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Fiscal Marking of Liquid Fuel Act

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RT I 1997, 73, 1201

Entry into force 01.01.1998, partially 01.01.1999

Amended by the following acts

Passed	Published	Entry into force
20.11.1997	RT I 1997, 86, 1464	01.01.1998
12.04.2000	RT I 2000, 33, 199	25.04.2000
17.10.2001	RT I 2001, 88, 531	01.07.2002
15.05.2002	RT I 2002, 44, 284	01.07.2002
19.06.2002	RT I 2002, 63, 387	01.09.2002
04.12.2002	RT I 2003, 2, 17	01.04.2003
17.12.2003	RT I 2003, 88, 591	01.01.2004
18.12.2003	RT I 2003, 90, 602	01.05.2004
09.06.2004	RT I 2004, 53, 365	18.07.2004
20.04.2006	RT I 2006, 21, 162	01.06.2006
26.11.2009	RT I 2009, 62, 405	01.01.2010
22.04.2010	RT I 2010, 22, 108	01.01.2011, enters into force on the day determined by the decision of the Council of the European Union concerning repeal of the derogation established in respect of the Republic of Estonia on the basis of Article 140(2) of the Treaty on the Functioning of the European Union, Decision No. 2010/416/EU of the Council of the European Union (OJ L 196, 28.07.2010, pp. 24–26).
17.06.2010	RT I 2010, 44, 261	01.01.2011, entry into force postponed 01.07.2011
24.11.2010	RT I, 20.12.2010, 1	01.01.2011
23.12.2010	RT I, 31.12.2010, 3	01.07.2011, partially 01.01.2011
15.06.2011	RT I, 06.07.2011, 14	01.01.2012
08.12.2011	RT I, 29.12.2011, 1	01.01.2012, partially 01.01.2014 and 01.11.2014
19.02.2014	RT I, 13.03.2014, 4	01.07.2014
19.06.2014	RT I, 12.07.2014, 1	01.01.2015
01.07.2014	RT I, 12.07.2014, 2	01.01.2015, partially 01.05.2015
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, official titles of ministers replaced in accordance with s. 107 ³ (4) of the Government of the Republic Act
19.02.2015	RT I, 17.03.2015, 3	18.03.2015

§ 1. Commodities subject to fiscal marking

Fiscal marking applies to diesel fuel that is intended to be used as described in the provisions of s. 1¹(1) of this Act and that is produced in Estonia, released into free circulation within the meaning of the Community Customs Code (Council Regulation 2913/92/EEC) (hereinafter, 'imported'), or shipped into Estonia from a Member State of the European Union (hereinafter, 'Member State').
[RT I 12.07.2014, 2 – entry into force 01.01.2015]

§ 1¹. Use of liquid fuel carrying a fiscal marker

(1) Diesel fuel carrying a fiscal marker (hereinafter, 'diesel fuel for specific purposes') may be used:
1) in machinery, tractors and non-road mobile machinery used for agricultural purposes and in drying facilities that are used to dry agricultural produce;

[RT I 17.03.2015, 3 – entry into force 18.03.2015]

2) in commercial fishing;

3) for heating and the production of heat or electricity.

[RT I 12.07.2014, 2 – entry into force 01.01.2015]

(2) For the purposes of this Act, motor vehicles within the meaning of the Traffic Act, water craft and rail vehicles are not deemed to be machinery.

[RT I 12.07.2014, 2 – entry into force 01.01.2015]

(3) The use of diesel fuel for specific purposes in machinery, tractors and non-road mobile machinery used for agricultural purposes and in drying facilities that are used to dry agricultural produce constitutes state aid for the purposes of Article 44 of Commission Regulation (EU) No. 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (OJ L 187, 26.06.2014, pp. 1–78).

[RT I 17.03.2015, 3 – entry into force 18.03.2015, applied retroactively as of 01.01.2015]

(4) The use of diesel fuel for specific purposes in commercial fishing in inland waters constitutes state aid for the purposes of Article 44 of Commission Regulation (EU) No. 1388/2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (OJ L 369, 24.12.2014, pp. 37–63).

