

Energy Taxation Directive

Fields marked with * are mandatory.

Introduction

Directive 2003/96/EC has been in force since 2004. Its effect on the single market, including on competition, has never been assessed. The Energy Taxation Directive contains a set of minimum rates and a number of optional tax schemes which reduce the level of harmonisation but which have never been given a proper assessment. Since its entry into force, the Energy Taxation Directive has been subject to a growing number of interpretations by the European Court of Justice, indicating that certain provisions lack clarity.

Before deciding on whether any action is required and before making concrete proposals for change, it is important to capture effectively the current state of play as regards the effects from the application of the Energy Taxation Directive.

The objective of this consultation is therefore to gather factual information, data, knowledge and perception about the application of the Energy Taxation Directive in order to identify whether the current levels of taxation applied to motor fuels, heating fuels and electricity in accordance with the different provisions of the Directive, are still fit for purpose, in particular to ensure the proper functioning of the internal market.

The questionnaire takes about 30 minutes to complete. The questionnaire is accessible in all official EU languages.

Background

Ensuring the sustainable development of Europe has become a key policy priority for the European Union. It is based on multiple economic objectives – balanced economic growth, price stability, a highly competitive market economy – but also objectives of a social, environmental, technical and scientific nature. In order to facilitate the achievement of these objectives, the internal market concept had to be adapted (i.e. focusing on the protection of rights and avoiding hindering the free movement).

The EU excise duty framework on energy products and electricity aims to fulfil following mission:

- Eliminating all tax discriminations and ensuring the proper functioning of the internal market;
- Serving the realisation of all objectives laid down in the Treaties and relating to the realisation of the internal market;
- Avoiding the distortion of competition;

- EU policies in the Energy Union.

Council Directive 2003/96/EC lays down the European Union rules on the taxation of energy products and electricity. It covers products used as motor fuel or heating fuel (i.e. to operate engines or to produce heat) and electricity. Other uses of energy products, such as their use as raw material, and some uses of electricity fall outside the scope of the Directive.

The Energy Taxation Directive sets minimum levels of taxation for products used as motor or heating fuel and for electricity. Above the minima, Member States are free to set their national rates as they see fit.

The Energy Taxation Directive defines what exemptions and reductions to the Member States' standard rates are allowed and under which conditions. Some exemptions are mandatory, such as those applying to energy products and electricity used to produce electricity. Optional exemptions and reductions also apply, for instance in favour of energy-intensive businesses. Most Member States have also made use of the possibility to apply differentiated national rates of taxation to the same products under certain circumstances or conditions, thereby integrating different policy objectives in their energy policy.

The objective of the Energy Taxation Directive is to ensure that the internal market operates smoothly and avoid double taxation or major distortions of trade and competition between energy sources and energy consumers and suppliers which could result from considerable differences in national tax rates. The excise framework has led to the convergence of the EU Member States' national legislations but still faces a number of structural challenges. These challenges relate in particular to the creation of a level playing field in the single market and to the movement of energy products within the Union.

Your contribution

* Your reply:

(Note that, whatever option chosen, your answers may be subject to a request for public access to documents under Regulation (EC) N° 1049/2001)

- Can be published with your personal information (I consent to the publication of all information in my contribution in whole or in part including my name or my organisation's name, and I declare that nothing within my response is unlawful or would infringe the rights of any third party in a manner that would prevent publication)
- Can be published provided that you remain anonymous (I consent to the publication of any information in my contribution in whole or in part (which may include quotes or opinions I express) provided that it is done anonymously. I declare that nothing within my response is unlawful or would infringe the rights of any third party in a manner that would prevent the publication.

* Are you responding on behalf of an organisation or as an individual?

- Individual
- Business
- Business organisation (e.g. trade association) or advisory body (e.g. law firm, consultancy)
- Public authority
- Civil society organisation
- Academic/research institution

- International organisation
- Other (please specify)

If other, please specify:

Please indicate your name/the name of your business/organisation/the institution for which you respond to this consultation:

Transparency Register number:

* Where do you live/where are the headquarters of your organisation (main headquarters in the case of multinational companies)/where is your public authority located?

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovakia
- Slovenia
- Spain
- Sweden
- United Kingdom

Other (please specify)

If other, please specify:

Current application of the Energy Taxation Directive

Relevance of the objectives of the Energy Taxation Directive

In your view, to what extent do the following objectives of the Energy Taxation Directive meet the needs of stakeholders in your field of interest?

	To a large extent	To a rather large extent	To a limited extent	Not at all	N /A
* Creating a common energy market to ensure the smooth functioning of the internal market	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Protecting the environment and achieving international commitments in that regard	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Safeguarding and improving the competitiveness of EU companies	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Comment:

In the current climate for emission targets, the Directive should allow greater taxation benefit, towards diesel fuels including heating oil where improvement or change of specification can and have been made to meet the environmental targets set by other directives, this should include all types of biofuels. For example, gas oil 1000ppm and gas oil 10ppm (by lowering the sulphur content) should benefit from better taxation.

