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A7-0052/ 001-050

AMENDMENTS 001-050

by the Committee on Economic and Monetary Affairs

Report

Astrid Lulling

A7-0052/2012

Taxation of energy products and electricity

Proposal for a directive (COM(2011)0169 – C7-0105/2011 – 2011/0092(CNS))

Amendment 1

Proposal for a directive

Recital 1

Text proposed by the Commission

(1) Council Directive 2003/96/EC was adopted in order to ensure the proper functioning of the internal market as regards the taxation of energy products and electricity. In accordance with *Article 6* of the Treaty, environmental protection requirements have been integrated into the terms of that Directive, in the light, in particular, of the Kyoto protocol.

Amendment

(1) Council Directive 2003/96/EC was adopted in order to ensure the proper functioning of the internal market as regards the taxation of energy products and electricity. In accordance with *Article 11* of the Treaty *on the Functioning of the European Union (TFEU)*, environmental protection requirements have been integrated into the terms of that Directive, in the light, in particular, of the Kyoto protocol. ***It is important that, pursuant to Article 9 TFEU, it is ascertained whether sufficient account is taken of protection of human health, for example in the context of air pollution.***

Amendment 2

Proposal for a directive

Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) In addressing an issue as wide-ranging and crucial as energy taxation in the Union, consideration of climate and environmental policy imperatives, however necessary, is not sufficient. Energy policy and industrial policy aims constitute equally critical challenges for the Union. Furthermore, in order for the internal market to function in an adequate and efficient way in the area of energy, all Union initiatives and legislation relating to this area need to be continuously and carefully coordinated. Not only should amendments to Directive 2003/96/EC be compatible with other energy-related policies, but those policies should also be appropriately adapted to the energy taxation framework. In particular, the existing problems relating to the Union's emission trading scheme under Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community¹ should be dealt with resolutely so that it can function effectively. Any lack of coherence would be detrimental to the fulfilment of the long-term Union objectives of building smart, sustainable and inclusive growth.

¹ OJ L 275, 25.10.2003, p. 32.

Amendment 3

Proposal for a directive

Recital 2

Text proposed by the Commission

Amendment

(2) It is necessary to ensure that the

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internal market *continues to function properly* in a context of new requirements relating to the limitation of climate change, to the use of renewable energy sources and to energy savings, as endorsed by the Presidency Conclusions of the European Council of 8-9 March 2007 and of 11-12 December 2008.

internal market *functions in an optimum manner* in a context of new requirements relating to the limitation of climate change, to the use of renewable energy sources and to energy savings, as endorsed by the Presidency Conclusions of the European Council of 8-9 March 2007 and of 11-12 December 2008. *Consistent treatment of energy sources under Directive 2003/96/EC should therefore be guaranteed in order to provide a genuine level playing field for energy consumers regardless of the energy source used.*

Amendment 4

Proposal for a directive Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) Taxation of energy products should be undertaken in a technologically neutral manner in order to allow new technologies to develop.

Amendment 5

Proposal for a directive Recital 3

Text proposed by the Commission

Amendment

(3) Taxation *related* to CO₂ emissions *can be* a cost-effective means for Member States to achieve the reductions of greenhouse gasses necessary according to Decision 406/2009/EC of the European Parliament and the Council of 23 April 2009 on the effort of Member States to reduce their greenhouse gas emissions to meet the Union's greenhouse gas emission reduction commitments up to 2020 as regards sources not covered by the Union scheme under Directive 2003/87/EC *of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC*. In

(3) Taxation *relating* to CO₂ emissions *is generally* a cost-effective means for Member States to achieve the reductions of greenhouse gasses necessary according to Decision 406/2009/EC of the European Parliament and the Council of 23 April 2009 on the effort of Member States to reduce their greenhouse gas emissions to meet the Union's greenhouse gas emission reduction commitments up to 2020 as regards sources not covered by the Union scheme under Directive 2003/87/EC. In view of the *current and* potential role of CO₂-related taxation, the proper functioning of the internal market requires common rules on that taxation.

view of the potential role of CO₂-related taxation, the proper functioning of the internal market requires common rules on that taxation.

Justification

Some Member States already have well-functioning and cost-effective CO₂-related tax regimes in place.

Amendment 6

Proposal for a directive Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) Energy taxation should not be levied on energy recovery from waste and, in particular, the use of waste as an alternative fuel, since the aim of Directive 2008/98/EC of the European Parliament and the Council of 19 November 2008 on waste¹ is that waste producers and waste holders dispose of waste in the most energy-efficient and resource-friendly manner possible and gives priority to energy recovery over disposal.

¹ OJ L 312, 22.11.2008, p. 3.

Amendment 7

Proposal for a directive Recital 4 b (new)

Text proposed by the Commission

Amendment

(4b) Member States should also retain the right to apply a level of general energy consumption taxation down to zero on the consumption of energy products and electricity used for agricultural, horticultural and piscicultural works, and in forestry.

Amendment 8

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) Therefore, provision should be made for energy taxation to consist of two components, CO₂-related taxation and general energy consumption taxation. In order for energy taxation to adapt to the operation of the Union scheme under Directive 2003/87/EC Member States should be required to explicitly distinguish between those two components. This would also allow distinct treatment of fuels that are biomass or made from biomass.

Amendment

(5) Therefore, provision should be made for energy taxation to consist of two components, CO₂-related taxation and general energy consumption taxation. In order for energy taxation to adapt to the operation of the Union scheme under Directive 2003/87/EC Member States should be required to explicitly distinguish between those two components. This would also allow distinct treatment of fuels that are biomass or made from biomass ***in view of the advantages they offer as a source of renewable energy that is cheap and almost greenhouse-gas neutral, provided that they meet the sustainability criteria laid down in Article 17 of Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources¹. The Commission should submit a report to the European Parliament and the Council examining whether, in addition to CO₂ emissions, emissions of other harmful gases should be taken into account with the aim of protecting public health.***

¹ OJ L 140, 5.6.2009, p. 16.

