

11/18/2021

Technology Industries of Finland's submission to the public consultation regarding revision of the Energy Taxation Directive

18 November 2021

The Commission has published a proposal for a directive restructuring the taxation of energy products and electricity (Energy Taxation Directive). Technology Industries of Finland (TIF) welcomes the opportunity to comment the directive proposal.

1 Summary

The Technology Industries of Finland (TIF) is committed to the fight against climate change and sees that the EU and its Member States must make rapid progress in implementing their emission reduction commitments under the Paris Climate Agreement. We are in favor of tightening the EU's 2030 emissions reduction target to 55% and the goal of climate neutrality in the Union by 2050. We support the Commissions position that the Energy Tax Directive should be updated in line with the EU's energy, climate and environment policy framework. Competitively priced sustainable electricity is a prerequisite for achieving the low carbon targets. It must be ensured that the amendments to the Energy Tax Directive do not significantly weaken the competitiveness of the EU and European companies. Without competitively priced sustainable electricity, there is a risk of carbon leakage if manufacturing is located outside of EU, in countries with lower sustainability requirements. Also, energy taxation on transport fuels is critical for European industries because logistics costs form a major share of production costs.

Global co-operation should be supported to reach an agreement on global (floor) price of carbon. Energy taxation should be well designed so as to prevent overlapping with Emission Trading System, which is the most important and the most effective market driven tool for reducing GHG emissions. Changes to energy taxation must not lead to double taxation.

Our summarized comments:

- We support reforming energy taxation so that sustainable fuels and electricity are subject to lower taxation. Fossil fuel subsidies should be removed. TIF is in favor of adding hydrogen to the list of energy products in the Energy Tax Directive.
- Nuclear electricity is a zero-carbon source of energy and it should be taken into account as such in the directive.
- We support the transition from volume taxation to energy content-based taxation.
- Technology neutrality should be ensured.
- Simple and predictable taxation is very important for businesses. We support simplifying energy tax legislation. However, the ETD should be carefully prepared so that the result will not to actually complicate taxation.

- Current two-category electricity tax rate model applied in Finland should be accepted since it prevents carbon leakage and ensures competitiveness of the Finnish energy intensive industries.
- The European Commission has proposed to increase EU's own resources with revenues from the Carbon Border Adjustment Mechanism (CBAM) and Emissions Trading system would be allocated directly to the EU budget. Thus, these funds would not be available to Member States. The potential overlap of instruments should be taken into account in the preparation of energy taxation, considering that one of the objectives is to "preserve the possibility for Member States to generate energy tax revenues".
- The proposal of changing the legal basis of Energy Taxation Directive so that it could be amended by through the ordinary legislative procedure by Qualified Majority Voting (QMV), is **not** acceptable.
- The authorization rules proposed to the Commission should be very clear and precise, and in line with the current rules. We do not think that the authorization rules should be extended. In particular, the proposal to extend the control procedure raises questions. Commission should refrain from setting up a new excise supervisory authority.
- The OECD's preparation of global energy taxation rules should also be taken into account, as appropriate, in the preparation of the EU Energy Tax Directive, so that EU taxation does not conflict with global taxation.

2 Will the ETD be simplified?

The current Energy Tax Directive is outdated, open to interpretation and the minimum levels of taxation on energy products are too low to have a steering effect on Member States' energy taxation. An important goal is to simplify taxation in the Member States. Reducing the administrative workload of companies and tax administrations through simplification would result in positive effects on the functioning of the internal market. However, the revised proposal for ETD contains issues that could further complicate energy taxation.

For example:

- Minimum levels are set for each category, but Member States may exceed these.
- The draft directive does not contain provisions on the extent of the tax differences between tax categories, but the tax levels should nevertheless meet the prescribed minimum tax levels.
- Minimum tax levels would be reviewed annually, so each Member State is also likely to review its unilateral tax levels annually.
- New authorization rules for the Commission could complicate regulation.
- Even if the unilateral tax incentives are abolished, the ETD contains possibilities for tax reductions. While on the other hand this is supportable (especially if Finland is forced to abandon its current two-category tax rate model), this is complicating in the same way.
- Member States would be allowed to apply for exemptions for tax reductions and exemptions or higher rates.

Simple and predictable taxation is important for businesses. The idea of classifying energy products for tax purposes on the basis of environmental impact is in principle supportable. The Energy Tax Directive is proposed to be simplified by grouping the taxation of energy products according to their environmental impact. The highest tax rate would include traditional fossil fuels, the next level

would be 2/3 of the maximum tax rate, the third category 1/2. The lowest tax rates would include electricity, advanced biofuels, bioliquids, biogas and hydrogen (produced using renewables). The difference between the highest and lowest tax rates is planned to be significantly lower. The detailed explanatory memorandum to the proposed directive states that "Member States should respect the relationship between the minimum levels of taxation set out in the proposal for different energy sources and uses". It remains a bit unclear whether this means that when the highest tax rate is raised, the taxation of other categories must be increased accordingly. At least the lowest tax bracket should be decoupled from such potential relative dependence.

