Revision of the Energy Taxation Directive (ETD): Questions and Answers

Brussels, 14 July 2021

How can the EU's energy taxation rules contribute to reaching our goal of at least 55% emissions reduction by 2030?

Taxation initiatives at both EU and Member State level can help us reach our climate policy goals by encouraging a switch to cleaner energy, more sustainable industry and more environmentally friendly choices, as part of a socially fair green transition.

In guiding these initiatives, the EU's common framework for energy taxation – the Energy Taxation Directive or ETD – should play a central role. The rules it lays down support and complement other initiatives in the EU's July 2021 package in support of the EU's climate targets by ensuring that the taxation of motor and heating fuels, and electricity in the EU reflects their impact on the environment and on our health.

The proposal put forward by the Commission today will alter the way in which energy products are taxed in the EU. The new rules aim at addressing the harmful effects of energy tax competition, helping secure revenues for Member States from green taxes less detrimental to growth than taxes on labour. They will remove outdated exemptions and incentives for the use of fossil fuels, for example in EU aviation and maritime transport, while promoting clean technologies. The proposal will also help foster investment in new and innovative green industry by making rules clearer so that investors and innovators can plan their long-term investment in green technology and renewables more securely. Moreover, the updated rules will help facilitate the transition away from fossil fuels towards clean fuels and support the EU's delivery of its ambitious targets on the reduction of greenhouse gas emissions and energy savings.

What is the EU Energy Taxation Directive and why does it need to be updated?

The EU's ETD entered into force in 2003 and lays down structural rules and minimum excise duty rates for the taxation of energy products used as motor fuel and heating fuel, and electricity. Individual Member States are free to set their own rates as long as those minimum rates are respected. Indeed, the vast majority of Member States tax most energy products and, in some cases electricity, considerably above the ETD minimum rates.

However, the Directive is clearly outdated and does not reflect the EU's climate and energy policy frameworks or the EU's legal commitment to an at least 55% reduction in greenhouse gas emissions by 2030 and a climate-neutral continent by 2050. There is no link in the ETD between the minimum tax rates of fuels and their energy content or environmental impact. The rules have also failed to keep pace with the development of alternative fuels such as cleaner and sustainable biofuels and hydrogen. Their design and structure do not promote energy efficiency, cleaner and sustainable alternative fuels, or investment and innovation in clean technologies and sustainable energy. Finally, the real value of the minimum rates set out in the Directive has eroded over time and a complex patchwork of exemptions and reductions has proliferated across Member States since its introduction, so that there is currently not a level playing field across the Single Market.

Why are exemptions and reductions for certain fuels and sectors an issue?

The wide range of national exemptions and reductions *de facto* favour the use of fossil fuel in the EU, while contributing to the fragmentation of the EU's Single Market. These exemptions do not take into account the environmental impact of the fuels to which they apply.

At the same time, certain sectors, such as aviation and maritime transport, are currently fully exempt from energy taxation in the EU. Such anomalies give the wrong incentive and should be rethought, in particular given the role of these sectors in energy consumption and pollution. Taxation in these areas will complement other measures under the EU ETS and in the EU Refuel initiatives.

What are the main changes the proposal puts forward?

The update of the EU's ETD centres on two main areas of reform, which together will maximise their impact in driving forward our common green goals. First, the proposal introduces a **new structure of tax rates** based on the energy content and environmental performance of the fuels and electricity. Second, it **broadens the taxable base** by including more products in the scope and by removing some of the current exemptions and reductions. In detail:

- When it comes to the **structure of tax rates**, the proposal puts forward a new structure for minimum tax rates based on the real energy content and environmental performance of fuels and electricity, rather than on volume as is currently mostly the case. Minimum rates will be based on the energy content (expressed in euros per gigajoules) of each product. This will provide clearer price signals to businesses and consumers alike, helping them to make cleaner, more energy efficient and climate-friendly choices. For example, under the current rules, a lower minimum rate is applied to diesel used as motor fuel than petrol used for the same purpose. Under the new proposal, this would change.

The proposal groups energy products and electricity in general categories per type, which are ranked according to energy content and environmental performance. In this way, the new system will ensure that **the most polluting fuels are taxed the highest**. Member States must ensure this ranking is replicated domestically.