[RT I 17.03.2015, 3 – entry into force 18.03.2015, applied retroactively starting 01.01.2015]

§ 1². Special rules governing the sale of diesel fuel for specific purposes

[RT I 17.03.2015, 3 – entry into force 18.03.2015]

(1) When diesel fuel for specific purposes is sold, which for the purposes of this Act means transfers for payment as well as transfers for no payment, the seller is required to identify the buyer. If the buyer is a natural person, he or she is required to show his or her identity document or, if the buyer is a legal person, an authorization document that sets out the name of the representative of the legal person, his or her personal identification code and the name and registration number of the represented legal person or, in the absence of the relevant registration number, the legal person's registry code.

(2) The seller refuses the sale of diesel fuel for specific purposes if the buyer fails to produce the identity information and documents mentioned in subsection 1 of this section, and also if the buyer fails to declare a purpose of use of the fuel that is permitted by this Act.

(3) The seller of diesel fuel for specific purposes records the name of the buyer, the personal identification code of the buyer who is a natural person, or the registration number or in the absence thereof the registry code of the buyer who is a legal person, and transmits such information together with other relevant data to the Tax and Customs Board following the procedure established under section 7(3) of the Liquid Fuel Act.

[RT I 17.03.2015, 3 – entry into force 18.03.2015]

§ 1³. Special rules concerning the grant as state aid of diesel fuel for specific purposes used in agriculture and in commercial fishing in inland waters

[RT I 17.03.2015, 3 – entry into force 18.03.2015]

(1) The difference between the amount of the excise duty of diesel fuel provided in the Alcohol, Tobacco, Fuel and Electricity Excise Duty Act and the amount of the excise duty applicable to the diesel fuel for specific purposes used in agriculture and in commercial fishing in inland waters is deemed to constitute state aid.

(2) The Agricultural Registers and Information Board (hereinafter, 'ARIB') calculates the amount of the state aid on the basis of the information referred to in s. 29(30) of the Taxation Act and records the information concerning the diesel fuel for specific purposes in the register of state aid and *de minimis* aid provided for in s. 49² of the Competition Act.

(3) The users of diesel fuel for specific purposes who use that fuel in agriculture or in commercial fishing in inland waters are required not to have, at the time of buying diesel fuel for specific purposes, against them any outstanding recovery orders referred to in Article 1(4) of Commission Regulation 651/2014 and in Article 1(3) of Commission Regulation 1388/2014 from the European Commission concerning aid that has been declared illegal and incompatible with the internal market.

(4) If it is discovered, after the granting of state aid, that the user of diesel fuel for specific purposes in agriculture or commercial fishing in inland waters did not meet the requirement of subsection 3 of this section at the time that that user bought the fuel, the ARIB reclaims the state aid from the recipient.

(5) The state aid is reclaimed following the procedure provided in the Rural Development and Agricultural Market Regulation Act or Fisheries Market Organisation Act.

[RT I 17.03.2015, 3 – entry into force 18.03.2015 – applied retroactively starting 01.01.2015]

§ 2. Fiscal marking

(1) Fiscal marking means the addition of additives to diesel fuel in order to distinguish it from other types of liquid fuel.

[RT I 12.07.2014, 2 – entry into force 01.01.2015]

(2) The list of additives to be added to diesel fuel for the purpose of fiscal marking and the concentration of such additives in diesel fuel are established by a regulation of the minister responsible for the area.

[RT I 12.07.2014, 2 – entry into force 01.01.2015]

(3) The addition of additives, including colourants, to liquid fuel in order to distinguish the fuel marked by additives from other types of liquid fuel is permitted only under customs supervision following the procedure provided by legislation established on the basis of this Act.

[RT I 2003, 90, 602 – entry into force 01.05.2004]

§ 3. Organisation of fiscal marking

(1) It is allowed to import into Estonia diesel fuel for specific purposes that has been previously marked with additives in a foreign country or that is so marked in a customs terminal, customs warehouse or excise warehouse prior to the import.

