Title of the measure:	EU14 EU Community framework for the taxation of energy products and electricity (Directive 2003/96/EC)

General description

According to the directive, member states are obliged to impose taxation on energy products and electricity in accordance with the provisions of the directive. Nevertheless, energy products and electricity are only taxed when they are used as motor or heating fuel, and not when they are used as raw materials or for the purposes of chemical reduction or in electrolytic and metallurgical processes.

On the basis of this principle, the directive sets minimum rates of taxation for motor fuel, motor fuel for industrial or commercial use, heating fuel and electricity. The "levels of taxation" applied by the European Union (EU) countries may not be lower than the minimum rates set in the directive.

The minimum levels of taxation applicable to motor fuels are the following:

-	Current minimum excise rates
Petrol (€/1000 l.)	421
Unleaded petrol (€/1000 l.)	359
Diesel (€/1000 l.)	330
Kerosene (€/1000 l.)	330
LPG (€/1000 l.)	125
Natural gas (€/gigajoule)	2.6

(The volumes are measured at a temperature of 15° C).

No later than 1 January 2012, the Council acting unanimously after consulting the European Parliament must, on the basis of a report and a proposal from the Commission, decide upon the minimum levels of taxation applicable to gas-oil for a further period beginning on 1 January 2013.

The directive allows EU countries to differentiate between commercial and non-commercial use of gas-oil used as propellant, provided that the EU minimum levels are observed and the rate for commercial gas-oil used as propellant * does not fall below the national level of taxation in force on 1 January 2003, notwithstanding any derogations for this use laid down in the directive.

This differentiation enables EU countries to reduce the gap between the level of excise duty applicable to non-commercial gas-oil used in cars and that applicable to petrol, since there is no environmental or other justification for the lower minimum rate currently applicable to the use of gas-oil in cars.

The minimum levels of taxation applicable to fuels for industrial or commercial use are the following:

-	Current minimum excise rates
Diesel (€/1000 l.)	21
Kerosene (€/1000 l.)	21
LPG (€/1000 kg.)	41
Natural gas (€/gigajoule)	0.3

(The volumes are measured at a temperature of 15° C).

The directive specifies that industrial and commercial uses are:

- agricultural, horticultural or piscicultural works, and forestry;
- stationary motors;
- plant and machinery used in construction, civil engineering and public works;
- vehicles intended for use off the public roadway.

The minimum levels of taxation applicable to heating fuels and electricity are the following:

-	Current minimum excise rates (business use)	Current minimum excise rates (non-business use)
Diesel (€/1000 l.)	21	21
Heavy fuel oil (€/1000 kg.)	15	15
Kerosene (€/1000 l.)	0	0
LPG (€/1000 kg.)	0	0
Natural gas (€/gigajoule)	0.15	0.3
Coal and coke (€/gigajoule)	0.15	0.3
Electricity (€/MWh)	0.5	1.0

(The volumes are measured at a temperature of 15° C).

Differentiated rates of taxation

Provided that they comply with the minimum levels of taxation prescribed by the directive and are compatible with EU law, differentiated rates of taxation may be applied by EU countries, under fiscal control, in the following cases:

- when the differentiated rates are directly linked to product quality;
- when the differentiated rates depend on quantitative consumption levels for electricity and energy products used for heating purposes;
- for the following uses: local public passenger transport (including taxis), waste collection, armed forces and public administration, disabled people, ambulances;
- between business and non-business use, for the energy products and electricity referred to above.

Exemptions and reductions

The following are exempt from taxation:

- energy products and electricity used to produce electricity and electricity used to maintain the ability to produce electricity. However, EU countries may, for reasons of environmental policy, subject these products to taxation;
- energy products supplied for use as fuel for the purpose of air navigation other than in private pleasure-flying;
- energy products supplied for use as fuel for the purposes of navigation within EU waters, including fishing, other than private pleasure craft, and electricity produced on board a craft.

Impact Assessment

In the Commission reports SEC(2011) 409 and SEC(2011) 410, impact assessment to examine the impacts of possible options of the directive 2003/96/EC has been carried out.

Policy Options

In order to examine how the different policy objectives could best be addressed, a number of options were examined, comparing them to the baseline (= no further changes to the existing ETD beyond the gradual expiry of the remaining transitional periods). Option 1 and 2 consist in revising the minimum rates of the various energy sources in a coherent way, respectively based on an energy-content and on a CO2 basis. Options 3A and 3B propose to revise the structure of the Directive by splitting existing minima into two parts (energy content and CO2 emissions) reflecting the different environmental objectives behind energy taxes – energy savings on the one hand and reduction of CO2 emissions on the other (option 3B having lower minimum rates for CO2 taxation). Option 4 consists in introducing an additional uniform CO2 tax on top of the taxes already levied under the ETD to complement the EU emission trading scheme (policy option 4). Two transport specific options (options 5 and 6) model the impact on the fuel mix of aligning the petrol and diesel rates on an energy content and CO2 basis. As opposed to option 5, option 6 requires Member States to respect the relationship between the minimum rates in their national tax rates.