The previous minimum rates were set in 2003 and have never been updated to reflect current prices. The proposed minimum rates will also be adjusted to **reflect the most recent prices**, and will be automatically adjusted annually, based on Eurostat consumer prices figures.

- As regards the taxable base laid out in the Directive, its scope will be enlarged to include energy products or uses that had previously escaped the EU's energy taxation framework, such as mineralogical processes. At the same time, a number of **national exemptions and rate reductions will be removed**, with much less margin for Member States to set rates below the minima for specific sectors. That said, certain reduced rates will remain possible, such as those for electricity or advanced energy products produced from renewables and for primary sector industries such as farming.

Kerosene used as fuel in the aviation industry and **heavy oil** used in the maritime industry will no longer be fully exempt from energy taxation for intra-EU voyages in the EU. This is a crucial measure given the role of these sectors in energy consumption and pollution. Over a period of ten years, the minimum tax rates for these fuels will gradually increase while sustainable fuels for these sectors will benefit from a minimum rate of zero to foster their uptake.

How will you ensure that consumers and vulnerable households don't end up paying the price?

Ambitious environmental policies should have solid safety nets and be accompanied by social measures, while the impact of any new taxes depend largely on how Member States design their broader tax systems and decide to allocate revenues. Well-designed environmental taxes, when accompanied by other reforms, can promote employment, economic growth and social fairness, as reflected in the longstanding view that Member States should shift taxation from labour to environmental taxes. For instance, low-income households could be compensated for increased taxation of fossil fuels used for heating by being given access to financing for low-carbon and energy efficient goods and appliances. Revenues from environmental taxes could also be recycled through lump sum transfers, which have been shown to boost disposable income in poorer households. The Commission encourages Member States to make use of such tools.

Today's proposal also includes the possibility for Member States to exempt vulnerable and energy poor households from taxation on the supply of heating fuels and electricity. This targeted exemption will help support and protect vulnerable households during the transition to cleaner energy sources.

More generally, and in line with the principle of leaving nobody behind, the EU has also put forward initiatives such as Just Transition Fund and the European Social Fund+ (ESF+) and the Social Climate Fund, which was presented today. The Recovery and Resilience Facility will also support Member States in their green transitions.

What are you proposing in terms of minimum rates in the updated ETD, and how have they been set?

All minimum rates will be expressed in EUR/GJ (gigajoule) to allow for direct comparison between more and less polluting fuels, as well as between emerging uses of electricity as electrification progresses, such as electric vehicles in transport or heat-pumps in heating.

The rates have been set according to a ranking that takes into account the environmental performance of energy products and electricity:

- According to this ranking, conventional fossil fuels, such as gas oil and petrol, and non-sustainable biofuels will be subject to the highest minimum rate of €10.75/GJ when used as a motor fuel and €0.9/GJ when used for heating. This rate also serves as a reference rate for the other categories.
- The next category of rates applies to fuels such as natural gas, LPG, and non-renewable fuels of non-biological origin, which, while fossil-based, can still lend some support to de-carbonisation in the short and medium term. Two thirds of the reference rate will apply to this category for a transitional period of 10 years – i.e. a minimum rate of €7.17/GJ when used for motor fuel and €0.6/GJ when used for heating - before being taxed at the same rate as conventional fossil fuels.
- The next category is that of sustainable, but not advanced biofuels. To reflect these products' potential in supporting decarbonisation, half of the reference rate applies – i.e. a minimum of €5.38/GJ when used as motor fuel and €0.45/GJ when used for heating.
- The lowest minimum rate of €0.15/GJ applies to electricity - regardless of its use -, advanced sustainable biofuels and biogas, and renewable fuels of non-biological origin such as renewable hydrogen. Low-carbon hydrogen and related fuels will also benefit from that same rate for a transitional period of 10 years. The rate applicable to this group is set significantly below the reference rate as electricity and these fuels can significantly support the EU's clean energy transition towards achieving the objectives of the European Green Deal and, ultimately, climate neutrality by 2050.

How will the proposal ensure a level-playing field and better integration in the Single Market?