(2) The importer of diesel fuel for specific purposes to which a fiscal marker has been added in a foreign country is responsible for the compliance of the fiscal marking of such fuel with this Act and with the legislation established under it.

(3) The addition of a fiscal marker to diesel fuel that does not carry a fiscal marker and that is intended for import takes place in a customs terminal, customs warehouse or excise warehouse. Responsibility concerning the addition of a fiscal marker to diesel fuel in the customs terminal, customs warehouse or excise warehouse lies with the keeper of the customs terminal, customs warehouse or excise warehouse.

(4) In an excise warehouse, the addition of a fiscal marker to diesel fuel that is produced in Estonia or that is shipped to Estonia from another Member takes place not later than at the time the fuel is released from the warehouse.

(5) Responsibility for the conformity of the fiscal marking of diesel fuel produced in Estonia or shipped to Estonia from another Member State lies with the keeper of the excise warehouse.

(6) The procedure for the fiscal marking of diesel fuel and for the exercise of verification of such marking is established by a regulation of the minister responsible for the area.

[RT I 12.07.2014, 2 – entry into force 01.01.2015]

§ 4. Government supervision

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

(1) Government supervision over compliance with this Act is exercised by the Tax and Customs Board.

(11) Government supervision over compliance with the requirement provided in s. 1³(3) of this Act is exercised by the ARIB.

[RT I 17.03.2015, 3 – entry into force 18.03.2015 – applied retroactively starting 01.01.2015]

(2) The procedure for ascertaining whether liquid fuel carries a fiscal marker is established by a regulation of the Government of the Republic.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

§ 4¹. Special measures of government supervision

When exercising the government supervision provided for in this Act, a law enforcement body may apply the special measures of government supervision provided in ss. 30, 32, 45 and 49 of the Law Enforcement Act in accordance with the grounds and procedure provided in that Act.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

§ 5. Special rules regarding government supervision

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

(1) If it is impossible to take samples from the fuel system of a vehicle on the spot, the law enforcement body is authorised to order the driver of the vehicle to take the vehicle to the nearest site where it is possible to take samples from its fuel system.

[RT I 2003, 90, 602 – entry into force 01.05.2004]

(2) If fuel carrying a fiscal marker is discovered in the fuel system of a vehicle, the driver of the vehicle is required to replace the fuel in the fuel system within twenty-four hours from the moment of discovery. The person who discovered the fuel carrying a fiscal marker is required to give the driver a document that states the date and time of the discovery of marked fuel in the fuel system.

(3) The procedure for ascertaining whether liquid fuel carries a fiscal marker is established by a regulation of the Government of the Republic.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

§ 6. Special rules regarding application of this Act to vehicles registered in foreign countries

(1) A vehicle registered in a foreign country in whose fuel system fuel carrying a fiscal marker is discovered may be permitted to leave Estonia after the clarification of circumstances concerning such violation and the payment of a fine imposed for the violation.

(2) If the driver of a vehicle registered in a foreign country leaves Estonia before payment of the fine imposed on him or her for the violation specified in subsection 1 of this section, he or she is permitted to enter Estonia only on the condition that the fine is paid.

[RT I 2003, 90, 602 – entry into force 01.05.2004]

§ 6¹. [Repealed – RT I 2003, 2, 17 – entry into force 01.04.2003]

§ 6². Unlawful use of fuel carrying fiscal marker

[RT I 2003, 2, 17 – entry into force 01.04.2003]

(1) Unlawful use of liquid fuel carrying a fiscal marker is punishable by a fine of up to 300 fine units.

[RT I 2003, 2, 17 – entry into force 01.04.2003]

(2) The same act, when committed by a legal person, is punishable by a fine of up to 3200 euros.

