



30.9.2019

## NOTICE TO MEMBERS

**Subject: Petition No 0274/2019 by T. H. (Finnish) on the taxation of electric car charging in Finland**

### 1. Summary of petition

The petitioner deplors the taxation of electric car charging at the workplace introduced by Finland on 1.1.2019. In his view, this is not conducive to a better climate policy because it discourages the purchase and use of electric cars.

He also deplors the hefty taxation of low-emission gas vehicles, which discourages their purchase, and a high propulsion tax on diesel cars, which encourages their owners to drive rather than use public transport or bicycles.

### 2. Admissibility

Declared admissible on 26 June 2019. Information requested from Commission under Rule 227(6).

### 3. Commission reply, received on 30 September 2019

As EU law stands at present, direct taxation falls essentially within the competence of Member States. In areas such as personal income taxation where no EU secondary legislation is applicable, Member States can thus design their own tax systems, and decide whom and what to tax, when to tax, at what rate and how as long as they respect their obligations under the Treaty on the Functioning of the European Union (TFEU).

The inclusion of the fixed value of a fringe benefit from the charging of an electric vehicle at the workplace in the taxable income is neither discriminatory on grounds of nationality or residence nor does it restrict the exercise of the freedoms guaranteed by the TFEU. The Commission therefore has no valid reason to initiate infringement proceedings as regards the

national rule at issue or otherwise intervene on behalf of the petitioner.

Furthermore, in the area of indirect taxation, there is no harmonisation at EU level with regard to the taxation of private passenger cars. Consequently, Member States have freedom in deciding how to apply such taxes, provided that they comply with EU law. Article 110 TFEU prohibits internal discriminatory taxation, directly or indirectly, on the products of other Member States in excess of that imposed directly or indirectly on similar domestic products.

With regard to the taxation of gas and diesel cars in Finland, there are no indications that these measures would cause discriminatory taxation of cars from other Member States. Consequently, as there appears to be no breach of EU law, the Commission would not be able to take any further action as regards the petition.

On the other hand, it should be noted that the Commission has recently published the evaluation<sup>1</sup> of the current Council Directive 2003/96/EC<sup>2</sup> (“the Energy Taxation Directive” or “the ETD”), laying down EU rules for the taxation of energy products used as motor fuel or heating fuel and of electricity.

As mentioned in the political guidelines<sup>3</sup> of the President-elect of the Commission, Ms Ursula von der Leyen, the revision of the ETD is considered a priority for the new Commission. The preparation of any policy proposal will have to be accompanied by a thorough Impact Assessment, as required by the Commission’s Better Regulation Guidelines<sup>4</sup>.

## Conclusion

There are no indications that Finland is in breach of EU law based on the information submitted by the petitioner. Consequently, the Commission would not consider taking further action as regards the petition.

At the same time, the existing EU legal framework for the taxation of energy products used as motor fuel or heating fuel and of electricity is currently under further scrutiny following the Commission’s ambition towards a European Green Deal.

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<sup>1</sup> Commission report: evaluation of the Energy Taxation Directive.

<sup>2</sup> Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (Text with EEA relevance), *OJ L 283, 31.10.2003, p. 51–70*.

<sup>3</sup>[https://ec.europa.eu/commission/sites/beta-political/files/political-guidelines-next-commission\\_en.pdf](https://ec.europa.eu/commission/sites/beta-political/files/political-guidelines-next-commission_en.pdf)

<sup>4</sup> <https://ec.europa.eu/info/sites/info/files/better-regulation-guidelines.pdf>