

## Veolia reply to the consultation regarding the revision of Energy Taxation Directive

*Veolia group is the global leader in optimized resource management. With nearly 178,780 employees worldwide, the Group designs and provides water, waste and energy management solutions that contribute to the sustainable development of communities and industries. [Through its three complementary business activities](#), Veolia helps to develop access to resources, preserve available resources, and to replenish them.*

*In 2019, the Veolia group supplied 98 million people with drinking water and 67 million people with wastewater service, produced nearly 45 million megawatt hours of energy and converted 50 million metric tons of waste. Veolia Environnement (listed on Paris Euronext: VIE) recorded consolidated revenue of €27.189 billion in 2019 (USD 29.9 billion).*

Veolia welcomes the European Commission initiative to [revise the Energy Taxation Directive](#) (2003/96/EC restructuring the Community framework for the taxation of energy products and electricity). The need for such revision was clearly identified and stated in the [report published by Commission](#) services on 12 September 2019. The Green Deal and increasingly acute climate emergency opens a window of opportunity to rectify earlier unsuccessful attempts to revise this piece of legislation.

Given little space provided to complete the replies we chose in the questionnaire, we would like to accompany our contribution by this document and state the principles that are important when revising this key piece of the European legislation:

- *Taxation based on CO<sub>2</sub> and energy content is necessary for a truly decarbonized heating and cooling sector*

Already in 2011, the Commission proposed to change the scope and structure of the Directive. The proposal, amongst other things, aimed at taxing energy products in a way that reflects both their energy content and CO<sub>2</sub> emissions. Today, more than ever, such change in the energy taxation structure is required to help the EU achieve its new CO<sub>2</sub> emissions reduction target by 2030 and implement the polluter pays principle.

This will have crucial implications for all sectors but the heating and cooling sector, which today represents 50% of energy consumption, will be particularly affected. Decarbonisation of this sector is one of the main challenges of the current energy transition and requires the creation of a real level playing field across the entire H&C market that a revised ETD can enable.

A harmonized minimal CO<sub>2</sub> price should be introduced for fossil fuels used for heating purposes in installations (below 20 MW capacity) not included in EU ETS. The minimum and nominal value of taxes should be regularly updated but not based on the inflation indicators but rather linked to the evolution of CO<sub>2</sub> allowances prices.

The minimum level of the taxation, especially the carbon component should be set at a level sufficient to reflect the GHG externalities of fossil primary energies. Such taxation would ensure fairer prices against renewable energies and thus support their development.

Also, Member States should be allowed to set out the price of CO<sub>2</sub> at a higher rate in line with their own level of ambition and choice of policy instruments to transform the heating market. This would create a level playing field between installations covered by the EU ETS and the small, individual installations outside of the EU ETS scope, which represent the largest chunk of the heating market and are the most polluting. It would also help the transition towards renewable energy and low carbon sources (including waste heat) in the heating sector.

- *Energy Efficiency First principle should be a guiding principle for a revised European energy tax regime*

The new directive should facilitate the realisation of this principle as it will define market conditions for future investments in fuels, and consequently supporting infrastructures. Energy efficiency first will be effectively implemented by linking taxation rates to the efficient use of energy products, through for instance the simultaneous production of electricity, heat and cold in cogeneration facilities. Using energy sources in an energy efficient way reduces CO<sub>2</sub> in the case of fossil fuels and reduces the waste of renewable energy sources.

However, under **Article 14** of the current ETD, Member States shall be exempt from taxation “energy products and electricity used to produce electricity and electricity used to maintain the ability to produce electricity”, unless taxation is used for environmental policy purposes. Meanwhile, **Article 15** leaves it to Member States’ discretion whether to exempt from taxation energy products used in the production of “environmentally friendly” CHP. In the application of these articles some Member States have implemented a partial exemption of the energy products used for High-Efficiency CHP. This has led to an unfair treatment of an efficient technology such as CHP when compared to the full, mandatory exemption that applies to conventional electricity generation.

The revised ETD should foresee **a mandatory exemption for energy products and electricity used for High-Efficiency CHP** (as defined in Directive 2012/27/EU) **from the excise tax or the tax should be fully refundable**. This is the only way to avoid a clear preference for investment in largely less efficient separate production of electricity and heat.

Application of energy efficiency first principle also means that the revised ETD must take a system approach, that is to take into account GHG emissions emitted to produce the energy product as well as the amount of energy used to produce it. This would guarantee that both system and resource efficiency is fully incentivised.