Moreover, the introduction of a CO2 element into energy taxation would bring energy taxation in line with the EU's climate change commitments, however this would impose a burden on consumers. Therefore, if it wishes to do so, the Commission should take into account a scope to allow member states to consider the consumer, especially those experiencing fuel poverty or who are classed as vulnerable, to provide exemption or partial exemption from taxation. Householders with older properties often do not have the financial resources to switch to other heating technologies and would face increase in heating costs.

In addition, ECFD considers that there should be greater controls of renewable energy to be re-considered under this directive to ensure fair play for other types of energy, and to consider incentives for consumers for the uptake of alternative or more efficient technologies such as condensing boilers.

The current list and terms used within the directive by fuel type Gas oil, diesel and Kerosene should remain in scope along with the sectors which are defined within (Agricultural, leisure craft etc.)

* In your view, should the Energy Taxation Directive pursue other objectives? If so, which? Please explain:

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Effectiveness and EU added value of the Energy Taxation Directive

Functioning of the internal market

The Energy Taxation Directive seeks to harmonise energy taxation by reducing energy tax competition between EU Member States. This aims at strengthening the internal market by tackling the negative effects of the relocation of energy consumption.

* The Energy Taxation Directive sets minimum levels of taxation for products used as motor or heating fuel and for electricity. Above the minima, Member States are free to set their national rates as they see fit.

In your view, are the current minimum levels of taxation set by the Directive still fit for purpose when it comes to ensuring the good functioning of the internal market?

- To a large extent
- To some extent
- To a limited extent
- Not at all
- N/A

* Please explain:

The minimum levels of taxation set by this directive will help to a point, although consideration should be given to ensure that oil heating has no disadvantages compared to other forms of heating fuels moving forward.

In your view, what are the benefits of having the minimum levels of taxation set at the EU- rather than national level? *(Select all that apply)*

	Strong benefits	Some benefits	Limited benefits	No benefits	N /A
* Limited race to the bottom in taxation rates	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
* Legal certainty for economic operators, particularly in cross-border situations	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
* Transparency of rules	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Level playing field between economic operators	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Other (please explain):

Taxation above the minimum is still set by each member state, which does remove some of the benefit of this directive.

In your view, is there an impact (positive or negative) of the differentiated national rates granted by the following provisions of the Energy Taxation Directive on the level-playing field?

	Strongly positive	Positive	Negative	Strongly negative	N /A
* Differentiated national rates linked to product quality (Article 5)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
* Differentiated national rates depending on quantitative consumption levels for electricity and energy products used for heating purposes (Article 5)	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Differentiated national rates for local public passenger transport (including taxis), waste collection, armed forces and public administration, disabled people, ambulances (Article 5)	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Differentiated national rates between business and non-business use for heating fuels, heating gas oil and electricity (Article 5)	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Differentiated national rates between commercial and non-commercial use of gas oil used as propellant (Article 7(2))	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Differentiated national rates for energy products and electricity used to produce electricity and electricity used to maintain the ability to produce electricity for reasons of environmental policy (Article 14(1)(a))	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
* Differentiated national rates for 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 Community waters other than private pleasure craft and electricity produced on board a craft (Article 14(2))	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Other (please explain):

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In your view, to what extent and how do the exemptions and reduced taxation levels granted by the following provisions of the Energy Taxation Directive impact the creation of a level-playing field across sectors?

	Strongly positive	Positive	Negative	Strongly negative	N /A
* Energy products and electricity used to produce electricity and electricity used to maintain the ability to produce electricity (Article 14(1)(a))	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
* Energy products supplied for use as fuel for the purpose of air navigation other than in private pleasure-flying (Article 14(1)(b))	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Energy products supplied for use as fuel for the purpose of navigation within Community waters (including fishing) other than private pleasure craft and electricity produced on board a craft (Article 14(1)(c))	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Taxable products used under fiscal control in the field of pilot projects for the technological development of more environmentally-friendly products or in relation to fuels from renewable resources (Article 15(1)(a))	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Electricity (Article 15(1)(b))	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
* Refund to the producer of some or all of tax paid by consumers on electricity produced from products specified in Article 15(1)(b)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
* Energy products and electricity used for agricultural, horticultural or piscicultural works and in forestry (Article 15(3))	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Taxable products from biomass (Article 16)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
* Consumption of energy products used for heating purposes, for stationary motors or for plant and machinery used in construction, civil engineering and public works and electricity in favour of energy-intensive businesses and undertakings which concluded agreements leading to the achievement of environmental protection objectives or to improvements in energy efficiency (Article 17(1)(b))	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

* Other	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
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Please specify:

It is important to monitor energy consumption/usage in all different sectors, with the aim of progressing and developing more energy efficiency/environmental objectives, without singling out those currently within the directive.