[RT I 2010, 22, 108 – entry into force 01.01.2011]

§ 6³. Unlawful removal of additives from liquid fuel which carries a fiscal marker and the handling of liquid fuel obtained as result of such removal

[RT I 2002, 63, 387 – entry into force 01.09.2002]

(1) The removal of additives used for fiscal marking from liquid fuel carrying a fiscal marker or the knowing possession, storage, transfer or offer for sale of liquid fuel obtained as a result of such removal is punishable by a fine of up to 300 fine units.

[RT I 12.07.2014, 1 – entry into force 01.01.2015]

(2) The same act, when committed by a legal person, is punishable by a fine of up to 3200 euros.

[RT I 2010, 22, 108 – entry into force 01.01.2011]

§ 6⁴. Procedure

(1) [Repealed – RT I 12.07.2014, 1 – entry into force 01.01.2015]

(2) The extrajudicial body to conduct proceedings in relation to the misdemeanours specified in sections 6² and 6³ and 6⁵ of this Act is:

[RT I 17.03.2015, 3 – entry into force 18.03.2015]

1) the Tax and Customs Board;

2) [repealed – RT I 2003, 88, 591 – entry into force 01.01.2004]

- 3) the Police and Border Guard Board;
[RT I, 29.12.2011, 1 – entry into force 01.01.2012]
3¹) [repealed – RT I 2009, 62, 405 – entry into force 01.01.2010]
4) the Consumer Protection Board.

§ 6⁵. Illegal sale of diesel fuel for specific purposes

(1) When selling diesel fuel for specific purposes, failure to comply with the requirements provided in section 1² of this Act is punishable by a fine of up to 300 fine units.

(2) The same act, when committed by a legal person, is punishable by a fine of up to 3200 euros.
[RT I 17.03.2015, 3 – entry into force 18.03.2015]

§ 7. [Repealed – RT I 2002, 63, 387 – entry into force 01.09.2002]

§ 8. [Omitted from this text.]

§ 8¹. Implementing provision

(1) Where a person who used a liquid fuel carrying a fiscal marker in rail transport or shipping retains possession of such fuel after 1 January 2015 and is not authorised under this Act to use it, the person must notify this to the tax administration in a format that permits reproduction in writing at the latest on the business day preceding the transfer, and transfer the liquid fuel carrying the fiscal marker to the person that sold that fuel or to the keeper of an excise warehouse by 1 February 2015.

(1¹) The persons who used the fuel referred to in subsection 1 of this section in rail transport or shipping may, at the latest on 1 May 2015, use that fuel for that purpose after they have filed with the Tax and Customs Board the corresponding energy product excise declaration and paid the excise duty on that fuel in the amount that equals the difference between the rate of the excise duty applicable to the liquid fuel carrying the fiscal marker and the rate applicable to diesel fuel.

[RT I, 17.03.2015 – entry into force 18.03.2015 – applied retroactively starting 01.01.2015]

(1²) Where a person who used a liquid fuel carrying a fiscal marker for heating purposes retains possession of such fuel on 1 May 2015 and is not authorized under this Act to use it, the person must, in respect of that fuel, file an energy product excise declaration with the Tax and Customs Board and pay, at the latest on 15 May 2015, the excise duty on that fuel in the amount that equals the difference between the rate of the excise duty applicable to the liquid fuel carrying the fiscal marker and the rate applicable to diesel fuel, and may continue to use that fuel exclusively for its initial purpose.

[RT I, 17.03.2015 – entry into force 18.03.2015]

(1³) A heating undertaking within the meaning of the District Heating Act must measure the quantity of liquid fuel carrying a fiscal marker that it holds on 1 May 2015, and submit the measurement information to the tax administration at the latest on 10 May 2015. Additionally, the heating undertaking must assess the percentage value of the proportion of thermal energy transmitted to households and apartment associations during the period 1 January 2015 to 1 May 2015 of the total thermal energy transmitted to consumers during that period. The heating undertaking is allowed to use up the remaining quantity of the liquid fuel carrying a fiscal marker that corresponds to the assessed percentage value of the proportion without being subject to the obligation of transferring that quantity and of paying the supplementary excise duty on it.

