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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 in accordance with Article 19 of Directive 2003/96/EC

COUNCIL IMPLEMENTING DECISION (EU) 2019/…

of …

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

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.

Whereas:

(1) Pursuant to Article 19(1) of Directive 2003/96/EC, 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 last authorisation was granted until 31 December 2018 by Council Implementing Decision 2014/695/EU[1].

(2) By letter dated 31 October 2018, the Italian authorities requested authorisation to apply, in certain particularly disadvantaged geographical areas, reduced rates of taxation on gas oil and LPG used for heating purposes by way of extension of the practice followed under Decision 2014/695/EU in some areas, before that Decision would expire. The Italian authorities requested the authorisation for the period from 1 January 2019 to 31 December 2024. Additional information and clarifications were provided by the Italian authorities on 14 December 2018.

(3) Italy has a very diversified 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.

[1] Council Implementing Decision 2014/695/EU of 29 September 2014 authorising Italy to apply, in determined geographical areas, reduced rates of taxation on gas oil and LPG used for heating purposes in accordance with Article 19 of Directive 2003/96/EC (OJ L 291, 7.10.2014, p. 16).

(4) The tax differentiation is based on objective criteria and aims at putting the population of the eligible areas on a more comparable footing with the rest of the population of Italy by means of reducing their disproportionately high heating costs, which are due to severe climate conditions or difficulties with 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 falling into zone F as defined in the Presidential Decree No 412 of 26 August 1993[1]; (b) severe climate conditions combined with difficulties with fuel procurement, that is, communes falling into zone E as defined in the 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 should only be applied until the completion of the natural gas network in the communes concerned.

(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 it is not considered incompatible with Union policy on the environment, energy and transport. The reduced rate of taxation both for gas oil and LPG would remain higher than the EU 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.

[1] The 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.

(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 of gas oil and LPG used for heating purposes until 31 December 2024. According to that provision, each authorisation granted under that Article is to be strictly limited in time.

(8) In order to provide the geographical areas concerned with a sufficient degree of certainty, the authorisation should be granted for a period of six years. However, in order not to undermine future general developments of the existing legal framework, it is appropriate to provide that, should the Council, acting on the basis of Article 113 of the Treaty, introduce a modified general system for the taxation of energy products to which this authorisation would not be adapted, this Decision should expire on the date on which the rules on that modified system become applicable.

(9) In order to ensure that the measure would apply without interruption in respect of the authorisation to apply reduced rates of excise duties granted by Decision 2014/695/EU, which expired on 31 December 2018, it would be appropriate that this Decision applies from 1 January 2019.

(10) 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 to gas oil and LPG used for heating purposes in the following disadvantaged geographical areas:

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

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

   (c) communes of Sardinia and small islands, that is all Italian islands, except Sicily.

2. In order to avoid any overcompensation, the reduction shall not go beyond the additional costs of heating in the areas concerned. In the particular case of the areas covered by point (c) of paragraph 1, as a consequence, the tax reduction shall not drive the price below the price of the same fuel on the Italian mainland.

3. The reduced rate 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 points (b) and (c) of Article 1(1) 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 2019 until 31 December 2024.

However, should the Council, acting on the basis of Article 113 of the Treaty, introduce a modified general system for the taxation of energy products to which the authorisation granted in Article 1 of this Decision would not be adapted, this Decision shall expire on the date on which the rules on that modified system become applicable.

Article 4

This Decision is addressed to the Italian Republic.

Done at Brussels,

For the Council
The President