- *The need to ensure competitiveness of the European industry while promoting energy transition in energy use and processes*

Companies need a stable and competitive policy environment, with both legal and tax certainty, to be able to make long-term investment decisions. Also, the energy taxation based on CO<sub>2</sub> and energy content might have a potentially negative impact on

competitiveness of the EU based industry, especially for those companies, of which installations are covered by the EU ETS and are on “the carbon leakage list”.

Therefore, any double taxation should be avoided. Fuels used for heating in installations covered by EU ETS should still be taxed based on their energy content but should be automatically exempted from CO<sub>2</sub> tax or the tax should be fully refundable. This includes those on the carbon leakage list, as long as adequate energy efficiency measures are implemented.

Also, to promote circularity of resources use and help industries generate additional revenues, barriers of fiscal nature for the further use of waste heat/cold from industry and the tertiary sector should be identified during the review process and dismantled by the new directive.

Last but not least, other tax deductions and incentives could be envisaged and possibly applied if an industrial installation puts in place some energy efficiency improvements and, in particular, if it engages in solutions such as an energy management system, an energy performance contract, or similar arrangements based on an energy performance criterion.

- *The need for the compensation and accompanying measures for the most vulnerable consumers*

To ensure that the energy transition is fair and inclusive and protects households most likely to suffer from energy poverty and therefore having the smallest price elasticity regarding fossil fuels use, any increase in taxation based on carbon content (which is regressive in its essence) should be accompanied by suitable compensatory measures. Those should be targeting the most vulnerable segments of the population and be designed in such a way to have an incentivizing effect to carry out fuel switching towards low carbon alternatives. Member States should remain responsible for both design and implementation of such measures, while the ETD could draw the contours of the most efficient systems that can be set up. Indeed, systems targeting the recycling of CO<sub>2</sub> tax revenues at low-income households are [shown](#) to be the most effective as they tend to reduce fuel poverty below its pre-tax level (as opposed to redistribution as lump-sum payments to all households). While compensating customers through utility bill assistance can decrease or remove the incentive to reduce energy consumption and hence emissions. Also energy efficiency may reduce regressivity by increasing total energy savings and thereby lowering bills (see [here](#)). Hence a combination of those two systems (lump sums to the poorest households with energy efficiency programmes) should be aimed at.

- *Support for clean hydrogen*

European Commission defined a clear path for the promotion of hydrogen in [its Strategy for Climate Neutral Europe](#). In the integrated energy system of the future, hydrogen will play a role, alongside renewable electrification and a more efficient and circular use of resources. Large-scale deployment of clean hydrogen at a fast pace is key for the EU to achieve a higher climate ambition, reducing greenhouse gas emissions by minimum 55% by 2030, in a cost effective way. The strategy also defines clear targets for renewable hydrogen: to install at least 6 GW of renewable hydrogen electrolyzers in the EU and the production of up to 1

million tonnes of renewable hydrogen from 2020 up to 2024 and at least 40 GW of renewable hydrogen electrolyzers by 2030 and the production of up to 10 million tonnes of renewable hydrogen in the EU in the second phase.

The revised Energy Taxation Directive should also support this objective, with potential exemptions introduced for clean hydrogen. Yet, the definition of clean hydrogen should not be restricted to renewables based hydrogen but should also encompass hydrogen produced from electricity of nuclear origin.

- *Imperative need for better coordination with other pieces of legislation*

The revision of the ETD should take into account potential overlaps and interlinkages with other carbon related mechanisms, including the EU ETS-directive, the EU ETS-state aid guidelines and State aid for Environmental protection and Energy 2014-2020 (EEAG), also to be revised in 2021. Regarding the state aid rules, a mandatory tax exemption in the ETD in principle does not involve aid, if it is applied in a non-discriminatory way. Since a mandatory exemption is by definition applied by all Member States, it cannot affect the trade between Member States and cannot constitute State aid. Still, for all other non-mandatory tax exemptions, MS have to systematically notify the European Commission and verify the compatibility with the state aid regime which constitutes a significant administrative barrier and can prevent the effectiveness of the Directive. A simplified regime would greatly facilitate the implementation of a revised directive and its potential incentivising effect for specific energy products that the EU wishes to further promote.

The revision should also account for, where applicable, the impact of the upcoming proposal on a Carbon Border Adjustment Mechanism and a possible extension of the EU ETS to the building sector in particular.