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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL IMPLEMENTING DECISION authorising Portugal to apply reduced rates of excise duty to gas oil and unleaded petrol used as motor fuels, in accordance with Article 19 of Directive 2003/96/EC

COUNCIL IMPLEMENTING DECISION (EU) 2022/...

of ...

**authorising Portugal to apply reduced rates of excise duty
to gas oil and unleaded petrol used as motor fuels,
in accordance with Article 19 of Directive 2003/96/EC**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity¹, and in particular Article 19 thereof,

Having regard to the proposal from the European Commission,

¹ OJ L 283, 31.10.2003, p. 51.

Whereas:

- (1) By letter dated 2 May 2022, Portugal requested authorisation to apply reduced rates of excise duty to gas oil and unleaded petrol used as motor fuels, pursuant to Article 19 of Directive 2003/96/EC, which can fall below the minimum levels of taxation referred to in Article 7 of that Directive. Additional information and clarifications in support of the request were provided by the Portuguese authorities on 11 and 23 May 2022, as well as on 8 June 2022. It was requested that the authorisation apply until 31 December 2022.
- (2) According to the Portuguese authorities, the application of a reduced tax rate aims at mitigating the social and economic impacts of high retail prices of fuels resulting from the geopolitical situation, and directly affecting both households and companies. That measure aims to meet the daily needs associated with the consumption of motor fuels by contributing to reduce the impact of the increase in retail prices.

- (3) The requested authorisation is not likely to distort competition or hinder the proper functioning of the internal market. Given its short duration and the exceptional circumstances linked to the geopolitical situation, coupled with exceptionally high market prices of crude oil, the requested authorisation is considered to be adequate and proportionate. The authorisation strikes a balance between the specific policy objectives referred to in Article 19(1), third paragraph, of Directive 2003/96/EC, in particular the Union's environmental policy, and the imperative emergency to ensure energy affordability for businesses and households. The tax reduction would partially offset the increased energy costs and is not cumulative with any other type of tax reductions.
- (4) Portugal should therefore be authorised to apply reduced rates of excise duty to gas oil and unleaded petrol used as motor fuels, as requested.

- (5) Pursuant to Article 19(2) of Directive 2003/96/EC, each authorisation granted under that provision is to be strictly limited in time. However, in order not to undermine future general developments of the existing legal framework, it is appropriate to provide that, in the event that the Council, acting on the basis of Article 113 or any other relevant provision of the Treaty on the Functioning of the European Union, introduces a modified general system for the taxation of energy products and electricity to which this authorisation would not be adapted, this authorisation should cease to apply on the day on which that modified general system becomes applicable.
- (6) This Decision is without prejudice to the application of Union rules regarding State aid,

HAS ADOPTED THIS DECISION:

Article 1

Portugal is authorised to apply reduced rates of excise duty to gas oil and unleaded petrol used as motor fuels, below the relevant minimum levels of taxation referred to in Article 7 of Directive 2003/96/EC.

Article 2

This Decision shall apply until 31 December 2022.

However, in the event that the Council, acting on the basis of Article 113 or any other relevant provision of the Treaty on the Functioning of the European Union, introduces a modified general system for the taxation of energy products and electricity to which the authorisation granted in Article 1 of this Decision would not be adapted, this Decision shall cease to apply on the day on which that modified general system becomes applicable.

Article 3

This Decision is addressed to the Portuguese Republic.

Done at ...,

For the Council

The President