Amendment 9

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) Each of those components should be calculated on the basis of objective criteria, allowing for equal treatment of different energy sources. For the purposes of CO₂-related taxation, reference should be made to CO₂-emissions caused by the use of each

Amendment

(6) Each of those components should be calculated on the basis of objective criteria, allowing for equal treatment of different energy sources. For the purposes of CO₂-related taxation, reference should be made to CO₂-emissions caused by the use of each

energy product concerned, using the reference CO₂ emission factors set out in Commission Decision 2007/589/EC of 18 July 2007 establishing guidelines for the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council. For the purposes of general energy consumption taxation, reference should be made to the energy content of the various energy products and of electricity as referred to in Directive 2006/32/EC of the European Parliament and of the Council of 5 April 2006 on energy end-use efficiency and energy services and repealing Council Directive 93/76/EEC. In this context, account should be taken of the environmental advantages of biomass or products made of biomass. These products should be taxed on the basis of the CO₂ emission factors specified in Decision 2007/589/EC for biomass or products made of biomass and of their energy content as specified in Annex III to Directive 2009/28/EC. Biofuels and bioliquids defined in Article 2(h) and (i) of Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources are by far the most important category concerned. Since the environmental advantages of these products vary, depending on whether they comply with the sustainability criteria laid down in Article 17 of that Directive, the specific reference values for biomass and products made of biomass should only apply where these criteria are met.

energy product concerned, using the reference CO₂ emission factors set out in Commission Decision 2007/589/EC of 18 July 2007 establishing guidelines for the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC. For the purposes of general energy consumption taxation, reference should be made to the energy content of the various energy products and of electricity as referred to in Directive 2006/32/EC of the European Parliament and of the Council of 5 April 2006 on energy end-use efficiency and energy services. In this context, account should be taken of the environmental advantages of biomass or products made of biomass. These products should be taxed on the basis of the CO₂ emission factors specified in Decision 2007/589/EC for biomass or products made of biomass and of their energy content as specified in Annex III to Directive 2009/28/EC. Biofuels and bioliquids defined in Article 2(h) and (i) of Directive 2009/28/EC are by far the most important category concerned. Since the environmental advantages of these products vary, depending on whether they comply with the sustainability criteria laid down in Article 17 of that Directive, the specific reference values for biomass and products made of biomass should only apply where these criteria are met. ***As soon as sustainability criteria for biomass products other than biofuels and bioliquids are laid down pursuant to Directive 2009/28/EC, those specific reference values should be applied to biomass products other than biofuels only if they comply with the new sustainability criteria.***

Amendment 10

Proposal for a directive

Recital 7

Text proposed by the Commission

(7) CO₂-related taxation should be adapted

Amendment

(7) CO₂-related taxation should be adapted

to the operation of Directive 2003/87/EC so as to complement it effectively. That taxation should apply to all uses, including those for purposes other than heating, of energy products causing CO₂ emissions in installations within the meaning of that Directive, provided that the installation concerned is not subject to the emission trading scheme under that Directive. However, since the cumulative application of both instruments would not allow emission reductions beyond those attained, overall, through the emission trading scheme alone, but would merely increase the total cost of these reductions, *CO₂-related* taxation **should** not apply to consumption in installations subject to the Union scheme.

to the operation of Directive 2003/87/EC so as to complement it effectively. That taxation should apply to all uses, including those for purposes other than heating, of energy products causing CO₂ emissions in installations within the meaning of that Directive, provided that the installation concerned is not subject to the emission trading scheme under that Directive. However, since the cumulative application of both instruments would not allow emission reductions beyond those attained, overall, through the emission trading scheme alone, but would merely increase the total cost of these reductions, *CO₂-related* taxation **must** not apply to **direct or indirect** consumption in installations subject to the Union scheme. ***A double burden in the form of double taxation and double regulation would lead to distortions of competition and must be ruled out.***

Amendment 11

Proposal for a directive Recital 8

Text proposed by the Commission

(8) In the interest of fiscal neutrality, the same minimum levels of taxation should apply for each component of energy taxation, to all energy products put to a given use. Where equal minimum levels of taxation are thus prescribed, Member States should, also for reason of fiscal neutrality, ensure equal levels of national taxation on all products concerned. Where needed, transitional periods for the purposes of equalising those levels should be *foreseen*.

Amendment

(8) In the interest of fiscal neutrality, the same minimum levels of taxation should apply for each component of energy taxation, to all energy products put to a given use. Where equal minimum levels of taxation are thus prescribed, Member States should, also for reason of fiscal neutrality, ensure equal levels of national taxation on all products concerned. Where needed, transitional periods for the purposes of equalising those levels ***which take due account of Member States' specificities*** should be *provided for*.

Amendment 12

Proposal for a directive Recital 11

Text proposed by the Commission

(11) It should be ensured that the minimum levels of taxation preserve their intended effects. *Since CO₂-related taxation complements the operation of Directive 2003/87/EC, the market price of the emission allowances should be closely monitored in the periodic review of the Directive, incumbent on the Commission. The minimum levels of general energy consumption taxation should at regular intervals be automatically aligned to take into account the evolution of their real value in order to preserve the current level of rate harmonisation; to reduce the volatility stemming from energy and food prices, this alignment should be made on the basis of the changes in the Union-wide harmonised index of consumer prices excluding energy and unprocessed food as published by Eurostat.*

Amendment 13

**Proposal for a directive
Recital 11 a (new)**

Text proposed by the Commission

Amendment

(11) It should be ensured that the minimum levels of taxation preserve their intended effects. *To that end, the minimum levels of general energy consumption taxation should be examined at regular intervals.*

Amendment

(11a) Given the complex nature of the requirements which the two components of the new system, namely energy taxation and CO₂-related taxation, are intended to meet, clear rules, which, in the interests of all consumers, are transparent and readily understandable, should be laid down at all levels in order to guarantee that the system can be properly administered.