The introduction of the new minimum rates and the broadening of the taxable base will contribute to greater convergence of effective national tax rates across Member States and for most products. Eliminating the patchwork of national exemptions will reduce the harmful effects of energy tax competition, give businesses more legal certainty and reduce their compliance costs. The extension of taxation to the air and maritime transport sectors (including fishing) will also contribute to a fairer distribution of the environmental costs in the transport sector.

How does the ETD complement the proposal on the EU's Emissions Trading System?

Both instruments have co-existed since 2005 and are complementary. While the ETD is a tax on output fuels/energy content for all sectors of the economy, across industry, transport and households, the ETS limits greenhouse gas emissions in the sectors it covers and puts a price on these emissions. While both subscribe and contribute to our environmental objectives, the economic sectors and energy uses they cover can be subject to both at the same time. As long as a particular sector or energy use is taxed with ETD for fuel consumption and charged under ETS for CO2 emissions, no overlap or double taxation can occur. Our proposals make sure of this.

In this context, the proposed introduction of emissions trading to the road transport and building sectors will be complementary to the proposed revision of the ETD. Emissions trading will tackle CO2 emissions while ETD will ensure that fuel taxation incentivises an efficient use of energy and the consumption of more sustainable energy products, while not including a CO2 specific tax component.

What is the current situation for fuel used in the aviation and shipping industries, and what will change?

As a general rule, fuel supplied for use in aviation and shipping are currently fully exempted from taxation under the current Directive. EU Member States could, in theory, tax fuel used in intra-EU aviation and shipping, for example if two Member States agreed to tax them bilaterally. However, in practice no EU country currently does so.

Today's proposal puts forward minimum rates of taxation that encourage a switch to more sustainable fuels. It also encourages more efficient and less polluting aircraft and vessels in the EU's aviation and waterborne sectors. In practice, the new rules lay down a minimum excise duty rate on the relevant fuels used for intra-EU passenger flights, as well as intra-EU ferry, fishing and freight vessels.

The minimum tax rates applied to the two sectors will reflect the extent to which they are at risk of carbon leakage. To limit the higher risk of so-called 'bunker evasion', whereby vessels used for intra-EU voyages are filled with fuel outside the EU, shipping fuels will be subject to the same lower tax rate as that applied to the agriculture sector.

The tax for aviation fuel will be introduced gradually before reaching the final minimum rate after a transitional period of ten years. This means that ten years after the entry into force of the new rules, kerosene used in the aviation industry to power planes for intra-EU flights would be taxed at least €10.75/GJ EU-wide, as for petrol used in road transport. To encourage the use of cleaner energy in both the aviation and maritime sectors, sustainable and alternative fuels will enjoy a zero rate minimum tax rate for a transitional period of 10 years when used for air and waterborne navigation.

Will intra-EU pleasure and business flights be exempt from the new rules or have lower minimum rates? What about yachts?

No. Pleasure flights are already fully taxed under the current rules, and the new proposal actually extends this taxation to business flights in order to capture more uses by individuals. Under the proposal, both situations would be taxed at, at least, the minimum rate assigned to motor fuels (€10.75/GJ) from the outset, i.e. without a transitional period of ten years as extended to fuel used for intra-EU passenger flights.

Energy products and electricity used for non-regular service intra-EU waterborne navigation (including among others navigation of private pleasure crafts such as yachts) should also be subject to the standard levels of taxation applicable to motor fuels and electricity in the Member States.

For More Information

Communication: fit for 55 delivering EU's 2030 climate targets

Website Delivering the European Green Deal (including legislative proposals)

Website with Audio-visual material on the proposals

Press release: European Green Deal: Commission proposes transformation of EU economy and society to meet climate ambitions

Q&A on the Carbon Border Adjustment Mechanism

Q&A on EU Emissions Trading System

Q&A on The Effort sharing and Land-use, Forestry and Agriculture Regulations

Q&A on Making our Energy Systems fit for our Climate Targets

Q&A on Sustainable Transport Infrastructure and Fuels

Architecture of the package Factsheet

Socially fair transition Factsheet

Nature and Forests Factsheet

Transport Factsheet

Energy Factsheet

Buildings Factsheet

Industry Factsheet

Hydrogen Factsheet

Carbon Border Adjustment Mechanism Factsheet

Making Energy Taxation Greener Factsheet

Brochure on Delivering the European Green Deal

QANDA/21/3662

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