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A.5.6 Description of energy subsidies (including fossil fuels)

In Spain, the consumption of fossil fuel energy products is taxed by the Hydrocarbon Tax (IEH) and the Special Tax on Coal, which are regulated by Law 38/1992, of 28 December, on Excise Taxes (BOE of 29 December), LIE, in hereinafter, and in the Special Tax Regulations, approved by Royal Decree 1165/1995, of 7 July (BOE of 28 July). In both cases, these are taxes harmonised within the European Union by virtue of Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJEU L 283 of 31 October), which already incorporates environmental protection requirements.

In addition to their natural revenue-raising purpose, both taxes pursue an environmental objective by incorporating into the price of these products the social costs of their consumption that are not reflected in the market price. In this way, they are a prototypical example of the use of taxes as an instrument of economic policy, in accordance with the provisions of the second paragraph of section 1 of article 2 of Law 58/2003, of 17 December, on General Taxation (BOE of 18 December): "Taxes, in addition to being a means of obtaining the resources necessary to sustain public expenditure, may serve as instruments of general economic policy and contribute to the realisation of the principles and aims contained in the Constitution."

Tax subsidies

Spain applies certain subsidies to the use of energy products as fuels. The Hydrocarbon Tax paid on the use of diesel in agriculture and livestock farming is partially refunded, as is the case for professional use such as the transport of goods, passengers and taxis, within certain limits. Exemptions from this tax are regulated in Articles 9 and 51 of Law 38/1992 of 28 December on Special Taxes. Likewise, the reduced tax rates set out in Article 50 of this Law apply, differing according to use. Specifically, the following reduced rates are considered for the use of hydrocarbons:

- Diesel used as fuel in vehicles covered by Article 54.2 of Law 38/1992 (stationary engines, special vehicles, agricultural vehicles) and, in general, as fuel (heating).
- LPG intended for uses other than fuel.
- Natural gas for uses other than fuel, as well as natural gas for use as fuel in stationary engines.
- Natural gas intended for professional use, provided that it is not used in co-generation processes or for the direct or indirect generation of electricity.
- Kerosene intended for uses other than as fuel.

Member States are currently working on a thorough review of Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity, with a view to ensuring its viability and provide greater

certainty and clarity in its application, taking into account in particular the review of the taxation of all energy products, as well as the tax treatment of new products and the taxation of relevant sectors.

On the importance of the Energy Taxation Directive, the Annual Report on Taxation 2022 states the following: *As part of the Fit for 55 package, the Commission's July 2021 proposal for the recast of the Energy Taxation Directive aims to change the way energy products and electricity are taxed in the EU and to promote the green transition for all. The proposed new rules also aim to address potential distortions in the internal market and ensure revenue for Member States from these taxes. In addition, they will update the scope of the Directive as well as the minimum rates, remove outdated exemptions and reductions, which are incentivising the use of fossil fuels, for example in the EU aviation and maritime transport sectors, while promoting clean technologies. Furthermore, the updated rules will facilitate the transition from fossil fuels to clean fuels and support the achievement of the EU's ambitious targets for reducing greenhouse gas emissions and saving energy.*

Spain continues on the path of international coordination in the field of taxation, taking into account the reform proposals and recommendations put forward by the European Commission. One measure that has been adopted from among the set of legislative measures proposed in the Fit for 55 package is the new carbon border adjustment mechanism (CBAM) established in Regulation (EU) 2023/956 of the European Parliament and of the Council of 10 May 2023. It will initially apply to imports of goods whose production is particularly carbon-intensive and presents a higher risk of carbon leakage (Annexes I and II of the Regulation) and may gradually be extended in scope.

Measures to eliminate dependence on fossil fuels and their subsidies

Within the framework established by Law 7/2021 of 20 May on climate change and energy transition, the replacement of fossil fuels is being addressed in order to meet the emission reduction targets set out in international treaties and European Union regulations by 2030 and to achieve climate neutrality by 2050, in the shortest possible time frame.

Title III of this law addresses measures related to energy transition and fuels. Firstly, no new exploration authorisations, research permits or hydrocarbon exploitation concessions will be granted throughout the national territory, including territorial waters, the exclusive economic zone and the continental shelf. Secondly, it is necessary to initiate a process that gradually ensures consistency between public aid or incentives and climate change mitigation objectives. As a general rule, the law establishes that the application of new tax benefits to fossil fuel products must be duly justified on grounds of social or economic interest or due to the lack of technological alternatives.

Finally, provisions are introduced to promote renewable gases, including biogas, biomethane, hydrogen and other alternative fuels. Thus, the law introduces, on the one hand, that the Government will promote, through the approval of specific plans, the

penetration of these fuels and, on the other hand, a provision to reduce specific emissions in the air, maritime and heavy road transport sectors through the integration of renewable energies and the establishment of targets for the supply of biofuels and other renewable fuels of non-biological origin. In order to avoid the use of biofuels that have a negative impact on the environment, compliance with the sustainability and air quality protection criteria set out in EU legislation is required.