Amendment 14

**Proposal for a directive
Recital 12**

Text proposed by the Commission

Amendment

(12) In the field of motor fuels, the more favourable minimum level of taxation applicable to gas oil, a product originally put to business use for the most part and thus traditionally taxed at a lower level, creates a distortive effect with regard to petrol, its main competing fuel. Article 7 of Directive 2003/96/EC therefore provides for the first steps of a gradual alignment to the minimum level of taxation applicable to petrol. It is necessary to complete this alignment and gradually move to a situation where gas oil and petrol are taxed at an equal level.

deleted

Amendment 15

**Proposal for a directive
Recital 12 a (new)**

Text proposed by the Commission

Amendment

(12a) Implementing the new tax structure will involve increasing the rate of taxation of diesel to bring it into line with that for petrol. This may call into question both the decision taken by the Union automobile industry to focus on clean, energy-efficient conventional combustion engines and the achievement of the Union's CO₂ emissions reduction targets, since the CO₂ limit values set can be achieved only if a sufficient number of vehicles on the road are diesel powered. Appropriate flexible measures should be taken in order to ensure that the competitiveness of the automobile sector and the success of the CO₂ emissions reduction strategy in that sector are not endangered. Sales taxes, registration taxes and annual road use taxes should be harmonised and, as a matter of principle, set solely on the basis of a vehicle's CO₂ emissions.

Amendment 16

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) As regards the possibility for Member States to apply a lower level of taxation to commercial than to non-commercial use of gas oil as motor fuel, this provision would appear to be no longer compatible with the requirement to improve energy efficiency and the need to address the growing environmental impact of transport and should therefore be deleted. Article 9(2) of Directive 2003/96/EC authorises certain Member States to apply a reduced rate on heating gas oil. That provision is no longer compatible with the proper functioning of the internal market and with the wider objectives of the *Treaty*. It should therefore be deleted.

Amendment

(13) As regards the possibility for Member States to apply a lower level of taxation to commercial than to non-commercial use of gas oil as motor fuel, this provision would appear to be no longer compatible with the requirement to improve energy efficiency and the need to address the growing environmental impact of transport and should therefore be deleted. ***In order to enable transport firms to adapt to the new rules, a transitional period ending in 2025 should be established.*** Article 9(2) of Directive 2003/96/EC authorises certain Member States to apply a reduced rate on heating gas oil. That provision is no longer compatible with the proper functioning of the internal market and with the wider objectives of the *TFEU*. It should therefore be deleted.

Amendment 17

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) There is a need to limit the potential cost impact of ***CO₂-related taxation*** on the sectors or sub-sectors deemed to be exposed to a significant risk of carbon leakage ***in the meaning of Article 10a(13) of Directive 2003/87/EC***. Accordingly, it is appropriate to provide for corresponding ***transitional*** measures which, however, should also preserve the environmental effectiveness of CO₂-related taxation.

Amendment

(14) There is a need to limit the potential cost impact of ***the new tax structure*** on the sectors or sub-sectors deemed to be exposed to a significant risk of carbon leakage. Accordingly, it is appropriate to provide for corresponding measures which, however, should also preserve the environmental effectiveness of CO₂-related taxation.

Amendment 18

Proposal for a directive

Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) Any restructuring of energy taxation should ensure that sectors not subject to the emission trading scheme under Directive 2003/87/EC are not penalised in relation to sectors that are covered by that scheme.

Amendment 19

Proposal for a directive

Recital 15

Text proposed by the Commission

Amendment

(15) Article 5 of Directive 2003/96/EC permits the application of differentiated rates of taxation in certain cases. However, in order to ensure the consistency of the CO₂ price signal, the possibility for Member States to differentiate national rates should be restricted to general energy consumption taxation. Moreover, the possibility to apply a lower level of taxation to motor fuel used by taxis is no longer compatible with the objective of policies promoting alternative fuels and energy carriers and the use of cleaner vehicles in urban transport and should thus be removed.

(15) Article 5 of Directive 2003/96/EC permits the application of differentiated rates of taxation in certain cases. However, in order to ensure the consistency of the CO₂ price signal, the possibility for Member States to differentiate national rates should be restricted to general energy consumption taxation. Moreover, the possibility to apply a lower level of taxation to ***oil-derived*** motor fuel used by taxis is no longer compatible with the objective of policies promoting alternative fuels and energy carriers and the use of cleaner vehicles in urban transport and should thus be removed.

Justification

Natural gas/bio methane is the alternative to oil derived fuels and has uniquely low emissions of toxic or carcinogenic substances, almost zero particulate emissions, no emissions of reactive hydrocarbons, reduced NOx emissions, as well as reduced noise, which makes it an ideal motor fuel in urban surroundings. The Expert Group of Future Transport Fuels report from 25th January 2011 states that methane should be promoted as one of the main alternative fuels in urban transport.

Amendment 20

Proposal for a directive

Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) Since the introduction of electric

and hybrid vehicles is key to easing dependence on non-renewable fuels in the transport sector, Member States should be able, for a limited period of time, to apply an exemption or reduction in the level of taxation to electricity utilised to charge such vehicles.

Justification

Electrification is an important element in the process of making the transport sector sustainable. As the total emission impact of these vehicles is closely related to the cleanliness of the input electricity, they are not necessarily very environmentally-friendly in all Member States in the short run. In the long term, however, these very efficient technologies open up for the creation of truly sustainable transport systems.

