



T: 020 7219 7050
E: claire.perry.mp@parliament.uk
F: 020 7219 1385



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Perry: Ed Balls slapped down by the European Commission

Ed Balls' flagship policy at the Budget, a cut in VAT on fuel, has been slapped down as unworkable and illegal by the European Commission. Mr Balls had suggested a cut in VAT on fuel as an alternative to the coalition government's scrapping of Labour's fuel duty escalator.

In a letter to Claire Perry MP, the European Commissioner responsible for taxation has said that Ed Balls' proposal for reducing VAT on fuel would likely be illegal under EU law.

He said that 'derogations are only possible in very specific cases' and that 'it is difficult to see how a reduced rate for motoring fuel is compatible with these requirements.'

Commenting, Claire Perry MP said:

'Ed Balls' credibility lies in tatters. His flagship policy at the Budget was a cut in VAT on fuel, but now the EU itself has said that his policy wouldn't work. Will he finally get out of the world of economic fantasy and support the Government's decision to cut fuel duty for millions?'

ENDS

For further information, please contact Victoria Crawford on 07791 463 444

Notes to Editors:

Ed Balls' flagship policy at the Budget was a cut in VAT on fuel

- 'In the budget he has a choice to make about fuel duty, when we were in government we often didn't go ahead with fuel rises if the world oil price was high but I think he should act immediately on VAT. This was an own goal, he didn't have to do it' (Ed Balls, Murnaghan, *Sky News*, 13 March 2011).

Ed Balls claimed that we could get a derogation from the EU, like the French had for restaurants

- 'When we have only one reduced rate, but Italy, France and Poland have three reduced rates, and when the French President secured a VAT rate cut for French restaurants, is the hon. Lady really saying that she is going to hide behind European law and fail to stand up for the British motorist? Is that really what she is saying?' (Ed Balls, Hansard, 16 March 2011, col. 324).

The European Commissioner for tax has said that Ed Balls' policy would not be compatible with EU law

- Algirdas Semeta, the European Commissioner responsible for taxation and customs said that 'derogations are only possible in very specific cases' and that 'it is difficult to see how a reduced rate for motoring fuel is compatible with these requirements' (Algirdas Semeta, *Letter to Claire Perry MP*, 4 May 2011).
- He also wrote that Ed Balls was mistaken in his argument that France had gained a derogation on restaurants. He said that the reduced VAT rates on restaurant services 'are not based on a derogation but rather because these services have been added to the permanent list of goods and services eligible for a reduced VAT rate.'

Fuel duty is 6p lower than it would have been under Labour

- Under Labour fuel duty would have risen by 5p on April 1. Labour's March 2010 Budget said that:

'Fuel duty will also rise by one penny per litre in real terms on 1 April each year from 2011 to 2014' (HM Treasury, *Budget March 2010*, p. 8).

As the Chancellor said at the Budget, this would amount to a roughly 5p increase in fuel duty:

'The third step on the escalator is due to come into effect next week, and that would add almost another 5p to the price of a litre of petrol' (George Osborne, *Budget Statement*, 23 March 2011, [link](#)).
- The March 2011 Budget announced that the fuel duty escalator is being abolished, and that the inflation increases are being deferred:

'The Government will abolish the fuel duty escalator and replace it with a fair fuel stabiliser... In addition, to ease the burden on motorists, the 2011-12 inflation-only increase in fuel duty will be deferred to 1 January 2012. The 2012-13 increase in fuel duty will be implemented on 1 August 2012' (HM Treasury, *Budget 2011*, 23 March 2011, p. 8).

This means that there was no increase in fuel duty on April 1.
- The Budget also announced an immediate 1p cut in fuel duty:

'In recognition of high current oil prices, fuel duty will be cut by 1 penny per litre from 6p today' (HM Treasury, *Budget 2011*, 23 March 2011, p. 8).

Combined with Labour's plan to increase fuel duty by 5p on April 1, this 1p cut means that tax on fuel is 6p lower than under Labour's plans. Even after taking account of the rise in VAT, tax on fuel will be 3p per litre lower than under Labour's plans.

Letter from Algirdas Semeta:

ALGIRDAS ŠEMETA
MEMBER OF THE EUROPEAN COMMISSION

Brussels, 04.05.2011
MES/ab Ares D(2011)383173

Mrs Claire Perry
MP for the Devizes Constituency
Office of Claire Perry
House of Commons
London
SW1A 0AA
United Kingdom

Dear Honourable Member,

Thank you for your e-mail dated 6 April 2011 regarding the possibility of the UK being granted a derogation to charge a reduced rate of VAT on motoring fuel.

According to the VAT Directive¹, the VAT rate applicable to supplies of motoring fuel is the standard rate as set by the Member States, but which cannot be set lower than 15%. As you indicated correctly in your letter, Member States may also apply one or two reduced VAT rates of no less than 5% to supplies of goods and services referred to in Annex III to the VAT Directive but motoring fuel is indeed not covered by this Annex.

Under the current VAT provisions, derogations are only possible in very specific cases. Article 395 of the VAT Directive stipulates that "*the Council, acting unanimously on a proposal from the Commission, may authorise any Member State to introduce special measures for derogation from the provisions of this Directive, in order to simplify the procedure for collecting VAT or to prevent certain forms of tax evasion or avoidance*".

This Article also specifies that "*measures intended to simplify the procedure for collecting VAT may not, except to a negligible extent, affect the overall amount of the tax revenue of the Member State collected at the stage of final consumption*". It is difficult to see how a reduced rate for motoring fuel is compatible with these requirements.

Finally, reduced VAT rates applied to restaurant services are not based on a derogation but rather because these services have been added to the permanent list of goods and services eligible for a reduced VAT rate (Annex III of the VAT Directive). Until 2008, eleven Member States had been granted a particular derogation to apply a reduced VAT rate to restaurant services but this possibility was denied to the other Member States. This addition was made to offer an equal treatment to all Member States but also because the supply of restaurant and catering services fulfilled the same criteria as the other locally supplied services added in the Annex III revised by Directive 2009/47/EC.

¹ Council Directive 2006/112/EC of 28 November 2006, OJ L 347, 11.12.06

The nature of the services concerned and the rules applicable to the place of taxation mean that the risk of relocation is minimal. Moreover, accommodation in hotels and similar establishments was already included in Annex III. The addition of restaurant and catering services was considered to be a justified rationalisation and provided equal opportunities to all Member States.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'J. G. J.', written in a cursive style.