

Road Freight Transport - TAXATION IN EUROPE

## Excise duties and mechanisms for partial refunds on diesel in Europe

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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, applicable to road freight transport companies.

As of 28 February 2022, nine out of twenty-seven European States apply a difference in taxation between “commercial and non-commercial use of gas oil used as propellant”.

Highlights in this 28 February 2022 overview:

- France remains the second European country where excise duties applied to diesel « for non-commercial use » are the highest, right after Italy.
- Despite its mechanism for partial refund on diesel, France remains one of the countries where the excise duties on diesel « for commercial use » are the highest.
- In the latest Oil Bulletin published by the European Commission, seven countries apply excise duties on diesel “for commercial use” close to the European minimum rate (€33/hl) or lower, due to fluctuating monetary parities, as in Hungary and Poland.

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The disparity in the rates of taxation on diesel in Europe constitutes, after that of driving staff costs, an important source of distortion of competition 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/hl<sup>1</sup> by Directive 92/82/EEC of 19 October 1992, the minimum Community rate applicable to diesel was raised to €30.20/hl in 1<sup>st</sup> January 2004, then to €33/hl, in 1<sup>st</sup> January 2010.

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

For member countries that have not adopted the single currency<sup>2</sup>, this rate is converted to national currency at the official exchange rate of 1<sup>st</sup> October of the current year for the next year.

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

<sup>2</sup> Bulgaria, Croatia, Denmark, Hungary, Poland, Czech Republic, Romania and Sweden.

### 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<sup>st</sup> 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.

### 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 M2<sup>3</sup> or M3<sup>4</sup>".

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 2003<sup>5</sup>.

According to transport activity, countries may have put in place different mechanisms for partial refunds. This overview identifies exclusively the measures applied to road freight transport companies.

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<sup>3</sup> 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

<sup>4</sup> 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.

<sup>5</sup> €39.19/hl for France

## Countries applying a difference in taxation between “commercial and non-commercial use of gas oil” - Measures applied to road freight transport

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 practicing such a differentiation.

Partial refunds of excise duties are often complex and difficult to understand<sup>6</sup> as direct taxation remains in the field of the exclusive jurisdiction of Member States. As long as they respect the European minima, excise duty can be modified by national policies. In these conditions, it should be recalled that the information provided below was valid at the presentation of the present report. 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<sup>st</sup> 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 28 February 2022, excise duty in Belgium stood at €60.02/hl.
- ✓ Currently, this partial refund rate stands at €22.697/hl.
- ✓ The net rate of excise duties applicable to commercial diesel is therefore €37.32/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<sup>st</sup> January 2019. This refund is not capped in volume.

- ✓ As of 28 February 2022, excise duty in Croatia stood at €40.64/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)<sup>7</sup>.
- ✓ 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. Payments are taken into account directly at the station using business cards dedicated to companies and authorized by the Department of customs and special taxes of the AEAT<sup>8</sup>. 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 2013<sup>9</sup>.

If they do not have cards, carriers can register on the website of the Office of the National Agency of Tax Administration<sup>10</sup> that will refund the diesel fuel bought in Spain.

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

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

<sup>8</sup> Agencia Estatal de Administración Tributaria : [www.agenciatributaria.es](http://www.agenciatributaria.es)

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

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

- ✓ As of 28 February 2022, excise duty in Spain stood at €37.90/hl.
  - ✓ Currently, this partial refund rate stands at €4.90/hl.
  - ✓ The net rate of excise duties applicable to commercial diesel is therefore €33/hl.
- **France – Valid information for road freight transport companies**

In France, diesel said to be “for commercial use” is commonly called commercial diesel. It is not capped in volume.

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]<sup>11</sup>. 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 Code<sup>12</sup> (€45.19/hl since 2020).

By way of simplification, it is proposed that businesses which supply themselves in at least three different regions and which want to, 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, stands at €15.70/hl for the first quarter of 2022.

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 28 February 2022, the weighted excise duty rate in France amounts to €60.89/hl<sup>13</sup>.
- ✓ The amount of the partial TICPE refund is €15.70/hl (weighted average refund rate).
- ✓ The net rate of excise duties applicable to commercial diesel is therefore €45.19/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<sup>st</sup> January 2011. It is not capped in volume.

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

- ✓ As of 28 February 2022, excise duty stood at €30.99/hl (currency impact - rate used by the European Commission in its statement of 28 February 2022).
- ✓ The amount of the refund is set annually by the Hungarian tax authorities. In theory, it amounts to HUF3.5/litre, or about €0.95/hl<sup>14</sup>, but it is not applied as the excise duties are currently below the minimum Community rate.

- **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 28 February 2022, excise duty stood at €61.74/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.

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

<sup>12</sup> As amended by Act No. 2016-1918 of 29 December 2016 - Art. 89

<sup>13</sup> Corsica included

<sup>14</sup> Conversion calculation realized with the exchange rate communicated by the European Commission on 28 February 2022.

- Portugal « Gasóleo Profissional » [Commercial diesel]

Portugal applies a difference in taxation between “commercial and non-commercial use of gas oil” since 1<sup>st</sup> January 2017. It is capped at 35,000 litres per vehicle and per year.