Amendment 21

Proposal for a directive

Recital 17

Text proposed by the Commission

(17) ***Exemption or reductions to the benefit of households and charitable organisations may form part of social measures defined by Member States.*** The possibility to apply such exemptions or reductions should, ***for reasons of equal treatment between energy sources, be extended to all energy products used as heating fuel and electricity. In order to ensure that their impact on the internal market remains limited, such exemptions and reductions should be applied only to non-business activities.***

Amendment

(17) ***Exemptions or reductions benefiting households and charitable organisations prevent a correct price signal from being given, thereby taking away an important incentive to reduce energy bills and energy use.*** The possibility ***in Directive 2003/96/EC*** to apply such exemptions or reductions should ***therefore, after a long phase-out period, be removed. In Member States where this affects energy prices, low-income households and charitable organisations should be compensated via solid and comprehensive social measures.***

Amendment 22

Proposal for a directive

Recital 18

Text proposed by the Commission

(18) In the case of liquefied petroleum gas (LPG) and natural gas used as propellants, advantages in the form of lower minimum levels of general energy consumption taxation or the possibility to exempt those energy products from taxation are ***no***

Amendment

(18) In the case of liquefied petroleum gas (LPG) and natural gas used as propellants, advantages in the form of lower minimum levels of general energy consumption taxation or the possibility to exempt those energy products from taxation are ***not***

longer justified, in *particular in the light of the need to increase the market share of renewable energy sources* and should therefore be removed in the *medium term*.

justified in the *long term* and should therefore be removed, *in particular in the light of the need to enable renewable fuels to increase their market share. However, since LPG and natural gas have a less harmful environmental impact than other fossil fuels and since their distribution infrastructure could be beneficial in the introduction of renewable alternatives, the advantages should be phased out step by step.*

Amendment 23

Proposal for a directive

Recital 19

Text proposed by the Commission

(19) Directive 2003/96/EC obliges Member States to exempt from taxation fuel used for navigation *in Community waters as well as electricity produced on board a craft, including while at berth in a port. Moreover, Member States may extend this favourable* tax treatment to inland waterways. In order to set a first incentive for the development and application of this technology, pending the adoption of a more comprehensive framework in the matter, Member State should exempt the use of shore-side electricity by ships while at berth in a port from energy taxation. This exemption should apply during a period long enough in order not to discourage port operators from making the necessary investments but at the same time be time-limited in such a way that its maintenance, in full or in part, is made subject to a new decision in due time.

Amendment

(19) Directive 2003/96/EC obliges Member States to exempt from taxation fuel used for *non-pleasure air and maritime* navigation. *Such exemptions are not in line with the aim of creating a level playing field among the various modes of transport. They should therefore be phased out. In order to safeguard the competitive position of Union businesses and industries, such a phase-out should preferably take place within the framework of international discussions. Discussions in the context of the International Civil Aviation Organization, the International Maritime Organization and the United Nations Framework Convention on Climate Change on imposing CO₂ reduction measures in the air and maritime sectors should be closely followed in this regard. In the absence of progress at an international level, the Commission should put forward legislative proposals to reduce CO₂ emissions in both sectors, taking into account the risk of carbon leakage and the competitiveness of the sectors. Such tax treatment should also be applicable to inland waterways. In some harbours a clean energy alternative exists with the use of shore-side electricity which, however, is taxable.* In order to set a first

incentive for the development and application of this technology, pending the adoption of a more comprehensive framework in the matter, Member State should exempt the use of shore-side electricity by ships while at berth in a port from energy taxation. This exemption should apply ***to sea and to inland ports*** during a period long enough in order not to discourage port operators from making the necessary investments but at the same time be time-limited in such a way that its maintenance, in full or in part, is made subject to a new decision in due time.

Amendment 24

Proposal for a directive Recital 20

Text proposed by the Commission

(20) Article 15(3) of Directive 2003/96/EC allows Member States to apply to agricultural, horticultural and piscicultural works as well as to forestry not only the provisions generally applicable to business uses but also a level of taxation down to zero. An examination of that option has revealed that as far as general energy consumption taxation is concerned its maintenance would be contrary to the Union's wider policy objectives unless it is linked to a counterpart ensuring advances in the field of energy efficiency. As regards *CO₂ related* taxation the treatment of the sectors concerned should ***be aligned to the rules applying to industrial*** sectors.

Amendment

(20) Article 15(3) of Directive 2003/96/EC allows Member States to apply to agricultural, horticultural and piscicultural works as well as to forestry not only the provisions generally applicable to business uses but also a level of taxation down to zero, ***with the goal of ensuring the economic viability of these sectors which are already being hampered by demanding social, plant-health and environmental requirements that are not sufficiently compensated for by the market. Despite this,*** an examination of that option has revealed that as far as general energy consumption taxation is concerned its maintenance would be contrary to the Union's wider policy objectives unless it is linked to a counterpart ensuring advances in the field of energy efficiency. ***Such advances in energy efficiency should form part of a sufficiently long cycle and be subject to public planning and monitoring by public bodies. Member States should provide technical guidance to the operators in these sectors if additional energy efficiency requirements relating to reduced tax rates are applied.*** As regards

*CO₂-related taxation, the treatment of the sectors concerned should **take into account the specific carbon capture and storage capacities and the risk of carbon leakage for each of the sectors and sub-sectors concerned, as well as the possible impact on their productivity and viability. The sectors producing biomass with high carbon sequestration potential should be exempted. It is essential that in regions subject to an exceptional capacity to produce energy from renewable sources, energy independence of their agricultural and breeding livestock activities are encouraged.***

Amendment 25

Proposal for a directive Recital 21

Text proposed by the Commission

(21) The general rules introduced by this Directive take account of the specificities of fuels that are biomass or made of biomass complying with the sustainability criteria laid down in Article 17 of Directive 2009/28/EC with regard both to their contribution to the CO₂-balance and to their lower energy content per quantitative unit, as compared to some of the competing fossil fuels. For the interim period, it should be ensured that the application of these provisions is made consistent with the general rules introduced by this Directive. Biofuels and bioliquids defined in Article 2(h) and (i) of Directive 2009/28/EC should therefore only benefit from additional tax advantages applied by Member States if they fulfil the sustainability criteria laid down in Article 17 of *this* Directive.

