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## The legal solutions regarding fuel grants for farmers in Poland (ECPRD Request No. 5207)<sup>1</sup>

Rozwiązania prawne dotyczące dopłat paliwowych dla rolników w Polsce (wniosek ECPRD nr 5207)

The author discusses available forms of support to farmers considering the ongoing increase of fuel prices. She describes legal solutions regarding fuel subsidies for farmers in Poland as a refund of part of the excise tax included in the price of diesel fuel used for agricultural production. She also discusses the rules and procedure for the refund of excise duty.

**Keywords:** excise duty, diesel fuels, agricultural production

Autorka opisuje dostępne formy wsparcia rolników w związku z postępującym wzrostem cen paliw. Przedstawia rozwiązania prawne dotyczące dopłat paliwowych dla rolników w Polsce w postaci zwrotu części podatku akcyzowego zawartego w cenie oleju napędowego wykorzystywanego do produkcji rolnej. Omawia również zasady i tryb zwrotu podatku akcyzowego.

**Słowa kluczowe:** akcyza, oleje napędowe, produkcja rolna

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**In response to ECPRD Request No. 5207 regarding “Fuel aid scheme as support for farmers”, the Bureau of Research of the Chancellery of the Sejm provides the following information:**

1. Which forms of support are available to farmers considering the ongoing increase of fuel price?
2. Are there any other ways meant to ease the financial stress on the agricultural sector? (Grants, aid schemes, increased fuel consumption efficiency, etc.)

In Poland, since April 1, 2006, there has been financial support for agricultural producers in the form of a refund of part of the excise tax in accordance

<sup>1</sup> *Fuel aid scheme as support for farmers (ECPRD Request No. 5207)* prepared on October 28, 2022 as part of cooperation in The European Centre for Parliamentary Research and Documentation (Europejskie Centrum Badań Parlamentarnych i Dokumentacji); BAS-WASiE-1965/22.

with the Act of 10 March 2006 on the Reimbursement of Excise Duty included in the price of diesel fuel used for agricultural production.<sup>2</sup> The Act defines the rules and procedure for the refund of excise duty included in the price of diesel fuel<sup>3</sup> used for agricultural production. This favors the development and competitiveness of domestic farms on the EU market. Pursuant to the regulations of the European Union, it is possible to apply the minimum rate of excise duty on diesel fuels used in agricultural production in accordance with Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity.<sup>4</sup>

The agricultural producer is entitled to a tax refund.<sup>5</sup>

An agricultural producer is defined as a natural person, a legal person or an organizational unit without legal personality, being the holder of an agricultural holding within the meaning of the provisions on agricultural tax.<sup>6</sup>

A tax refund is not available to an agricultural producer<sup>7</sup>:

- being a limited liability company, if more than half of the company's share capital disclosed in the Register of Entrepreneurs of the National Court Register has been lost, including more than 1/4 in the 12 months immediately preceding the date of filing the tax refund application,
- being a company in which some of the members are unlimitedly liable for the company's liabilities, and more than half of its capital according to the financial statements has been lost, including 1/4 in the 12 months immediately preceding the date of filing the tax refund application,
- regardless of the form of the company, if there are grounds for bankruptcy.

<sup>2</sup> Journal of Laws [Dziennik Ustaw] 2022, item 846, <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20220000846>.

<sup>3</sup> Falling within CN codes 2710 19 43 to 2710 19 48, CN codes 2710 20 11 to 2710 20 19 and CN codes 3826 00.

<sup>4</sup> Official Journal of the European Union L 283, 31 October 2003, p. 51, Special edition in Polish: Chapter 09 Volume 001, p. 405–424, as amended.

<sup>5</sup> In the event that the land of an agricultural holding is the subject of independent ownership and dependent ownership, the tax refund is due to the dependent holder. On the other hand, in the event that the land of a farm is the subject of co-ownership, the tax refund is due to the co-owner, in relation to which the other co-owners have given their consent in writing. Written consent does not apply to spouses.

<sup>6</sup> Please see the Article 2 sec.1 of the Act of 15 November 1984 on Agricultural Tax (Journal of Laws [Dziennik Ustaw] 2020, item 333, <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20200000333>).

<sup>7</sup> The provisions do not apply to an agricultural producer engaged in agricultural activities for less than 3 years.

The amount of the tax refund is determined as the product of the quantity of diesel fuel purchased by the agricultural producer, as shown on the VAT invoices, and the tax refund rate per one liter of diesel fuel, applicable on the day of submitting the tax refund application, within the annual limit set as follows:

- by summing the amounts representing the product of the tax refund rate per one liter of diesel fuel, the number 110, and the area of agricultural land owned or jointly owned by the agricultural producer, as defined in the land and building register, as of February 1 of the year in question, and
- summing the amount representing the product of the tax refund rate per one liter of diesel fuel, the number 40, and the average annual number of the livestock units (LU) owned by the agricultural producer in the year preceding the year in which the tax refund application was submitted.

In determining the limit, the following are not considered:

- land of agricultural holdings where agricultural production was discontinued within the meaning of the provisions on agricultural tax,
- land used to conduct business activity other than agricultural activity within the meaning of the provisions on agricultural tax.

