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ENERGY TAXATION DIRECTIVE (ETD)

Proposal COM(2021) 563 for a Council Directive restructuring the framework for the taxation of energy products and electricity

The Directive establishes rules and minimum levels for the taxation of energy carriers by Member States. The proposal for the revision of the Directive suggests taxing energy carriers according to their energy content and their environmental performance instead of solely taxing the volume. It also plans to phase out tax exemptions for fossil fuels in certain sectors. This would bring about important fiscal incentives for the use of renewable energy and electricity, and help in the long-promised phase-out of fossil fuel subsidies.

WHAT'S IN IT?

OBJECTIVE	GOOD PROSPECTS IN VIEW OF THE OBJECTIVE	MIXED PROSPECTS	A STEP BACKWARDS, UNDERMINING THE OBJECTIVE
Climate ambition In view of respecting the limit of 1.5°C global warming under the Paris Agreement	●		
100% renewables Accelerating the phase-out of fossils and nuclear	●		
Fair participation Of citizens in the benefits of the European Green Deal	●		

WHAT'S NEXT?

STATUS

Pending/ unclear

MILESTONES

- **July 2021** European Commission proposal submitted
- **December 2024** Economic and Financial Affairs Council discusses compromise proposal by the Hungarian EU Council presidency
- **April 2025** Progress remains unclear, no agreement amongst Member States and EU institutions
- **By December 2025** European Commission Recommendation on energy taxation
- Revision clause foreseen every five years after entry into force of the Directive

WHAT TO WATCH OUT FOR?

RISKS	LIMITED RISK	MEDIUM RISK	HIGH RISK
Speed. Slowing down the EU law's progress or implementation.			●
Money. Conflict on distributional effects or lack of finance for making this EU law impactful.		●	
Fossil fuels. Open door to supporting the use of fossil fuels.	●		
Nuclear power. Open door to supporting the use of nuclear power.	●		

WHAT'S IN IT?

Climate ambition
Ensures that taxation rules contribute to the EU's climate targets through the implementation of the polluter-pays principle, with taxation better reflecting the environmental and health impact of motor fuels, heating fuels and electricity.

100% renewables
Supports overall objectives on increasing electrification (electricity should always be among the least taxed sources) and promotion of renewables (EU Member States may exempt taxes on solar, wind, wave, tidal and geothermal energy).

Fair participation
Exemptions and targeted reductions to tackle the social impact of energy taxes are allowed.

WHAT'S NEXT?

STATUS
Pending/unclear

Public consultation closed. Pending proposal. No agreement found yet in either the European Parliament or the EU Council.

Transposition by EU Member States
Will be necessary (hence a Directive).

Revision clauses and reporting duties
Every five years and for the first time five years after the entry into force of this Directive, the European Commission (EC) should examine the minimum levels of taxation, the impact of innovation and technological developments, especially as regards energy efficiency, the justification for the exemptions, reductions and differentiations and may propose necessary changes through delegated acts and/or amendments.

Delegated acts and other related legislative action
The EC is empowered to adopt delegated acts to amend the minimum levels of taxation.

WHAT TO WATCH OUT FOR? RISKS

Speed Money Fossil fuels Nuclear power

Current energy taxation still allows for the disproportional support of consumption of fossil fuels while (renewable) electricity is systematically taxed higher. This biased legal framework fails to encourage the further uptake of electric heat pumps, electric vehicles, electrolysers for hydrogen production and the electrification of industrial processes.

As the ETD needs to be adopted by unanimous decision in the EU Council, it seems likely concessions on multiple exemptions will need to be made to get the proposal adopted. This risks (strongly) watering down the benefits of the proposal. Multiple EU Council presidencies (CZ, SE, BE) have unsuccessfully tried to make progress on finding a compromise. The compromise proposal of the Hungarian presidency discussed in December 2024 still would exempt fossil fuels in aviation and shipping from taxation for 20 more years, thus undermining EU climate targets.

> '*Energy taxation can support efforts to combat climate change, but current tax levels do not reflect the extent to which different energy sources pollute […]. One challenge is ensuring consistency across the EU and in sectors and energy carriers that were previously treated more favourably. Under the current Energy Taxation Directive, more polluting sources of energy may have a tax advantage compared to more carbon-efficient ones.*' – EUROPEAN COURT OF AUDITORS REVIEW OF ENERGY TAXATION, CARBON PRICING AND ENERGY SUBSIDIES, JANUARY 2022

HOW TO IMPROVE IT? OPPORTUNITIES

In essence, the proposed revision reflects the application of the polluter-pays-principle in a way that complements and strengthens other climate and energy policies. Adoption of this proposal would strongly improve the EU climate and energy policy framework. In its Action Plan for Affordable Energy in February 2025, the EC rightly urges the Member States to complete the revision of the Directive. However, as EU legislation on taxation requires unanimity in the Council, the deadlock could continue. The EC announces that it will issue a recommendation on how to use the existing rules to leverage the use of decarbonised energy through taxation. This could at least guide Member States towards a pragmatic implementation of existing rules and improve fiscal incentives for the energy transition in some countries.

FURTHER READING

- Joint Statement on the Energy Taxation Directive by renewable energy and smart energy industry federations, March 2023

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