EXPLANATORY MEMORANDUM TO

THE VALUE ADDED TAX (LIFEBOATS) ORDER 2006

2006 No. 1750

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

2. Description

This instrument zero-rates the supply of fuel to sea rescue charities where the fuel is for use in lifeboats.

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

None

4. Legislative Background

4.1 In accordance with Article 15.4(b) of Council Directive 77/388/EEC[1](the Sixth VAT Directive), marine diesel supplied to sea rescue charities for use in lifeboats was zero-rated. This was given effect to by extra-statutory concession (ESC) 9.2 under conditions set out in Public Notice 703.

4.2 This instrument is made so that, in relation to supplies to sea rescue charities, the ESC and the conditions attached are put on a statutory footing. The zero rate has been extended to cover all fuels supplied to charities providing rescue or assistance at sea for use in lifeboats. A transposition note is attached as an Annex.

5. Extent

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Paymaster General, Dawn Primarolo MP, has made the following statement regarding Human Rights:

In my view the provisions of the Value Added Tax (Lifeboats) Order 2006 are compatible with the Convention rights.

7. Policy background

[1] OJ No.L145, 13.6.1977, p.1; the second subparagraph of Article 15.4 was replaced by Article 1.9 of Council Directive 92/111/EEC (OJ No. L384, 30/12/1992, p.47).

7.1 In the UK, lifeboat rescue services are provided by a number of charities; the largest and most well known is the Royal National Lifeboat Institution but HMRC have identified around thirty "independent" lifeboat charities that are also entitled to relief.

7.2 The application of the zero rate on supplies to such charities is important because they are not considered to be in business in carrying out their rescue activities and therefore have no entitlement to recover the VAT they incur in providing them. The Order provides a statutory basis for the zero-rating of supplies of marine fuel to these charities, which is currently provided by ESC. To maximise the effect of the relief, zero-rating is extended to cover all fuels. This is in recognition of the fact that the use of petrol-powered craft has increased in this area since the relief was first introduced.

8. Impact

A Regulatory Impact Assessment has not been prepared for this instrument as it has negligible impact on business, charities or voluntary bodies.

9. Contact

Jack Fletcher at HM Revenue and Customs Tel: 020 7147 0252 or e-mail: jack.fletcher@hmrc.gsi.gov.uk can answer any queries regarding the instrument.

TRANSPOSITION NOTE relating to the Value Added Tax (Lifeboats) Order 2006

Directive

Council Directive 77/388/EEC of 17th May 1977 (the "Sixth VAT Directive").

Relevant Article

Article 15.4(b)[1].

This Order does what is necessary to implement Article 15.4(b) of the Sixth Directive, including making consequential changes to domestic legislation to ensure its coherence in the area to which it applies.

Objective

The objective of Article 15.4[2] is to exempt from VAT the supply of goods for the fuelling and provisioning of vessels which are generally used for activities carried out at sea. Article 15.4(b) specifically provides exemption where the vessels are used for rescue or assistance at sea and, in respect of fuel only, for inshore fishing.

Under Article 17.3(b) of the Sixth Directive suppliers are entitled to deduct input VAT in respect of supplies that are exempt under Article 15. Taken together these two provisions allow, what is in UK terms, a zero rate.

Under the second paragraph of Article 15.4, member States may limit the extent of the exemption because the rules described there have not yet been enacted.

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[1] OJ No.L145, 13.6.1977, p.1; the second subparagraph of Article 15.4 was replaced by Article 1.9 of Council Directive 92/111/EEC (OJ No. L384, 30/12/1992, p.47).

[2] Article 15.4 as amended

Without prejudice to other Community provisions Members States shall exempt the following under conditions which they shall lay down for the purpose of ensuring the correct and straightforward application of such exemptions and of preventing any evasion, avoidance or abuse:

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4. the supply of goods for the fuelling and provisioning of vessels:

(a) used for navigation on the high seas and carrying passengers for reward or used for the purpose of commercial, industrial or fishing activities;
(b) used for rescue or assistance at sea, or for inshore fishing, with the exception, for the latter, of ships' provisions;
(c) of war, as defined in subheading 89.01 A of the Common Customs Tariff, leaving the country and bound for foreign ports or anchorages.

The Commission shall submit to the Council as soon as possible proposals to establish Community fiscal rules specifying the scope of and practical arrangements for implementing this exemption and the exemptions provided for in (5) to (9). Until these rules come into force, Member States may limit the extent of the exemption provided for in this paragraph.

Implementation

Until now the implementation of Article 15.4(b) has been by means of extra-statutory concession **9.2 VAT**[3]. The Value Added Tax (Lifeboats) Order 2006 puts the relief contained in the ESC in respect of lifeboats on a statutory footing and extends it to include all fuels. This recognises the increased use of petrol-powered craft by lifeboat charities since the relief was first introduced. The UK has not extended the relief to cover vessels used for inshore fishing. It is entitled to limit the extent of the exemption by virtue of the second paragraph of Article 15.4 as no rules have come into force establishing Community fiscal rules specifying the scope of and practical arrangements for implementing this exemption.

[3] **ESC 9.2 VAT: Marine fuel** - Commercial vessels engaged on voyages within UK territorial waters (or within the limits of a port), may receive certain types of marine fuel VAT free providing the conditions set out in Notice 703 VAT: Exports and removals of goods from the United Kingdom are met. This relief extends only to those supplies of fuel which were zero-rated prior to 1 July 1990 under the Value Added Tax Act 1983 Schedule 5 Group 7 item 4. It does not apply to petrol, DERV or lubricating oil.