Comparison of Policy Options

The policy options were assessed against the following key criteria: internal market and fair competition, environmental effectiveness (CO2 reductions), budgetary impacts and equity (among Member States and energy consumers). The results are summarised in the following table:

Table 2: Comparison of the policy options in terms of selected assessment criteria

Policy option	Internal market and fair competition	Environmental effectiveness	Budgetary impacts	Equity
Option 1	+	(+)	+	+
Option 2	-	+	-	-
Option 3A	++	+	+	-
Option 3B	+	(+)	(+)	++
Option 4	(+)	++	++	- -
Option 5	++	+	+	+
Option 6	(-)	++	++	+

Note: The brackets denote that only half a mark is given.

All policy options improve the functioning of the *internal market* as they remove distortions between the tax treatments of energy sources. Distortions between Member States are also reduced although somewhat less in option 3B because of the transitional period for nine Member States and in option 4 imposing an additional tax on top of existing national rates. A fairer treatment of ETS versus non-ETS companies is best achieved by the variants of option 3 which partially alleviate the tax burden on ETS companies by introducing a complementary CO2 tax element for all installations not covered. As far as the transport options are concerned, option 6 is better able to achieve equal treatment of energy sources (petrol and diesel) but on the other hand might lead to somewhat higher divergence in rates between Member States.

Regarding *environmental effectiveness*, the highest CO2 reductions are achieved under option 4 which introduces a uniform CO2 tax across the EU. As for transport emissions, the modelling showed that policy option 6 would not only impact on fuel mix but also on actual consumption thus leading to an overall reduction in CO2 emissions in spite of a certain readjustment in the demand between petrol and diesel in line with the objectives of the EU policies and with the CO2 and cars strategy.

Although the *budgetary impacts* would very much depend on national taxation policies and are therefore rather difficult to predict, some policy options are more likely than others to create additional revenue or budgetary losses. Option 2 is the weakest from the budgetary point of view because it restricts the tax base exclusively to fossil fuels consumed in the non- ETS sector. Option 4, introducing an additional CO2 tax on all non-ETS emissions, has the highest budgetary impact. It is estimated that an additional tax of 20€/t CO2 on all non-ETS emissions could potentially generate about 40 billion € in 2020 for the EU-27.

Equity amongst Member States would best be enhanced under policy option 3B introducing transitional periods reflecting the solidarity approach of the energy and climate change package. Equity among energy consumers can be significantly increased if both heating and motor fuel uses are covered by the ETD revision, because such a combination limits potential negative distributional impacts.

Conclusion

In general, a more efficient tax structure in itself would provide better and more consistent price signals and would ensure more effective use of energy taxation both for environmental and fiscal purposes. This impact assessment shows that the costs of restructuring the existing tax system now would be very low or even negative. As far as administrative costs are concerned, using the existing excise system for the purpose of CO2 taxation allows introducing a new element in energy taxation without any additional costs and without any new administrative burden for companies and tax administrations.

Macroeconomic impacts of all policy options are essentially driven by how Member States use additional revenue. If the revenue is recycled through reductions in labour costs, effects on GDP and employment are always positive, although limited in size. As the scale of effects depends on the amount of additional revenue generated, option 4 yields the highest effects. GDP change nevertheless stays below 1/3 of a percentage point, whereas the number of additional jobs created would grow to just under 1 million in 2030. The effects of the other policy options would remain considerably smaller. These trends were confirmed by additional modelling carried out on the basis of updated baseline projections taking into account the effects of the financial and economic crisis. Revenue recycling in the form of lump-sum transfers to households or the use of additional revenue for fiscal consolidation does not generate positive GDP and employment effects.

The level of additional revenue for Member States under the different policy options (independently of the question of recycling) was found to depend heavily on how they would implement the new structure and in how far they would make use of the possibility for exemptions or reductions. An additional CO2 tax of 20€/t on all non-ETS emissions has a budgetary potential of about 40 billion € in 2020 for the EU-27.

The most relevant environmental externality addressed by taxation is CO2 emissions. Under all options total CO2 emissions would reduce, up to around 2% under option 4. This represents about 37% (or 92 million t CO2) of the reduction effort needed outside the ETS if one takes into account the baseline emissions as corrected downwards recently.

References

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