excise duty applied to diesel in the region and the Community minimum rate applicable to diesel (€33/hl). Since 1 January 2019, all autonomous regions have applied the same refund rate (€4.90/hl).
- ✓ The net rate of excise duties applicable to commercial diesel is therefore €33/hl.

- **France**

In France, diesel said to be “for commercial use” is commonly called commercial diesel.

French companies operating vehicles with a GVWR equal to or greater than 7.5 tonnes benefit from a partial refund of TICPE [domestic tax on the consumption of energy products]¹¹. This rate of refund corresponds to the difference between the TICPE rate in force in the region where the fuel is purchased for the period in question and the TICPE rate applied to commercial diesel inscribed in Article 265 septies of the Customs Code¹² (€43.19/hl since 2015).

By way of simplification, it is proposed that businesses which want to, and which supply themselves in at least three different regions, can opt for a single lump sum refund rate. The amount of the weighted average refund rate, referred to in Articles 265 septies and octies of the Customs Code, was €17.71/hl in the first half of 2019.

The National Road Transport Committee is, today, the only organisation which publishes a professional index taking into account the partial refund of TICPE (CNR commercial diesel index).

- ✓ As of 21 June 2019, the weighted excise duty rate in France amounts to €60.90/hl by integrating the consumptions of Corsica.¹³
- ✓ The amount of the partial TICPE refund was €17.71/hl in 2017.
- ✓ The net rate of excise duties applicable to commercial diesel is therefore €43.19/hl.

- **Hungary**

Partial refunds of excise duty for heavy goods vehicles with a GVWR equal to or greater than 7.5 tonnes have existed since 1 January 2011. It is not capped in volume.

Hungary is not in the Eurozone. Its currency (the Forint) fluctuates against the euro.

- ✓ As of 21 June 2019, excise duty stood at € 35.02/hl.
- ✓ The amount of the refund is set annually by the Hungarian tax authorities. It has stood at HUF3.5/litre since 1 January 2019, or about €1.10/hl.
- ✓ The net rate of excise duties applicable to commercial diesel is therefore €33.92/hl (approximate rate - exchange rate fluctuations).

- **Italy: “Aliquota d’Accisa” [Rate of Excise Duty]**

The principle of a partial refund of excise duty for heavy goods vehicles with a GVWR greater than or equal to 7.5 tonnes has existed since October 2001. This refund is not capped in volume.

A ministerial decree issued each quarter sets its amount.

- ✓ As of 21 June 2019, excise duty stood at €61.74/hl.

¹¹ Under certain conditions: <http://www.douane.gouv.fr/articles/a12259-transporteurs-routiers-remboursement-des-taxes-de-carburant>

¹² As amended by Act No. 2016-1918 of 29 December 2016 - Art. 89

¹³The Oil Bulletin published by the European Commission communicated an excise duty for mainland France excluding Corsica of €60.91/hl

- ✓ Currently, this partial refund rate stands at €21.418/hl.
- ✓ The net rate of excise duties applicable to commercial diesel is therefore €40.32/hl.

- Portugal "Gasóleo Profissional" [Commercial diesel]

Portugal applies a difference in taxation between "commercial and non-commercial use of gas oil" since 1 January 2017. It is capped at 35,000 litres per vehicle and per year.

- ✓ As of 21 June 2019, excise duty stood at €48.57/hl.
- ✓ Currently, the amount of the refund stands at €15.568/hl.
- ✓ The net rate of excise duties applicable to commercial diesel is therefore €33/hl.

- Romania

Since 2014, transport companies have benefited from a refund system for excise duties. In accordance with a government decision of 17 July 2018, this refund is today 183.62 lei/1,000 litres, or €3.94/hl. It is not capped in volume.

- ✓ As of 21 June 2019, excise duty stood at €40.10/hl.
- ✓ The amount of the refund is 183.62 lei/1,000 litres, i.e. €3.94/hl.
- ✓ The net rate of excise duties applicable to commercial diesel is therefore € 36.16/hl.

- Slovenia

In Slovenia, it has been possible to obtain a refund for a portion of the excise duty on diesel for vehicles with a GVWR equal to or greater than 7.5 tonnes since 1 July 2009. The amount of excise duties is not fixed. It is calculated depending on the price of fuel and includes an environmental tax as well as other indirect taxes. It is not capped in volume.

- ✓ As of 21 June 2019, excise duty stood at € 46.90/hl.
- ✓ Currently, this partial refund rate stands at €6.272/hl.
- ✓ The net rate of excise duties applicable to commercial diesel is therefore €40.63/hl.