3 Two-category electricity tax rate model should be accepted

In other European countries, the price of industrial electricity is reduced by tax incentives and subsidy elements. In Finland the electricity taxation is based on a two-category electricity tax rate model. Industry, greenhouses and large datacenters have a lower electricity tax rate, households and other businesses a higher tax rate. TIF is concerned about the ETD proposal, which seems to be forcing Finland to abandon this two-category of electricity tax. Harmonization of tax rates for industry and others could lead to significant competitive disadvantages. Alternatively, if all electricity tax will be lowered to the EU minimum level, there would be challenges in maintaining Finnish energy tax revenue at current levels.

Forcing Finland to delete this two-category model would mean that new tax incentives must be created to protect the competitiveness of Finland and Finnish industries. The Finnish tax system should not be trashed (for example removing the two-category tax system and adding differentiations in art. 13-18) in the name of simplification. Energy taxation in Finland is already used as an effective tool towards carbon-neutrality. The Finnish energy tax system has many carbon tax -elements. It should therefore be ensured that no significant weakening to Finland's already quite environmentally and competitive energy tax legislation will be made, in the name of simplification.

In Finland a new law is to come into force from the beginning of 2022. Data centers and heat pumps that generate renewable energy for heating and cooling will be moved to the lower electricity tax category. Also, the recycling industry will be transferred to the lower electricity tax category. Would the revised ETD allow the use of such environmentally friendly energy taxation incentives?

Energy taxation on transport fuels is critical for European industries because logistics costs form a major share of production costs. Tax levels should take this into account in order to safeguard the international competitiveness of European industries. The option of a two-category tax system for energy taxation of transport fuels should be included in the Energy Taxation Directive. This is important in order to maintain logistics costs of European industries competitive also in the future, when transport fuel prices are bound to increase.

4 Environmental taxation should be designed from a sustainability perspective

The Commission has issued a so-called own resources proposal, according to which new taxes and levies would direct more funds to the EU budget and finance the EU recovery package. The taxes prepared in connection with the Green Deal and Fit for 55 -packages should still be drafted primarily from an environmental point of view. The aim of environmental taxes is to divert to lower-carbon activities. For example, a tax based on CO₂ emissions is working correctly if the tax revenue decreases (less emissions = less tax revenue). If environmental taxes are set as a budget stimulus with the highest possible return, the tax may not be designed as a sustainable incentive to lower carbon emissions.

5 Technology neutrality

The old Energy Taxation Directive has become obsolete in the sense that it does not recognise new alternative fuels e.g. hydrogen, synthetic fuels, power-to-x -fuels, advanced biofuels and the role of electricity stored in batteries.

TIF is in favor of adding hydrogen to the list of energy products in the Energy Tax Directive. In our view, the basic principles of other energy taxation must be followed in the taxation of hydrogen. Fuels or electricity used in the production of hydrogen should not be taxed. Like electricity, hydrogen is an energy carrier, not an energy source. The production of hydrogen must follow the same principle as the production of electricity whose fuels are tax-free. The tax is only paid when using energy or fuel. The amount of the tax depends on the intended use: fuels used as industrial raw materials are tax-free, energy content and transport fuel are always subject to an energy content tax according to the intended use and a carbon dioxide tax that takes into account CO₂ emissions throughout the fuel production chain. The use of hydrogen as a raw material, industrial chemicals made from hydrogen and hydrogen as a by-product must be exempted from the tax.

The ETD should be flexible and open to swiftly include new alternative fuels and energy products of the future to the directive, even those that are not created or even identified yet.

6 Decision making procedure

The proposal of changing the legal basis of Energy Taxation Directive so that it could be amended by through the ordinary legislative procedure by Qualified Majority Voting (QMV), is not acceptable. Tax sovereignty allows countries to decide and finance their most critical public services: health care, education, social security, infrastructure, judicial system and rescue department. QMV in taxation matters would result to small Member States losing their sovereignty to decide in taxation matters. Member States, whatever their size, must be permitted to be a part of the decision making in taxation matters, effecting their economy and society.

The Council must act unanimously in all taxation matters (also "environmental measures including measures of fiscal nature"). In the most important taxation matters unanimous decisions have been reached (e.g. Anti-Tax Avoidance directive, exchange of information between tax authorities). Thus, QMV in taxation matters is unnecessary. Technology Industries of Finland endorses the present procedure where decisions on energy taxation are made by the Council unanimously.

Technology Industries of Finland
EU Transparency Register number: 39705603497-38

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Technology Industries of Finland (TIF) represents Finnish technology industries and has over 1,600 member companies, sizes varying from small SMEs and start-ups to world leading MNEs. The technology industry is comprised of five sub-sectors: electronics and the electrotechnical industry, mechanical engineering, metals industry, consulting engineering and information technology. Technology industry is the most important export industry in Finland, with operations constituting over 50 % of all Finnish exports and responsible for 70 % of all private investments in R&D carried out in Finland. Over 300,000 Finns work in technology companies, while a total of around 700,000 people work in the technology sector directly or indirectly (of a total population of 5,500,000).¹

¹ For further information of TIF's member companies, please see <https://teknologiateollisuus.fi/en>