Amendment

(21) The general rules introduced by this Directive take account of the specificities of fuels that are biomass or made of biomass complying with the sustainability criteria laid down in Article 17 of Directive 2009/28/EC with regard both to their contribution to the CO₂-balance and to their lower energy content per quantitative unit, as compared to some of the competing fossil fuels. For the interim period, it should be ensured that the application of these provisions is made consistent with the general rules introduced by this Directive. Biofuels and bioliquids defined in Article 2(h) and (i) of Directive 2009/28/EC should therefore only benefit from additional tax advantages applied by Member States if they fulfil the sustainability criteria laid down in Article 17 of *that* Directive. ***That article implies that the sustainability criteria will be made more restrictive in 2017 and 2018. In order to fulfil the criteria, the greenhouse gas emission saving will from 1 January 2017 have to be at least 50 %. From 1 January 2018 the saving will have to be at least 60 % for products made in***

installations in which production started on or after 1 January 2017. As soon as sustainability criteria for biomass products other than biofuels and bioliquids are laid down pursuant to Directive 2009/28/EC, such products should benefit from additional tax advantages only if they comply with those new criteria.

Amendment 26

Proposal for a directive

Recital 28

Text proposed by the Commission

(28) Every **five** years and for the first time by the end of 2015, the Commission should report to the Council on the application of this Directive, examining in particular the minimum level of CO₂-related taxation in the light of the evolution of the market price in the EU of the emission allowances, the impact of innovation and technological developments **and** the justification for the tax exemptions and reductions laid down in this Directive, including for fuel used for the purpose of air and maritime navigation. **The** list of sectors or sub-sectors deemed to be exposed to a significant risk of carbon leakage shall be **the subject of regular review**, in particular taking into account the availability of emerging evidence.

Amendment

(28) Every **three** years and for the first time by the end of 2015, the Commission should report to **the European Parliament and** the Council on the application of this Directive, examining in particular **the minimum levels of general energy consumption taxation in order to ensure that they preserve their intended effects**, the minimum level of CO₂-related taxation in the light of the evolution of the market price in the EU of the emission allowances, the impact of innovation and technological developments, **the impact on harmful or potentially harmful emissions other than CO₂**, the justification for the tax exemptions and reductions laid down in this Directive, including for fuel used for the purpose of air and maritime navigation, **as well as developments in the use of biogas, natural gas and LFG in road transport. That report should include an overview of existing taxation provisions contained in bilateral air service agreements. The report should also examine the impact on the setting of industrial policy priorities in the European car industry.** A list of sectors or sub-sectors deemed to be exposed to a significant risk of carbon leakage shall be **drawn up and regularly reviewed**, in particular taking into account the availability of emerging evidence.

Justification

CO₂-based taxation would have far-reaching environmental and taxation policy repercussions within the Union. The reporting obligation should therefore include Parliament. In order that policy guidance can be given, the reporting period needs to be shortened.

Amendment 27

Proposal for a directive

Article 1 – point 1

Directive 2003/96/EC

Article 1 – paragraph 2 – subparagraph 2

Text proposed by the Commission

CO₂-related taxation shall be calculated in EUR/t of CO₂ emissions, on the basis of the reference CO₂ emission factors set out in point 11 of Annex I to Commission Decision 2007/589/EC of 18 July 2007 establishing guidelines for the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC *of the European Parliament and of the Council*. The CO₂ emission factors specified in this Decision for biomass or products made of biomass shall in the case of biofuels and bioliquids defined in Article 2(h) and (i) of Directive 2009/28/EC only apply where the product concerned complies with the sustainability criteria laid down in Article 17 of Directive 2009/28/EC *of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources*. Where biofuels and bioliquids do not comply with those criteria, Member States shall apply the reference CO₂ emission factor for the equivalent heating fuel or motor fuel for which minimum levels of taxation are specified in this Directive.

Amendment

CO₂-related taxation shall be calculated in EUR/t of CO₂ emissions, on the basis of the reference CO₂ emission factors set out in point 11 of Annex I to Commission Decision 2007/589/EC of 18 July 2007 establishing guidelines for the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC. The CO₂ emission factors specified in this Decision for biomass or products made of biomass shall in the case of biofuels and bioliquids defined in Article 2(h) and (i) of Directive 2009/28/EC only apply where the product concerned complies with the sustainability criteria laid down in Article 17 of Directive 2009/28/EC. Where biofuels and bioliquids do not comply with those criteria, Member States shall apply the reference CO₂ emission factor for the equivalent heating fuel or motor fuel for which minimum levels of taxation are specified in this Directive. ***In accordance with Directive 2009/28/EC and in order to fulfil the criteria, the greenhouse gas emission saving shall be at least 50 % from 1 January 2017 and at least 60 %, for products made in installations in which production started on or after 1 January 2017, from 1 January 2018.***

Amendment 28

Proposal for a directive

Article 1 – point 1

Directive 2003/96/EC

Article 1 – paragraph 4

Text proposed by the Commission

4. Unless otherwise specified, the provisions of this Directive shall apply both to CO₂-related taxation and to general energy consumption taxation.

