

# Response to HM Revenue and Customs

## Consultation starting 1 August 2007

### Energy Products Directive – expiry of the derogation for private flying

I write on behalf of the General Aviation Alliance ('GA Alliance') following the discussions with your representatives and your consultation document on this dated 1 August 2007

As a matter of background the GA Alliance is a group of organisations representing, as far as possible, all UK General Aviation (GA), and Sports and Recreational Aviation interests (S&RA). The Alliance coordinates about 72,000 subscription-paying members of these bodies. It is estimated that in total more than 100,000 people are involved in GA. This covers parachuting, hang gliding and para-gliding, (conventional) gliding, ballooning, sport and recreational flying in light and microlight aircraft and helicopters. Its objective is to co-operate and consult with government departments and other relevant organisations to support and progress these interests.

Having discussed this matter with you we are aware of the background to this topic and the rationale behind the proposed methodology in this consultation document and will simply answer the questions posed.

#### 1.0 Avgas

1.1 Q1: Do you agree that this (the proposal) is a pragmatic way forward?

Yes we do

1.2 Q2: Do you consider the definition of Avgas captures its significant differences from road fuel?

Yes we do

1.3 Q3: If you are an Avgas user, do you foresee any problem?

The proposal states that the new free standing duty rate for Avgas would be set at the 2008 Budget and would respect the minimum rates set down in the EDP. Our concern is that a rate could be set that is higher than the minimum rate which would itself result in a small increase to users (currently circa 2p per Lit increase). Avgas is already a high priced fuel due to its specialist nature and low volume of production relative to other carbon based fuels, and further increases would be damaging to General Sports and Recreational Aviation, this in turn would be damaging to the economy supporting those activities (See CAA Strategic Review of General Aviation – July 2006). In addition higher costs resulting in lower pilot operating experience is damaging to flying currency and consequently safety.

A significant difference between Avgas and Mogas prices might encourage owner pilots to use the latter with associated safety consequences. This issue is amplified with Ethanol being added to Mogas to a level that will severely compromise safety if used in Aircraft applications and is consequently a significant potential penalty for those who currently use Mogas and recognising the safety impacts do move to Avgas.

We would also note that the UK applied unsuccessfully for the derogation to continue and would trust that that is intent by UK Government to support this position of no increased costs.

We strongly request that the minimum duty be proposed.

1.4 Q4: If you are a supplier of Avgas do you see any problems

We do not represent suppliers

1.5 Q5: Can you suggest an alternative scheme for implementing the requirement to tax private-pleasure flying?

No

## **2.0 Avtur**

2.1 Q6: If you are an RDCO do you foresee any problems with the proposed scheme?

We are not a RDCO

2.2 Q7: Would the extension of the duty of care cause a significant increased burden and what would be the cost, if any, to your business

We are not a RCDO

Not applicable

2.3 Q8: Is here an alternative procedure which you can suggest and which will you think be simpler to operate

The operational proposal is simple and should work easily

Other comments on this section

The duty should be the EU minimum rate, not the proposed 54.68 ppl, which will double to price of AVTUR for private use. A price increase of this magnitude will seriously affect the development of the new diesel engines which are, overall, much more efficient and less damaging to the environment and offer a potential alternative to Avgas fuel engines. This is significant when Avgas is due to disappear in approx 10 years

Also, the proposed duty of 54.68ppl on the private use of Avtur is almost double the duty on Avgas, whereas the EU minimum rate would be similar to AVGAS. When it is considered that jet engines in light aircraft and helicopters use around 100 litres per hour, this becomes a major consideration. There should not be such a large financial incentive to use an unapproved fuel, such as heating kerosene, which could have flight safety implications, similar to those of using petrol in an AVGAS engine.

We feel strongly that the private use of AVTUR should be taxed at the EU minimum rate, which would equate to around 20ppl. There is a similar case, as with AVGAS, for classification as a specialist fuel, because of the traceability and quality of the specialist aviation fuel.

### **3.0 Private Pleasure Flying**

3.1 Q9: Does the definition of “Private pleasure-flying” make clear what is included as “private pleasure flying” and conversely what is considered as business and commercial?

A new definition of ‘commercial operation’ in relation to civil aviation is in the process of being adopted by the European Parliament and the Council of Ministers in COM 579 through the extension of Regulation 1592/2002, which established the European Aviation Safety Agency.

This proposed new definition is as yet untested in terms of interpretation in the ‘market place’ but could possibly lead to some aerial activities currently treated as non-commercial in the UK being treated in future as commercial. Much may depend on the terminology used in the proposed definition, such as ‘available to the public’ and ‘customer’, ‘operator’, ‘contract’ and ‘control over the operator’.

The GA Alliance, in conjunction with Europe Air Sports which is the pan-European body that represents the interests of all sport / GA pilots and owners in regulatory matters across the EU, had been greatly concerned for some time with the proposed new definition of ‘commercial operation’ (and therefore the residual ‘non-commercial’ operation, and its potential impact.

Therefore, there is likely to be an interaction or indeed potential conflict between the proposed European definition of ‘commercial operation’, and implicitly the obverse ‘non-commercial operation’, and the proposed definition of ‘private pleasure flying’ contained in the UK proposal in relation to fuel duty.

This matter of definitions that may not in practice dovetail, therefore requires further very careful consideration.

3.2 Q10: Are there any flying activities which you could not classify from the definition?

Yes: renewing or maintaining a pilot licence and currency. (See below)

3.03 Q11: If the definition is unclear, can you suggest how it might be clearer?

*“For these purposes ‘private pleasure flying’ means other than in the following circumstances: (ADD)*

*The operation or use of an aircraft by an individual pilot, supervised or unsupervised, for the purpose of maintaining currency, or gaining or renewing a licence.*

*“Private pleasure flying shall mean the use of an aircraft by its owner or the natural or legal person who enjoys its use either through hire or through any other means, for other than the commercial purposes and in particular other than for the carriage of passengers or goods or for the supply of services for consideration or for the purposes of public authorities*

Other Comments on this section:

The proposal to exempt duty payment includes flying training - but only from an approved training school (FTO). However, not all flying training takes place in approved (flying) training schools; this applies to some of the lower weight end of general aviation, such as gliding (in which activities powered aircraft are used a launching tow aircraft).

Currency training is essential and all training flights by pilots i.e. including individual unsupervised flights should be encouraged and exempted. This is significant in ensuring flight safety as covered above.

From the Avtur viewpoint, which significantly affects helicopters, the definition of private use is key. The examples given omit “the non-commercial operation or use of an aircraft flown by an employee or director of the company as an aid to the conduct of the company's business”. Most helicopters are flown by a director or senior staff with one or two persons on board.

Professional pilots and individuals are included in the business use definition, but not the above, most common, case!

For GA Alliance



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22 October 2007