# Revision of the EU Energy Tax Directive – technical press briefing

**Rolf DIEMER**
Head of Unit
Unit C2 – Environment and other Indirect Taxes
European Commission
DG Taxation and Customs Union

# *Policy background*

- **March 2008 European Council conclusions**
- **EU climate and energy strategy (2013-2020):**
  - ✓ 20% cut in emissions,
  - ✓ 20% improvement in energy efficiency and
  - ✓ 20% share of renewables by 2020
- **Exit strategy:** Public finances and *quality* of revenue
- **Europe 2020 Strategy:** sustainable growth for a more resource efficient, greener and more competitive economy
- **Annual Growth Survey 2011**
- **Small Business Act**

# *Two policy areas*

- 20% cut in emissions by 2020 (30% in case of international agreement reached)
- division into two areas:

| Emission Trading System: | „Effort-sharing“: |
|---|---|
| ➢ EU cap<br>➢ single instrument<br>➢ uniform price signal | ➢national reduction objectives, taking GDP into account<br>➢Transferable! |

# *Existing Directive 2003/96/EC*

- Energy products are only taxed when they are **used as motor or heating fuel**
- Energy tax applies to **electricity**, although there are several **exemptions** Member States can introduce
- **Some sectors excluded:** Energy products  used as raw materials, for the purposes of chemical reduction, in electrolytic and metallurgical and in mineralogical processes are out of the scope of the Directive
- The "levels of taxation" applied by the Member States may not be lower than the **minimum rates** set in the Directive (higher minima for transport than for heating fuels)
- Possibility of tax exemption for **biofuels**
- **Taxable base**
  - Mineral oil products: volume
  - Coal, gas, electricity: energy content

# *Directive 2003/96/EC – Shortcomings of the current state of play*

- NO signal to reflect CO2 emissions of energy products
- NO signal to reflect the energy content of the product used
- NO incentive to develop markets for alternative energies
- NO European framework for CO2 taxation
- NO sufficient coverage of 50% of emissions outside ETS
- NO clear distinction with ETS: double burden or loopholes to evade responsibility for emissions

## *Why revision of the EU Energy Tax Directive now?*

- MS are designing **now** their **strategies** to meet **agreed targets in the most cost-effective way** and exit the crisis
- MS and stakeholders need **now** **legal certainty** of possible uses of taxes in this context
- Revision ideally applicable as from **01.01.2013** (third phase Emission Trading System (ETS))
- Opportunity for a **green tax shift**: shift taxation from labour to pollution and energy use to help create jobs and boost growth

# *New structure of energy taxation*

- Tax reconstructed according to **CO2 emissions** and **energy content**:
  - A part based on CO2 emission of the energy product. CO2 taxation would be zero for all sources of energy that currently are, or will in the future, be recognised as CO2-free.
  - A part based on energy content per GJ, regardless of the energy product, thus providing an incentive to save energy.

- Because:
  - logical and technology neutral approach
  - automatic incentive for less polluting energy products and generalised CO2 price signal vital for the shift towards low carbon economy
  - remove unjustified subsidies for certain fossil fuels (diesel, coal)
  - consistent treatment of all energy sources

# *Link to Emission Trading System*

**Framework for $CO_2$ taxation** as complement to the EU emission trading scheme

- no double burden for business;
- Level playing field for the sectors exposed to carbon leakage
- no overlap $CO_2$ tax with ETS: $CO_2$ tax complements ETS with alternative market-based instrument for small installations excluded from the EU ETS

# Motor fuels

- New minimum rates introduced in stages until 2018
  - Tax based on $CO_2$ emissions: 20€/t $CO_2$ as of 2013
  - Tax based on energy content: gradual increase to 9.6€/GJ by 2018
- This results in the following overall rates expressed in current units:

| | Current rate | 1/1/2013 | 1/1/2015 | 1/1/2018 |
|---|---|---|---|---|
| Petrol (euro per 1000 litres) | 359 | 359 | 359 | 359 |
| Diesel (euro per 1000 litres) | 330 | 359 | 382 | 412 |
| Kerosene (euro per 1000 litres) | 330 | 350 | 370 | 386 |
| LPG (euro per 1000 Kg) | 125 | 125 | 311 | 501 |
| Natural gas (euro per GJ) | 2.6 | 2.6 | 6.6 | 10.8 |

# Motor fuels

- As of 2023 MS also need to respect relationship between the different products in their national rates

- Example: diesel / petrol:

  - Currently: minima for petrol higher than for diesel (359 over 330 €/1000l) in spite of higher energy content of diesel

  - Revision:
    - Alignment of tax treatment on the basis of energy content and $CO_2$ will lead to higher per-volume rate for diesel (412 against 359 €/1000l) by 1/1/2018 (as 1 litre diesel emits more $CO_2$ than 1 litre of petrol/ has higher energy content)
    - MS will have to reflect the relation in national rates, but will be given time for adjustment until 2023.
    - Possibility for MS to apply reduced rate to commercial diesel deleted (only used by 5 MS)