- ✓ As of 28 February 2022, excise duty stood at €50.34/hl.
- ✓ Currently, the amount of the refund stands at €17.26/hl.
- ✓ The net rate of excise duties applicable to commercial diesel is therefore €33.08/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 amounts to 183.62 lei/1,000 litres, or €3.71/hl<sup>15</sup>. It is not capped in volume. This refund is activated only if the excise duty applied to diesel “for non-commercial use” is higher than the European minimum rate (€33/hl).

- ✓ As of 28 February 2022, excise duty stood at €33.83/hl.
- ✓ There is no partial refund in 2022.
- ✓ The net rate of excise duties applicable to commercial diesel is therefore €33.83/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<sup>st</sup> July 2009. The amount of excise duties is not fixed and is thus communicated each month. 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 28 February 2022, excise duty stood at €46.39/hl.
- ✓ Partial refund is suspended in February 2022.
- ✓ The net rate of excise duties applicable to commercial diesel is therefore €46.39/hl.

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<sup>15</sup> Conversion calculation realized with the exchange rate communicated by the European Commission on 28 February 2022.

## Summary tables

### Classification of countries according to the level of excise duties applied to diesel “for non-commercial use”

*Situation as of 28 February 2022, with the exchange rate in force to this date, communicated by the European Commission.*

COUNTRY	Excise duty on diesel fuel "for non-commercial use" (in €/hl)	RANK
Italy	61.74	1
France	60.89	2
Belgium	60.02	3
Ireland	55.55	4
The Netherlands	52.97	5
Finland	51.05	6
Portugal	50.34	7
Malta	47.24	8
Germany	47.04	9
Slovenia	46.39	10
Denmark	43.61	11
Sweden	42.79	12
Latvia	42.43	13
Greece	42.26	14
Czech Republic	41.78	15
Cyprus	41.07	16
Croatia	40.64	17
Austria	40.51	18
Luxembourg	40.44	19
Slovakia	39.77	20
Spain	37.90	21
Estonia	37.20	22
Lithuania	37.20	22
Romania	33.83	24
Bulgaria	33.03	25
Poland	31.58	26
Hungary	30.99	27
Range	30.75	
Average	44.08	

Countries allowing a partial refund

## Classification of countries according to the level of excise duties applied to diesel “for commercial use” - Road freight transport

Situation as of 28 February 2022, with the exchange rate in force to this date, communicated by the European Commission.

COUNTRY	Excise duty on diesel fuel "for commercial use" (in €/hl)	RANK
Ireland	55.55	1
The Netherlands	52.97	2
Finland	51.05	3
Malta	47.24	4
Germany	47.04	5
Slovenia	46.39	6
France	45.19	7
Denmark	43.61	8
Sweden	42.79	9
Latvia	42.43	10
Greece	42.26	11
Czech Republic	41.78	12
Cyprus	41.07	13
Austria	40.51	14
Luxembourg	40.44	15
Italy	40.32	16
Slovakia	39.77	17
Belgium	37.32	18
Estonia	37.20	19
Lithuania	37.20	19
Romania	33.83	21
Portugal	33.08	22
Bulgaria	33.03	23
Croatia	33.00	24
Spain	33.00	24
Poland	31.58	26
Hungary	30.99	27
Range	24.56	
Average	40.76	

Countries allowing a partial refund

## Summary

Italy, France and Belgium are the European countries where the excise duties on diesel “for non-commercial use” are the highest, greater than €60/hl.

To reduce the gap with countries which have lower excise duties, these three countries have put in place a mechanism for partial refund on diesel “for commercial use” applied to road freight transport companies. This rebalancing does not work everywhere with the same efficiency. Thanks to their national arrangements, Italy and Belgium have been able to move from 1<sup>st</sup> to 16<sup>th</sup> place and from 3<sup>rd</sup> to 18<sup>th</sup> place respectively, thus placing themselves below the net EU average (€40.76/hl). It is not exactly the same for France, which, with its commercial diesel, only drops by 5 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 non-commercial use” and diesel “for commercial use”, notably Spain, Portugal and Croatia, the clear objective is not to reduce the deviation from the European average, but to move closer to the minimum allowed by Europe (€33/hl) and do better than compete with countries where taxes are low (without refund arrangements). The measure is particularly effective for Portugal, which moves from 7<sup>th</sup> to 22<sup>nd</sup> place.

Whether adjusted or not, the excise duty applied to diesel remains extremely diverse in the EU. Those applied to commercial diesel fluctuate between the minimum Community rate, or even below €33/hl due to exchange effects as in Hungary or Poland, and a maximum observed in Ireland of €55.55/hl, i.e. a range of €24.56/hl.

Important facts to highlight, several countries have significantly increased their excise duties on diesel “for non-commercial use”. This is the case in Ireland, Finland, and Luxembourg. In Romania, the partial refund of excise duty on diesel “for commercial use” does not apply due to an excise duty on diesel “for non-commercial use” close to the European minimum. In February 2022, Slovenia suspended its partial refund of excise duties on diesel “for commercial use”. These phenomena should therefore be monitored in the future.

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