Summary tables

Classification of countries according to the level of excise duties applied to diesel for “non-commercial use” *Situation as of 21 June 2019*

COUNTRY	Excise duty on diesel fuel for "non commercial use" (in €/hl)	RANK
United Kingdom	64.96	1
Italy	61.74	2
France	60.91	3
Belgium	60.02	4
The Netherlands	50.37	5
Ireland	49.90	6
Estonia	49.30	7
Portugal	48.57	8
Malta	47.24	9
Germany	47.04	10
Slovenia	46.90	11
Finland	45.99	12
Sweden	44.29	13
Czech Republic	42.84	14
Denmark	42.64	15
Greece	42.11	16
Croatia	41.32	17
Cyprus	41.07	18
Austria	40.96	19
Romania	40.10	20
Slovakia	39.77	21
Latvia	38.40	22
Spain	37.90	23
Luxembourg	35.50	24
Hungary	35.02	25
Lithuania	34.70	26
Poland	34.47	27
Bulgaria	33.03	28
Standard deviation	8.64	
Range	31.93	
Average	44.89	



Countries allowing a partial refund

Source: Oil Bulletin - European Commission - Reprocessing CNR

Classification of countries according to the level of excise duties applied to diesel “for commercial use” *Situation as of 21 June 2019, with the rate of exchange in force at this date*

COUNTRY	Excise duty on diesel fuel for "commercial use" (in €/hl)	RANK
United Kingdom	64.96	1
The Netherlands	50.37	2
Ireland	49.90	3
Estonia	49.30	4
Malta	47.24	5
Germany	47.04	6
Finland	45.99	7
Sweden	44.29	8
France	43.19	9
Czech Republic	42.84	10
Denmark	42.64	11
Greece	42.11	12
Cyprus	41.07	13
Austria	40.96	14
Slovenia	40.63	15
Italy	40.32	16
Slovakia	39.77	17
Latvia	38.40	18
Romania	36.16	19
Luxembourg	35.50	20
Belgium	35.26	21
Lithuania	34.70	22
Poland	34.47	23
Hungary	33.92	24
Bulgaria	33.03	25
Croatia	33.00	26
Spain	33.00	26
Portugal	33.00	26
Standard deviation	7.24	
Range	31.96	
Average	41.18	



Countries allowing a partial refund

Source: Oil Bulletin - European Commission - Reprocessing CNR

Summary

With the United Kingdom, soon to be outside of the EU, whose excise duties are historically high, Italy, France and Belgium are in the top 4 of the countries where excise duty on diesel “for private use” is the highest, greater than €60/hl.

Three of these four countries displaying the highest excise duties in Europe have a mechanism for a partial refund on diesel “for commercial use”, the objective of these States being to rebalance the state of play with those with lower excise duties.

This rebalancing does not work everywhere with the same efficiency. Thanks to their national arrangements, Italy and Belgium have been able to move from 2nd to 16th place and from 4th to 21st place respectively, thus placing themselves below the net EU average (€41.18/hl). It is not exactly the same for France, which, with its commercial diesel, only drops by 6 places, thus remaining in the camp of the countries where excise duties are higher than this average.

For other countries applying a differentiation between diesel for “private use” and diesel for “commercial use”, notably Spain, Portugal, and now Croatia, the clear objective is not to reduce the deviation from the European average, but to move closer to the minimum allowed by Europe and do better than compete with countries where taxes are low (without refund arrangements). The measure is particularly effective for Portugal, which moves from 8th to last place.

Luxembourg, recognised as the country in Europe where one can buy the cheapest fuel, now seems to be changing direction. As of 1 May 2019, its excise duties on diesel in fact increased from €33.50/hl to €35.50/hl. CNR will follow this development with interest.

Whether adjusted or not, the excise duty applied to diesel remains extremely diverse in the EU. That applied to commercial diesel has a legal minimum of €33/hl, observed in four countries, and a maximum observed in the United Kingdom of €64.96/hl, i.e. a range of €31.96/hl.

It is difficult to establish with certainty in what proportions these differences distort the international road transport market. To measure it, it would undoubtedly be appropriate to take into account all the taxes and charges levied on transport activities in each of the countries. Nevertheless, it is clear that European companies, depending on the country where they are established, are not all equal faced with the tax regimes applied on diesel. Today, companies whose main activity is international transport are benefiting fully from these differences. They may, in fact, choose to purchase in an inexpensive country and trigger partial refund mechanisms when they exist. A windfall, without doubt strengthened by the fact that these companies, with fleets of modern and fuel-efficient vehicles, are today able to criss-cross Europe from East to West or from North to South for almost two weeks and with a single tank of diesel.

Diesel is the 2nd biggest cost item in the operation of an HGV. On this point, European harmonisation of competition conditions is lacking.