[RT I, 17.03.2015 – entry into force 18.03.2015]

(1⁴) Households and apartment associations are allowed to use up the remaining part of the diesel fuel for specific purposes purchased before 1 May 2015 and of the light heating oil carrying a fiscal marker purchased before 1 January 2015 without being subject to the obligation of transferring, declaring or measuring and of paying the supplementary excise duty on the respective fuel, provided it is stored in a stationary tank that complies with the relevant requirements.

[RT I, 17.03.2015 – entry into force 18.03.2015]

(1⁵) The persons who are outside the scope of subsection 1⁴ of section 8¹ of this Act are allowed to use up the remaining part of the diesel fuel for specific purposes purchased before 1 May 2015 for electricity production purposes and of the light heating oil carrying a fiscal marker purchased before 1 January 2015 for electricity production purposes without being subject to the obligation of transferring, declaring or measuring and of paying the supplementary excise duty on the respective fuel.

[RT I, 17.03.2015 – entry into force 18.03.2015]

(2) Any person within the scope of subsection 1² of this section may transfer the fuel referred to in that subsection to the person who sold it or to the keeper of an excise warehouse by 1 June 2015. The transfer must be notified to the tax administration in a format that permits reproduction in writing at the latest on the business day preceding the transfer. In this case, the person does not incur the obligations or acquire the right that are set out in subsection 1² of this section.

[RT I, 17.03.2015 – entry into force 18.03.2015]

(3) [Repealed – RT I, 17.03.2015 – entry into force 18.03.2015]

(4) When transferring the stock of liquid fuel carrying a fiscal marker, the persons falling within the scope of this section are not required to possess the technical equipment, certificate of conformity, authorisation or security required under the Liquid Fuel Act. The notice that is to be submitted to the tax administration under this section the following information must be set out in respect of the liquid fuel carrying a fiscal marker that is being transferred:

- 1) the CN commodity code of the fuel and the corresponding description;
- 2) the quantity of the fuel in litres;
- 3) the address at which the fuel is stored prior to the transfer;
- 4) the date of dispatch of the fuel;
- 5) the name of the person taking delivery of the fuel.

[RT I, 12.07.2014, 2 – entry into force 01.01.2015]

(5) For the purposes of this section, liquid fuel carrying a fiscal marker means diesel fuel for specific purposes and the light heating oil carrying a fiscal marker that was released for consumption before 1 January 2015.

[RT I, 17.03.2015 – entry into force 18.03.2015 – applied retroactively starting 01.01.2015]

(6) The quantity of the liquid fuel carrying a fiscal marker that is retained in the possession of its holder in the cases referred to in this section must be measured but the traceability of the measurement does not need to be proved. In cases of doubt concerning the reliability of the measurement results the Tax and Customs Board may have recourse to the services of an accredited measurement provider or a measurement provider assessed as professionally competent. Should the Tax and Customs Board, by means of the measurement performed by the accredited measurement provider or measurement provider assessed as professionally competent, find that the quantity of liquid fuel carrying a fiscal marker is larger than was previously declared, the holder is required to rectify the information submitted in the corresponding declaration and to pay the supplementary excise duty difference within three business days following notification of the measurement results of the Tax and Customs Board.

[RT I, 17.03.2015 – entry into force 18.03.2015 – applied retroactively starting 01.01.2015]

(7) Where necessary, the specific procedure for applying this section is established by a regulation of the minister responsible for the area.

[RT I, 17.03.2015 – entry into force 18.03.2015]

(8) Subsections 3 and 4 of section 1¹, section 1³ and subsection 1¹ of section 4 as well as subsections 1¹, 5 and 6 of this section are applied retroactively starting 1 January 2015.

[RT I, 17.03.2015 – entry into force 18.03.2015]

§ 9. Entry into force of this Act

This Act enters into force on 1 January 1998, except for section 8(4)(2), which enters into force on 1 January 1999.