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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL IMPLEMENTING DECISION authorising Italy to apply, in determined geographical areas, reduced rates of taxation on gas oil and liquid petroleum gas used for heating purposes

COUNCIL IMPLEMENTING DECISION (EU) …/…

of …

authorising Italy to apply, in determined geographical areas, reduced rates of taxation on gas oil and liquid petroleum gas used for heating purposes

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 electricity[1], and in particular Article 19(1) thereof,

Having regard to the proposal from the European Commission,

[1] OJ L 283, 31.10.2003, p. 51, ELI: http://data.europa.eu/eli/dir/2003/96/oj.

Whereas:

(1) By means of Council Implementing Decision (EU) 2019/814[2], Italy was authorised to apply in certain particularly disadvantaged geographical areas reduced rates of excise duty on gas oil and liquid petroleum gas (LPG) used for heating. The authorisation was granted until 31 December 2024.

(2) By letter dated 24 April 2024, Italy sought authorisation to continue to apply in certain particularly disadvantaged geographical areas reduced rates of excise duty on gas oil and LPG used for heating purposes. The Italian authorities provided additional information by letters dated 12 September 2024 and 21 November 2024. The authorisation was requested for the period from 1 January 2025 to 31 December 2028.

(3) Italy has a very diverse territory with variable climate and geographical conditions. Taking into account the particularities of its territory, Italy has introduced reduced rates of taxation on gas oil and LPG with the purpose of partially offsetting the disproportionately high heating costs for residents in certain geographical areas.

[2] Council Implementing Decision (EU) 2019/814 of 17 May 2019 authorising Italy to apply, in determined geographical areas, reduced rates of taxation on gas oil and liquid petroleum gas used for heating purposes in accordance with Article 19 of Directive 2003/96/EC (OJ L 133, 21.5.2019, p. 20, ELI: http://data.europa.eu/eli/dec_impl/2019/814/oj).

(4) The tax differentiation is based on objective criteria and aims to put the population of the eligible areas on a more comparable economic footing with the rest of the population of Italy by reducing their disproportionately high heating costs, which are due to severe climate conditions or increased costs of fuel procurement in comparison with the rest of the Italian territory.

(5) The reduced rates of taxation are applicable in geographical areas fulfilling one of the following criteria: (a) most severe climate conditions within the Italian territory, that is, communes situated in zone F as defined in Presidential Decree No 412 of 26 August 1993[3]; (b) severe climate conditions combined with difficulties with fuel procurement, that is, communes situated in zone E as defined in Presidential decree No 412 of 26 August 1993; and (c) geographical isolation combined with difficult and costly fuel procurement, that is, Sardinia and small islands. The reduced rates of taxation are intended to be applied only until the completion of the natural gas network in the communes concerned.

[3] Presidential decree No 412 of 26 August 1993 divides the Italian territory into six climate zones (A to F). The classification is based on the unit 'degree per day' which represents the amount of days per year in which the outside temperature differs from the optimum 20 °C and thus heating is needed.

(6) The requested measure has been reviewed by the Commission and been found not to distort competition or hinder the operation of the internal market, and is not considered incompatible with Union policy on the environment, energy and transport. The reduced rates of taxation both for gas oil and LPG would remain higher than the minimum levels of taxation set out in Directive 2003/96/EC and would only partially alleviate the additional heating costs incurred in the geographical areas concerned.

(7) Italy should therefore be authorised, pursuant to Article 19(2) of Directive 2003/96/EC, to apply, in determined geographical areas, reduced rates of taxation on gas oil and LPG used for heating purposes.

(8) In order to avoid any disruption to the supply of gas oil and LPG used for heating purposes, Italy should be allowed to continue to apply without interruption the reduced rates of taxation on gas oil and LPG used for heating purposes authorised by Implementing Decision (EU) 2019/814. The requested authorisation should therefore be granted with effect from 1 January 2025 in order to follow seamlessly from the prior arrangements under Implementing Decision (EU) 2019/814.

(9) In accordance with Article 19(2) of Directive 2003/96/EC, any authorisation granted under that provision is to be limited in time.

(10) In order to provide the geographical areas concerned with a sufficient degree of legal certainty, the authorisation should be granted for a period of four years. However, in order not to undermine future general developments of the existing legal framework, it is appropriate to provide that this Decision expires on the date of application of any modified general system for the taxation of energy products adopted by the Council pursuant to Article 113 or any other relevant provision of the Treaty on the Functioning of the European Union, with which that authorisation is not compatible, in the event that such system becomes applicable during that period of four years.

(11) This Decision is without prejudice to the application of Union rules regarding State aid,

HAS ADOPTED THIS DECISION:

Article 1

1. Italy is authorised to apply reduced rates of taxation on gas oil and LPG used for heating purposes in the following disadvantaged geographical areas:

   (a) communes situated in the climate zone F as established by Presidential Decree No 412 of 26 August 1993;

   (b) communes situated in the climate zone E as established by Presidential Decree No 412 of 26 August 1993;

   (c) communes situated on the island of Sardinia and small islands, that is all Italian islands, with the exception of Sicily.

2. In order to avoid any overcompensation, the reduced rates of taxation referred to in paragraph 1 shall not go beyond the additional costs of heating in the areas concerned. In the particular case of the areas referred to in paragraph 1, point (c), those reduced rates of taxation shall not drive the price below the price of the same fuel on the Italian mainland.

3. The reduced rates of taxation referred to in paragraph 1 shall comply with the requirements set out in Directive 2003/96/EC, and in particular with the minimum levels of taxation laid down in Article 9 of that Directive.

Article 2

The eligibility of the geographical areas referred to in Article 1(1), points (b) and (c), shall be subject to the non-availability of the natural gas network in the communes concerned.

Article 3

This Decision shall apply from 1 January 2025 until 31 December 2028.

It shall expire on the date of application of any modified general system for the taxation of energy products, adopted by the Council pursuant to Article 113 or any other relevant provision of the Treaty on the Functioning of the European Union, with which the authorisation granted in Article 1 of this Decision is not compatible, in the event that such system becomes applicable during the period referred to in the first paragraph of this Article.

Article 4

This Decision shall take effect on the date of its notification.

Article 5

This Decision is addressed to the Italian Republic.

Done at …, …

For the Council
The President