ECFD reiterates its view that the social implications for a taxation based on CO2 and Energy content of heating fuel are significant. Particularly vulnerable groups of the society would face an increase in the costs for heating, as families with an older property often do not have the financial resources to switch to other heating technologies. Oil heating is still one of the lowest cost form of heat and has been for some time, so this should be encouraged.

In accordance with Article 16 of the Energy Taxation Directive, Member States may apply exemptions or reduced taxation rates on taxable energy products if they contain biofuels or water. What are the impacts of these reductions, if any, on the following fields:

	Strongly positive	Positive	Negative	Strongly negative	N /A
* Tax revenues	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
* Transport	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Agriculture	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
* Energy	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
* Industry	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Environment	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
* Competitiveness	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
* Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Article 17 of the Energy Taxation Directive provides that under certain conditions, Member States can apply tax reductions in favour of energy-intensive businesses and undertakings which have concluded agreements leading to the achievement of environmental protection objectives or to improvements in energy efficiency.

What are the impacts (positive or negative) of the reductions granted by Article 17 on the following fields:

	Strongly positive	Positive	Negative	Strongly negative	N /A
* Tax revenues	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Transport	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Agriculture	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

* Energy	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Industry	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Environment	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Competitiveness	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
* Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Please explain:

Can you name any discrepancies with other relevant EU policies in the application of the Energy Taxation Directive in terms of coverage of energy products and their use?

Protection of the environment

The Energy Taxation Directive acknowledges that environmental protection requirements must be integrated into the definition and implementation of other EU policies such as the energy taxation framework. Indeed, energy prices are seen as a key element of the EU environmental policy.

* The Energy Taxation Directive sets different minimum levels of taxation for well-defined products used as motor or heating fuel and for electricity.

In your view, is the current categorisation set by the Directive still fit for purpose when it comes to ensuring the protection of the environment?

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The 7th Environmental Action Programme constitutes the cornerstone of the EU environmental policy. It spells out three key objectives: protecting the Union’s natural capital; turning the Union into a resource-efficient, competitive low-carbon economy; and safeguarding citizens from environment-related pressures and risks to health and well-being.

In your view, to what extent do the following exemptions and reduced taxation rates granted by the Energy Taxation Directive contribute to the following environmental objectives:

	To a large extent	To some extent	To a limited extent	Not at all	N/A
* Differentiated national rates for energy products and electricity used to produce electricity and electricity used to maintain the ability to produce electricity for reasons of environmental policy (Article 14(1)(a))	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Exemptions or reduced taxation rates for taxable products used under fiscal control in the field of pilot projects for the technological development of more environmentally-friendly products or in relation to fuels from renewable resources (Article 15(1)(a))	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Exemptions or reduced taxation rates for electricity produced from combined heat and power generation, provided that the combined generators are environmentally-friendly (Article 15(1)(d))	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Tax reductions on electricity where agreements are concluded with undertakings leading to the achievement of environmental protection objectives or to improvements in energy efficiency (Article 17(1)(b))	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Other (please specify):

Competitiveness of EU companies

The Energy Taxation Directive aims at reducing existing disparities in energy taxation in the European Union by establishing a level playing field in the internal market. The Energy Taxation Directive should also contribute to the international competitiveness of European companies.

* In your view, to what extent does the possibility for Member States to apply optional exemptions, reduced rates and non-harmonised taxes under the Energy Taxation Directive influence the competitive position of EU businesses in the international market?

- To a large extent
- To some extent
- To a limited extent
- Not at all
- N/A

* Please explain:

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* In your view, to what extent has the introduction of minimum levels of taxation for certain products impacted (either positively or negatively) the international competitiveness of EU businesses?

- To a large extent
- To some extent
- To a limited extent
- Not at all
- N/A

* Please explain:

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* In your view, what are the main obstacles to the competitiveness of EU companies created by the Energy Taxation Directive? *(Select all that apply)*

- Obstacles to innovation
- Obstacles to procurement
- Obstacles to production
- Obstacles to mobility
- Other (please specify)
- N/A

* Please explain:

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Coherence

To your knowledge, to what extent are the provisions of the Energy Taxation Directive contribute to the following EU policy objectives?

	To a large extent	To some extent	To a limited extent	Not at all	N /A
* Reduction of greenhouse gas emissions (e. g. CO ₂ , CH ₄ , N ₂ O)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Promotion of the use of renewable energy	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

* Increased energy efficiency	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Security of energy supply	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
* Energy diversification	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
* Reduction of other gases (e.g. ammonia NH3, SO2, particulate matter)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Other (please specify)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Final remarks

If you wish to add further information, comments or suggestions - within the scope of this questionnaire - please feel free to do so here. You can also upload a concise document, such as a position paper. The maximal file size is 2 MB.

Please note that the uploaded document will be published alongside your response to the questionnaire which is the essential input to this open public consultation. The document is an optional complement and serves as additional background reading to better understand your position.

In case you have chosen to remain anonymous, please make sure you remove any personal identification data from the document.

Please upload your file

The maximum file size is 1 MB

Contact

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