Amendment

4. Unless otherwise specified, the provisions of this Directive shall apply both to CO₂-related taxation and to general energy consumption taxation. ***When sustainability criteria for biomass products other than biofuels and bioliquids are laid down pursuant to Directive 2009/28/EC, the reference CO₂ emission factors set out in point (11) of Annex I to Commission Decision 2007/589/EC and the net calorific reference values set out in Annex III to Directive 2009/28 shall be applied to such biomass products only if they comply with those sustainability criteria. Where such biomass products do not comply with those sustainability criteria, Member States shall apply the reference CO₂ emission factor and net calorific reference value for the equivalent heating or motor fuel for which minimum levels of taxation are specified in this Directive.***

Amendment 29

Proposal for a directive

Article 1 – point 2 – point b

Directive 2003/96/EC

Article 2 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Member States shall ensure that neither the direct nor the indirect use of energy products in an installation within the meaning of Directive 2003/87/EC and neither the direct nor the indirect use of energy products in installations taxed through national CO₂-reduction measures are subject to double taxation or double regulation.

Amendment 30

Proposal for a directive

Article 1 – point 3

Directive 2003/96/EC

Article 3 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) electricity used to pump water for irrigation;

Amendment 31

Proposal for a directive

Article 1 – point 3

Directive 2003/96/EC

Article 3 – paragraph 1 – point b – second indent

Text proposed by the Commission

Amendment

– dual use of energy products

– ***energy-intensive industry and*** dual use of energy products

Justification

It is desirable to specify in the Directive that it is not to apply to energy-intensive industry, thus ensuring that the Directive treats all energy-intensive sectors of industry equally.

Amendment 32

Proposal for a directive

Article 1 – point 3

Directive 2003/96/EC

Article 3 – paragraph 1 – point b – indent 2 a (new)

Text proposed by the Commission

Amendment

– ***waste used as alternative fuel or waste that is thermally recovered within the meaning of Article 3(15) and point (R1) of Directive 2008/98/EC.***

Justification

Imposing energy tax on thermally recovered waste - i.e. waste whose energy content released on burning is put to good use, thus replacing fossil fuels and conserving resources - runs counter to the resource-efficiency objective and the provisions laid down in the Waste Framework Directive 2008/98/EC.

Amendment 33

Proposal for a directive

Article 1 – point 4 – point b

Directive 2003/96/EC

Article 4 – paragraph 3

Text proposed by the Commission

3. Without prejudice to the exemptions, differentiations and reductions provided for in this Directive, Member States shall ensure that where equal minimum levels of taxation are laid down in Annex I in relation to a given use, equal levels of taxation are fixed for products put to that use. Without prejudice to Article 15(1)(i), for motor fuels referred to in Annex I Table A, this shall apply as from *1 January 2023*.

For the purposes of the first subparagraph, each use for which a minimum level of taxation is identified, respectively, in Tables A, B and C in Annex I shall be considered to be a single use.

Amendment

3. Without prejudice to the exemptions, differentiations and reductions provided for in this Directive, Member States shall ensure that where equal minimum levels of taxation are laid down in Annex I in relation to a given use, equal levels of taxation are fixed for products put to that use. Without prejudice to Article 15(1)(i), for motor fuels referred to in Annex I Table A, this shall apply as from *1 January 2025*.

For the purposes of the first subparagraph, each use for which a minimum level of taxation is identified, respectively, in Tables A, B and C in Annex I shall be considered to be a single use.

By 1 January 2025, the Commission shall put forward legislative proposals aimed at harmonising car purchase taxes, car registration taxes and car ownership taxes based on CO₂ emissions or shall issue a report explaining why it has not done so.

Amendment 34

Proposal for a directive

Article 1 – point 4 – point b

Directive 2003/96/EC

Article 4 – paragraph 3 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

In the case of natural gas and biomethane used as motor fuel, higher minimum levels of general energy consumption taxation shall apply only after an assessment, to be carried out by the Commission by 2023, of the implementation of the provisions of this Directive relating to the level of taxation

applicable to natural gas in road transport. That assessment shall, inter alia, examine the progress in the availability of natural gas and biomethane, the growth of the refilling stations network in Union, the market share of natural gas vehicles in the Union, the innovation and technological developments in biomethane used as transport fuel and the real value of the minimum level of taxation.

Justification

Natural gas and biomethane can be used in existing internal combustion engines with no limitation to blending. Biomethane is one of the main pillars to reach the mandatory 2020 target of 10% biofuels in transport. Its development is linked to that of Natural Gas Vehicles and hence a favourable tax treatment allowing the development of methane refuelling infrastructure. Methane, the available alternative to oil derived fuels, has very low NMHC, PM and NOx emissions, improving urban air quality, and also significantly reduces noise and CO₂.

Amendment 35

Proposal for a directive

Article 1 – point 4 – point b

Directive 2003/96/EC

Article 4 – paragraph 4 – subparagraph 1

Text proposed by the Commission

4. The minimum levels of general energy consumption taxation laid down in this Directive shall be *adapted* every three years *starting from 1 July 2016* in order to *take account of the changes in the harmonised index of consumer prices excluding energy and unprocessed food as published by Eurostat*. The Commission shall *publish the resulting minimum levels of taxation in the Official Journal of the European Union*.

Amendment

4. The minimum levels of general energy consumption taxation laid down in this Directive shall be *reviewed* every three years in order to *ensure that they retain their intended effects, in accordance with Article 29*. *If deemed necessary*, the Commission shall *make proposals for those minimum levels to be changed*.

