

Taxation of energy products and electricity: restructuring the Community framework

2011/0092(CNS) - 19/04/2012 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 374 votes to 217, with 73 abstentions, in the context of a special legislative procedure (consultation of Parliament), a legislative resolution on the proposal for a Council Directive amending Directive 2003/96/EC restructuring the Community framework for the taxation of energy products and electricity.

Parliament recommends amending the proposal as follows:

Optimal functioning of the internal market: Parliament stresses the need to ensure that the internal market functions in an optimum manner in a context of new requirements relating to the limitation of climate change, to the use of renewable energy sources and to energy savings. It recommends that the **consistent treatment of energy sources** under this Directive should therefore be guaranteed in order to provide a genuine level playing field for energy consumers regardless of the energy source used.

The resolution also stipulates that the taxation of energy products should be approached in a **technologically neutral manner** in order to give new technologies the opportunity to develop.

Energy recovery from waste: Parliament considers that energy taxation should not cover energy recovery from waste and, in particular, the use of waste as an alternative fuel, given that Directive 2008/98/EC on waste urges producers and holders of waste to dispose of waste in the most energy-efficient and resource-friendly manner possible and gives priority to energy recovery over disposal.

Member States should also retain the right to apply a level of general energy consumption taxation down to zero on the consumption of energy products and electricity used for **agricultural, horticultural, and piscicultural works, and in forestry**.

Installations subject to the emission trading scheme: CO₂-related taxation must not apply to direct and indirect consumption in installations subject to the Union scheme. A double burden in the form of double taxation and double regulation would lead to distortions of competition and must be ruled out. Any restructuring of energy taxation should ensure that sectors not subject to the emissions trading scheme are not penalised in relation to sectors that are covered by that scheme.

Transparency of rules: given the complex nature of the requirements which the two components of the new system, namely energy taxation and CO₂-related taxation, are intended to meet, clear rules, which, in the interests of all consumers, are transparent and readily understandable, should be laid down at all levels in order to guarantee that the system can be properly administered.

Favourable minimum level of taxation applicable to gas oil: the European Parliament deleted a recital providing for the need to align and gradually move to a situation where gas oil and petrol are taxed at an equal level.

Member States may **differentiate between commercial and non-commercial gas oil**. 'Commercial gas oil used as propellant' means gas oil used as propellant for the following purposes: (i) the carriage of goods for hire or reward, or on own account, by motor vehicles or articulated vehicle combinations intended exclusively for the carriage of goods by road; (ii) the carriage of passengers, whether by regular or occasional service, by a motor vehicle.

Member States shall lay down the option for commercial transporters to apply a different tax account system.

Increase in the tax rate of diesel compared with petrol: implementing the new tax structure will involve increasing the rate of taxation of diesel to bring it into line with that for petrol. Parliament considers that this may call into question both the decision taken by the Union automobile industry to focus on clean, energy-efficient conventional combustion engines and the achievement of the Union's CO₂ emissions reduction targets, since the CO₂ limit values set can be achieved only if a sufficient number of vehicles on the road are diesel powered. Appropriate **flexible measures** should be taken in order to ensure that the competitiveness of the automobile sector and the success of the CO₂ emissions reduction strategy in that sector are not endangered. Sales taxes, registration taxes and annual road use taxes should be harmonised and, as a matter of principle, set solely on the basis of a vehicle's CO₂ emissions.

Natural gas and biomethane: in the case of natural gas and biomethane used as motor fuel, higher minimum levels of general energy consumption taxation shall apply only after an assessment, to be carried out by the Commission by 2023, of the implementation of the provisions of this Directive relating to the level of taxation applicable to natural gas in road transport.

Oil-derived motor fuel: the amended text underlines that the possibility to apply a lower level of taxation to oil-derived motor fuel used by taxis is no longer compatible with the objective of policies promoting alternative fuels and energy carriers and the use of cleaner vehicles in urban transport and should thus be removed.

Electric vehicles: since the introduction of electric and hybrid vehicles is key to easing dependence on non-renewable fuels in the transport sector, Member States should, for a limited period of time, have the possibility of applying an exemption or reduction in the level of taxation to electricity utilised to charge such vehicles.

Exemptions or reductions to the benefit of households and charitable organisations: the resolution underlines that these reductions prevent a correct price signal from being given, thereby taking away an important incentive to reduce energy bills and energy use. The possibility in Directive 2003/96/EC to apply such exemptions or reductions should therefore, **after a long phase-out period, be removed**.

In Member States where this affects energy prices, low-income households and charitable organisations should be **compensated** via solid and comprehensive social measures.

Liquefied petroleum gas and natural gas used as propellants: according to Members, advantages in the form of lower minimum levels of general energy consumption taxation or the possibility to exempt those energy products from taxation **are not justified in the long run and should therefore be removed**, in particular in the light of the need to enable renewable fuels to increase their market share. However, since LPG and natural gas have a less harmful environmental impact than other fossil fuels and since their distribution infrastructure could be beneficial in the introduction of renewable alternatives, the advantages should be phased out step by step.

Carbon capture and storage capacities: as regards CO₂ related taxation, the treatment of the sectors concerned should take into account the specific carbon capture and storage capacities and the risk of carbon leakage for each of the sectors and sub-sectors concerned, as well as the possible impact on their productivity and viability. **The sectors producing biomass with high carbon sequestration potential should be exempted.**

Fuels that are biomass or made of biomass: the general rules introduced by this Directive take account of the specificities of fuels that are biomass or made of biomass complying with the sustainability criteria laid down in Article 17 of Directive 2009/28/EC with regard both to their contribution to the CO₂-balance and to their lower energy content per quantitative unit, as compared to some of the competing fossil fuels. Members call for, in accordance with the provisions of Directive 2009/28/EC, **these sustainability criteria should be made more restrictive in 2017 and 2018.**

In order to fulfil the criteria, the greenhouse gas emission saving will from 1 January 2017 have to be at least 50 %. From 1 January 2018 the saving will have to be at least 60 % for products made in installations in which production started on or after 1 January 2017.

Guidelines: Member States shall provide comprehensive guidance to beneficiaries, including to small and medium-sized farms, concerning the application of energy efficiency requirements associated with reduced tax rates.

Report: Parliament wants the Commission to report to the Parliament and the Council on the application of this Directive **every three years** and for the first time by the end of 2015.

In particular, the Commission's report should examine:

- minimum levels of general energy consumption taxation in order to ensure that they preserve their intended effects,
- the minimum level of CO₂-related taxation in the light of the evolution of the market price in the EU of the emission allowances,
- the impact on the setting of industrial policy priorities in the European car industry,
- the impact of innovation and technological developments, the impact on harmful or potentially harmful emissions other than CO₂,
- the justification for the tax exemptions and reductions laid down in the Directive, including for fuel used for the purpose of air and maritime navigation, as well as
- developments in the use of biogas, natural gas and LPG in road transport.

The report shall also include an overview of existing taxation provisions contained in bilateral air service agreements. The report shall take into account the proper functioning of the internal market, the real value of the minimum levels of taxation and the wider objectives of the TFEU.