The average annual number of large cattle units is determined as the quotient of the sum of the large cattle units held by the agricultural producer on the last day of each month of the year preceding the year in which the tax refund application was submitted, determined considering the values of the conversion factors for cattle to livestock units (Table 1), and the number 12.

**Table 1. Conversion factor for cattle to livestock units**

Livestock technology group	Conversion factor for cattle to livestock units
Bulls over 6 months to 1 year	0.36
Bulls over 1 year to 18 months	0.9
Bulls over 18 months	1.4
Calves up to 6 months	0.15
Heifers over 6 months to 1 year	0.3
Heifers over 1 year to 18 months	0.8
Cows	1.0

Source: Annex to the Act of 10 March 2006 on the Reimbursement of Excise Duty included in the price of diesel fuel used for agricultural production.

The Council of Ministers determines, by regulation, annually, by December 31, the tax refund per one liter of diesel fuel for the following year, considering the draft budget bill for the following year and the applicable rate of excise tax on diesel oil.

In 2022, the rate of excise tax refund included in the price of diesel fuel used for agricultural production was set at PLN 1.00 per 1 liter.<sup>8</sup>

The payment of the tax refund granted based on the decision of the commune head or mayor competent for the location of the land, is made at the request of the producer on the dates:

- from April 1 to April 30 – if the tax refund applications were submitted between February 1 and the last day of February,
- from October 1 to October 31 – if the tax refund applications were submitted between August 1 and August 31.

The tax refund is granted for the period of 6 months preceding the month of submitting the tax refund application.

In 2022, applications for reimbursement of excise tax included in the price of diesel fuel used for agricultural production are submitted to the commune head or mayor competent for the location of the land owned or co-owned by the agricultural producer up to the limit specified for 2022, on two dates:

- from February 1, 2022 to February 28, 2022 together with VAT invoices documenting the purchase of diesel fuel for agricultural production in the period from August 1, 2021 to January 31, 2022,
- from August 1, 2022 to August 31, 2022 together with VAT invoices documenting the purchase of diesel fuel for agricultural production in the period from February 1, 2022 to July 31, 2022.

Agricultural producers will be paid the excise tax refund within:

- 1–30 April 2022 if the application is submitted in the first term,
  - 3–31 October 2022 if the application is submitted in the second deadline,
- in cash at the cash desk of the commune or city office, or by transfer to the bank account specified in the application.

The model of the application form for the refund of excise tax included in the price of diesel fuel used for agricultural production was announced by the regulation of the Minister of Agriculture and Rural Development of 20 December 2018 on the application form for the refund of excise duty included in the price of diesel oil used for agricultural production.<sup>9</sup>

<sup>8</sup> Regulation of the Council of Ministers of 3 December 2021 on the Rate of Excise Tax Refund included in the price of diesel fuel used for agricultural production per 1 liter of oil in 2022 (Journal of Laws [Dziennik Ustaw] 2021, item 2266, <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20210002266>).

<sup>9</sup> Journal of Laws [Dziennik Ustaw] 2018, item 2466, <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20180002466>.

Please see <https://www.gov.pl/attachment/4077da08-3d65-4139-b3d0-f1d2b69dc17d>.

Additional information is available on the website of the Ministry of Agriculture and Rural Development, please see <https://www.gov.pl/web/rolnictwo/zwrot-podatku-akcyzowego>.

## Bibliography

### Legal Acts

#### ■ Domestic Law

Ustawa z 15 listopada 1984 r. o podatku rolnym, t.j. Dz.U. 2020, poz. 333.

Ustawa z 10 marca 2006 r. o zwrocie podatku akcyzowego zawartego w cenie oleju napędowego wykorzystywanego do produkcji rolnej, t.j. Dz.U. 2022, poz. 846.

Rozporządzenie Ministra Rolnictwa i Rozwoju Wsi z 20 grudnia 2018 r. w sprawie wzoru wniosku o zwrot podatku akcyzowego zawartego w cenie oleju napędowego wykorzystywanego do produkcji rolnej, Dz.U. poz. 2466.

Rozporządzenie Rady Ministrów z 3 grudnia 2021 r. w sprawie stawki zwrotu podatku akcyzowego zawartego w cenie oleju napędowego wykorzystywanego do produkcji rolnej na 1 litr oleju w 2022 r., Dz.U. poz. 2266.

#### ■ EU Law

Dyrektywa Rady 2003/96/WE z 27 października 2003 r. w sprawie restrukturyzacji wspólnotowych przepisów ramowych dotyczących opodatkowania produktów energetycznych i energii elektrycznej, Dz.Urz. UE L 283 z 31 października 2003 r.

### Other

Wzór wniosku o zwrot podatku akcyzowego zawartego w cenie oleju napędowego wykorzystywanego do produkcji rolnej, <https://www.gov.pl/attachment/4077da08-3d65-4139-b3d0-f1d2b69dc17d>.

*Zwrot podatku akcyzowego*, <https://www.gov.pl/web/rolnictwo/zwrot-podatku-akcyzowego>.