Amendment 36

Proposal for a directive

Article 1 – point 4 – point b

Directive 2003/96/EC

Article 4 – paragraph 4 – subparagraph 2

Text proposed by the Commission

The minimum levels *shall be adapted automatically, by increasing or decreasing the base amount in euro by the percentage change in that index over the three preceding calendar years. If the percentage change since the last adaptation is less than 0.5%, no adaptation shall take place.*

Amendment

The minimum levels *of CO₂-related taxation laid down in this Directive shall, every three years from 1 July 2016, be aligned with the average market price of emission allowances in the emission trading scheme under Directive 2003/87/EC over the preceding 18-months . The Commission shall adopt a delegated act in accordance with Article 27 establishing the formula on the basis of which that alignment is to be calculated.*

Amendment 37

Proposal for a directive

Article 1 – point 5 – point b

Directive 2003/96/EC

Article 5 – indent 3

Text proposed by the Commission

– for the following uses: local public passenger transport (excluding taxis), waste collection, armed forces and public administrations, disabled people, ambulances;

Amendment

– for the following uses: local public passenger transport (excluding taxis), waste collection, armed forces and public administrations, disabled people, ambulances, **fire engines and police vehicles**;

Justification

Differentiated rates of taxation may also be applied by Member States for the uses of fire trucks and police vehicles.

Amendment 38

Proposal for a directive

Article 1 – point 6

Directive 2003/96/EC

Article 7

Text proposed by the Commission

As from 1 January 2013, from 1 January 2015 and from 1 January 2018, the minimum levels of taxation applicable to motor fuels shall be fixed as set out in Annex I, Table A.

Amendment

I. As from 1 January 2013, from 1 January 2015 and from 1 January 2018, the minimum levels of taxation applicable to motor fuels shall be fixed as set out in Annex I, Table A.

2. Until 1 January 2025, Member States may differentiate between the commercial and non-commercial use of gas oil used as propellant, provided that they comply with the Union minimum levels of taxation.

3. ‘Commercial gas oil used as propellant’ means gas oil used as propellant for the following purposes:

(a) the carriage of goods for hire or reward, or own account, by motor vehicles or articulated vehicle combinations intended exclusively for the carriage of goods by road and with a maximum permissible gross laden weight of not less than 7,5 tonnes;

(b) the carriage of passengers, whether by regular or occasional service, by a motor vehicle of category M2 or category M3, as defined in Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers.

Amendment 39

Proposal for a directive

Article 1 – point 11 – point a – point i

Directive 2003/96/EC

Article 14 – paragraph 1 – introductory part

Text proposed by the Commission

In addition to the general provisions set out in Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty *and repealing Directive 92/12/EEC* on exempt uses of taxable products, and without prejudice to other Union provisions, Member States shall exempt the following from taxation under conditions which they shall lay down for the purpose of ensuring the correct and straightforward application of such exemptions and of preventing *any* evasion, avoidance or abuse:

Amendment

1. In addition to the general provisions set out in Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty on exempt uses of taxable products, and without prejudice to other Union provisions, Member States shall exempt the following from taxation under conditions which they shall lay down for the purpose of ensuring the correct and straightforward application of such exemptions and of preventing *energy poverty*, evasion, avoidance or abuse:

Amendment 40

Proposal for a directive

Article 1 – point 11 – point a – point ii a (new)

Directive 2003/96/EC

Article 14 – paragraph 1 – points b and c

Text proposed by the Commission

Amendment

(ii) points (b) and (c) are deleted.

Justification

This amendment deletes the obligation for Member States to exempt from taxation fuel used for the purpose of air and maritime navigation. This has a huge potential for reducing greenhouse gas emissions. A study prepared for the Commission found that 'harmonising fuel duties and VAT across the modes (at the level of those currently paid by private road transport) delivered GHG savings of over 10% compared to business as usual'. (Towards the decarbonisation of EU's transport sector by 2050, p. xi)

Amendment 41

Proposal for a directive

Article 1 – point 11 – point a – point iii

Directive 2003/96/EC

Article 14 – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) until **31 December 2020**, electricity directly provided to vessels berthed in ports.

(e) until **31 December 2025**, electricity directly provided to vessels berthed in **sea and inland** ports.

Amendment 42

Proposal for a directive

Article 1 – point 12

Directive 2003/96/EC

Article 14a – paragraph 1

Text proposed by the Commission

Amendment

1. Until **31 December 2020**, Member States shall provide a credit concerning CO₂-related taxation with respect to the use of energy products by installations belonging to sectors or sub-sectors deemed to be exposed to a significant risk of carbon leakage.

1. Until **31 December 2025**, Member States shall provide a credit concerning CO₂-related taxation with respect to the use of energy products by installations belonging to sectors or sub-sectors deemed to be exposed to a significant risk of carbon leakage.

Amendment 43

Proposal for a directive

Article 1 – point 13 – point a – point -i (new)

Directive 2003/96/EC

Article 15 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(-i) the following point is inserted:

'(ba) until 1 January 2023, electricity used to charge electric and hybrid vehicles for road transport;'

Justification

Electrification is an important element in the process of making the transport sector sustainable. As the total emission impact of these vehicles is closely related to the cleanliness of the input electricity, they are not necessarily very environmentally-friendly in all Member States in the short run. In the long term, however, these very efficient technologies open up for the creation of truly sustainable transport systems.

Amendment 44

Proposal for a directive

Article 1 – point 13 – point a – point i

Directive 2003/96/EC

Article 15 – paragraph 1 – point h

Text proposed by the Commission

Amendment

(h) energy products used as heating fuel and electricity if used by households and/or by organisations recognised as charitable by the Member State concerned. In the case of such charitable organisations, Member States shall confine the exemption or reduction to use for the purpose of non-business activities. Where mixed use takes place, taxation shall apply in proportion to each type of use. If a use is insignificant, it may be treated as nil;

(h) ***until 1 January 2025***, energy products used as heating fuel and electricity if used by households and/or by organisations recognised as charitable by the Member State concerned. In the case of such charitable organisations, Member States shall confine the exemption or reduction to use for the purpose of non-business activities. Where mixed use takes place, taxation shall apply in proportion to each type of use. If a use is insignificant, it may be treated as nil;