  - Consequences:
    - stabilisation of current petrol/diesel demand split
    - Under-capacity of Europe: security of supply will improve

# *Alternative motor fuels: LPG/CNG*

- Currently:
  - Minimum rates for LPG and CNG considerably lower than for other motor fuels
  - Possibility for MS to apply full exemption

- Revision:
  - Alignment of tax treatment of LPG and CNG to other motor fuels according to energy content in principle by 1/1/2021.
  - Transitional period until 1/1/2023 during which MS may continue to apply lower tax rate down to zero

# *Heating fuels*

- New minimum rates introduced as of 2013
- As of 2013 MS need to respect relationship between the different products in their national rates and fix equal level for respective use
- 9 MS may postpone introduction for the CO2 part of the tax until 2020
- MS will be able to set their own rates above the minima

## Biofuels

- Currently:
  - fully taxed (like equivalent fossil fuel) + option to fully exempt (subject to State Aid control)

- Revision:
  - alignment of tax treatment to other motor fuels according to energy content (therefore removal of current disadvantage stemming from generally lower energy content of biofuels)
  - no $CO_2$ tax applies to sustainable biofuels as emission factor is zero
  - unsustainable biofuels will be treated as conventional fuels
  - until 31/12/2023 MS may continue to apply lower specific energy tax rate

# *Electricity/nuclear energy*

- Currently:
  - Electricity taxed when used ("at output").
  - To avoid double taxation, energy products used for the generation of electricity exempted from taxation, although MS retain the right to tax those products for reasons of environmental policy.
  - Nuclear fuels are no energy products for the purposes of Directive 2003/96/EC (out of the scope of the directive).

- Revision:
  - No systematic change: taxation at output (energy tax only as no emissions at point of use)
  - Fuels used for generation mostly exempt from CO2 tax as subject to ETS; CO2 tax to apply to small installations exempted from ETS
  - Nuclear taxed as all other electricity; by definition there is no CO2 element.
  - Note: MS can adapt level of electricity tax independently of other fuels

# *Possibility to apply reduced rates for business*

- Currently:
  - Possibility for reduction of tax rates down to minima if businesses are energy intensive or if equivalent arrangements are in place
  - Possibility for reduction of tax rates down to zero for energy-intensive businesses or to 50% of Community minima for other businesses if alternative measures deliver broadly equivalent environmental effect to Community minima
- Revision:
  - MS would retain flexibility to apply reduced tax rates for certain businesses above the Community minima
  - No possibility for MS to reduce energy-content based tax rates below minima
  - $CO_2$-based taxation: a special compensation mechanism will apply to installations from sectors under a risk of carbon leakage, which will result in taxation below Community minima in some cases. MS will be obliged to provide a tax credit to those installations based on their past energy consumption, and calculated on the basis of a reference fuel (benchmark).

## *Particular sector: agriculture*

- Currently:
  - fully taxed + option to fully exempt all energy products and electricity used in agriculture
  - MS can apply reduced tax rates to motor fuels used in agriculture (e.g. 21 €/1000l for diesel)

- Revision:
  - CO2 tax has to be applied in full, but COM will analyse whether agriculture should also benefit from the tax credit for carbon leakage sectors
  - energy content part of the tax: possibility to fully exempt if the sector provides a "counterpart" (equivalent measures in terms of energy efficiency)- notion left to MS
  - Diesel used in off road machineries (tractors): will be still taxed as heating not as motor fuel (= lower rate)

# *Particular sector: households*

- Currently:
  - MS may apply rates to zero to natural gas, coal and electricity if used for domestic heating

- Revision:
  - MS will retain option to **fully exempt** households (both CO2 and energy content parts)
  - exemption extended to **all heating materials**

# *Particular sectors: coal*

- Currently:
  - The most $CO_2$ emitting and today the least taxed energy product
  - Important for Europe's energy security but needs to be used in a sustainable way

- Revision:
  - The revision will lead to an increase in the minimum tax for coal
  - postponement of $CO_2$ part of taxation to after 2020 in those MS where less effort is required for emission reductions
  - possibility to fully exempt households

# *Regionalisation of taxes*

- Currently:
  - No possibility for regional variation in tax rates in current directive
  - regions may be allowed to reduce rates on the basis of individual derogations according to art. 19

- Revision:
  - Possibility for individual MS to allow regions to increase their tax rates over the national tax rate on the basis of explicit country-specific authorisation (ES and FR)

# THANK YOU !

**Rolf DIEMER**
Head of Unit
Unit C2 – Environment and other Indirect Taxes
European Commission
DG Taxation and Customs Union [SPA 3 05/110]
B-1049 Brussels - BELGIUM
Tel.: 0032-2-2961075
Rolf.Diemer@ec.europa.eu

http://ec.europa.eu/taxation_customs/taxation/excise_duties/gen_overview/index_en.htm

http://ec.europa.eu/taxation_customs/taxation/excise_duties/energy_products/index_en.htm