Amendment 45

Proposal for a directive

Article 1 – point 13 – point a – point i

Directive 2003/96/EC

Article 15 – paragraph 1 – point i

Text proposed by the Commission

(i) *Until* 1 January 2023, natural gas and LPG used as propellants;

Amendment

(i) *until* 1 January 2023, natural gas, **biogas**, and LPG used as propellants **and LPG used as fuel. From 1 January 2023 until 1 January 2030, Member States may apply a reduction of up to 50 % of the minimum levels of taxation for those fuels.**

Amendment 46

Proposal for a directive

Article 1 – point 13 – point b

Directive 2003/96/EC

Article 15 – paragraph 3

Text proposed by the Commission

3. Member States may apply a level of general energy consumption taxation down to zero on the consumption of energy products and electricity used for agricultural, horticultural, *aquacultural* works and in forestry. **The** beneficiaries shall **be subject to arrangements** that must lead to increased energy efficiency broadly equivalent to those that would have been achieved if the standard Union minimum rates had been observed.

Amendment

3. Member States may apply a level of general energy consumption taxation down to zero on the consumption of energy products and electricity used for agricultural, horticultural, *piscicultural* works and in forestry. **Member States and beneficiaries shall develop targeted strategies** that must lead to increased energy efficiency broadly equivalent to those that would have been achieved if the standard Union minimum rates had been observed.

Justification

It is important that the energy efficiency efforts demanded in return for more favourable tax treatment be coordinated by the Member States in the form of targeted strategies and in cooperation with the sector, and that sufficient time be allowed to enable a degree of flexibility and facilitate sufficient investment to produce the genuine energy savings that could not be generated without public-sector support and through annual investment.

Amendment 47

Proposal for a directive

Article 1 – point 13 – point b

Directive 2203/96/EC

Article 15 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Member States shall provide comprehensive guidance to beneficiaries, including to small and medium-sized farms, concerning the application of energy efficiency requirements associated with reduced tax rates.

Amendment 48

Proposal for a directive

Article 1 – point 13a* – point a – point i a (new)

Directive 2003/96/EC

Article 16 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

(ia) the following subparagraph is inserted after the first subparagraph:

'As soon as sustainability criteria are established for biomass products other than biofuels and bioliquids pursuant to Directive 2009/28/EC, an exemption or a reduced rate may be applied to those products only if they comply with those sustainability criteria.'

**NB: wrongly numbered '(1)' in the Commission proposal.*

Amendment 49

Proposal for a directive

Article 1 – point 14

Directive 2003/96/EC

Article 17 – paragraph 1 – point a – paragraph 1

Text proposed by the Commission

Amendment

An 'energy-intensive business' shall mean a business entity, as referred to in Article 11, where either the purchases of energy products and electricity amount to at least **3.0 %** of the production value or the national energy tax payable amounts to at least *0.5 %* of the added value. Within this definition, Member States may apply more

An 'energy-intensive business' shall mean a business entity, as referred to in Article 11, where either the purchases of energy products and electricity amount to at least **5,0 %** of the production value or the national energy tax payable amounts to at least *0,5 %* of the added value. Within this definition, Member States may apply more

restrictive concepts, including sales value, process and sector definitions.

restrictive concepts, including sales value, process and sector definitions.

Justification

A 3% threshold is too low and would embrace too many businesses. The ensuing bureaucracy would be disproportionate.

Amendment 50

Proposal for a directive

Article 1 – point 21

Directive 2003/96/EC

Article 29

Text proposed by the Commission

Every **five** years and for the first time by the end of 2015, the Commission shall submit to the Council a report on the application of this Directive and, where appropriate, a proposal for its modification.

The report by the Commission shall, inter alia, examine the minimum **level of CO₂-related** taxation, the impact of innovation and technological developments, in particular as regards energy efficiency, the use of electricity in transport **and** the justification for the exemptions and reductions, including for fuel used for the purpose of air and maritime navigation, laid down in this Directive.

Amendment

Every **three** years and for the first time by the end of 2015, the Commission shall submit to **the European Parliament and to** the Council a report on the application of this Directive and, where appropriate, a proposal for its modification.

The report by the Commission shall, inter alia, examine:

- (i) the minimum levels of general energy consumption taxation in order to ensure that they preserve their intended effects;**
- (ii) the CO₂ price developments relating to the emission trading scheme under Directive 2003/87/EC;**
- (iii) the impact of innovation and technological developments, in particular as regards energy efficiency;**
- (iv) the use of electricity in transport;**
- (v) the justification for the exemptions and reductions, including for fuel used for the purpose of air and maritime navigation,**

laid down in this Directive;

(vi) the impact of this Directive on the setting of industrial policy priorities in the Union car industry, inter alia in relation to clean, energy-efficient conventional internal combustion engines and the Union's CO₂ reduction targets in the car sector;

(vii) developments in the use of biogas, natural gas and LPG in road transport; and

(viii) whether harmful or potentially harmful emissions other than of CO₂ should also be taken into account.

The report shall also include an overview of existing taxation provisions contained in bilateral air service agreements. The report shall take into account the proper functioning of the internal market, the real value of the minimum levels of taxation and the wider objectives of the Treaty.

In any event, the list of sectors or sub-sectors deemed to be exposed to a significant risk of carbon leakage **for the purposes of Article 14a of this Directive** shall be the subject of regular review, in particular taking into account the availability of emerging evidence.

In any event, the list of sectors or sub-sectors deemed to be exposed to a significant risk of carbon leakage shall be the subject of regular review, in particular taking into account the availability of emerging evidence. **In that context, national implementing conditions shall be closely scrutinised in order to ascertain that they are clear, unambiguous and transparent for all consumers.**

Justification

CO₂-based taxation would have far-reaching environmental and taxation policy repercussions within the Union. The reporting obligation should therefore include Parliament. In order that policy guidance can be given, the reporting period needs to be shortened.