Another way to eliminate fossil fuel subsidies is through aid to promote renewables.

Among others:

- The existence of a specific remuneration scheme that guarantees a reasonable return on renewable energy, cogeneration and waste technologies.
- Various aid programmes to promote renewable energy sources.
- Aid for self-consumption.
- Support for end uses: sustainable mobility, energy efficiency measures in industrial and residential applications, particularly in the area of energy renovation

Some of these lines of aid are currently included in the Recovery, Transformation and Resilience Plan approved for Spain and in its strategic projects, particularly in the PERTE ERHA to support renewable energies, green hydrogen and storage, and are granted by the Ministry for Ecological Transition and Demographic Challenge and coordinated through the Institute for Energy Diversification and Saving (IDAE).

ANNEX A. CURRENT SITUATION AND PROJECTIONS: PNIEC SCENARIO 2023-2030

Table A.46. Energy subsidies 2020-21

Category	Description	Legal basis in 2019	Non-reduced comparable rate	Rate	Quantification of aid*	Extinction plans
Energy Subsidies 2019 - Tax						
Reduced tax rates	Reduced tax rate on hydrocarbon tax for diesel used as fuel in vehicles mentioned in Article 54.2 (agriculture)	Law 38/1992 on excise duties Art. 50	0.379 €/litre	0.09671 €/litre	0.28229 €/litre	
	Natural gas for professional use, provided it is not used in cogeneration processes or for the direct or indirect generation of electricity Biodiesel for use as fuel in the applications specified in Article 54 (agriculture and livestock farming) and in general as fuel	Law 38/1992, of 28 December on excise duties Art. 50	1.15 €/gigajoule	0.15 €/gigajoule	1 €/gigajoule	
	Biodiesel for use as fuel in the applications specified in Article 54 (agriculture and livestock farming) and in general as fuel	Law 38/1992, of 28 December on excise duties Art. 50	0.379 €/litre	0.09671 €/litre	0.28229 €/litre	
Exemptions and refunds	Exemption from hydrocarbon tax for energy products supplied for use as fuel in air navigation other than private recreational air navigation	Law 38/1992 on excise duties Art. 9			The entire amount of the IEH (kerosene: 0.378 €/litre)	
	Exemption from hydrocarbon tax for use as fuel in rail transport, construction, modification, testing and maintenance of aircraft and vessels, dredging operations in waterways and ports, injection into blast furnaces for chemical reduction purposes, additives to coal used as the main fuel	Law 38/1992 on excise duties, Art. 51			The entire amount of the IEH (fuel function)	
	Refund of hydrocarbon tax paid on energy products used in pilot projects for the technological development of less polluting products or mixed with other polluting products	Law 38/1992 on excise duties Art. 52			The entire amount of the IEH (depending on the fuel)	
	Partial refund of hydrocarbon tax paid on diesel for professional use (applies to certain vehicles used for the transport of goods, passengers and taxis)	Law 38/1992 on excise duties Art.52 bis 6.a			0.049 €/litre	
	Partial refund of the hydrocarbon tax paid on diesel used in agriculture and livestock farming	Law 38/1992 on excise duties Art. 52 ter	0.379 €/litre	0.033 €/litre	0.346 €/litre	

ANNEX A. CURRENT SITUATION AND PROJECTIONS: PNIEC SCENARIO 2023–2030

Table A.47. Measures to eliminate dependence on fossil fuels

Name or Description	Sector	Objective	Vector	Start of Implementation	End of Implementation	2020	2021	Currency
Aid programme for energy renovation of existing buildings (PAREER-II)	Housing	Support for energy efficiency	Renewables	01/01/2018	01/01/2025			
Building Energy Renovation Programme (PREE)	Housing	Support for energy efficiency	Renewables	01/08/2020	01/01/2026			
Capacity payment: Investment incentive & availability incentive - hydropower	Conversion electricity production	Production support	Electricity	01/01/2008	-			
Special tax on hydrocarbons - Reduced tax rate for biogas for stationary engines	Energy	Support for demand	Biogas	31/10/2013	-			
Specific remuneration scheme for renewable energies, cogeneration and waste	Production electricity	Support for production	Electricity	01/11/2014	-			
Royal Decree 477/2021, of 29 June, approving the direct granting of aid to the autonomous communities and the cities of Ceuta and Melilla for the implementation of various incentive programmes linked to self-consumption and storage, using renewable energy sources, as well as the implementation of renewable thermal systems in the residential sector, within the framework of the Recovery, Transformation and Resilience Plan.	Housing, industry, public sector	Support for renewable energy production	Renewables	30/06/2021	31/12/2023	6,927,320,524	7,887,722,273	€
Royal Decree 1124/2021, of 21 December, approving the direct granting of aid to the autonomous communities and the cities of Ceuta and Melilla for the implementation of incentive programmes for the installation of renewable thermal energy facilities in different sectors of the economy, within the framework of the Recovery, Transformation and Resilience Plan.	Housing, industry, public sector	Support for renewable energy production	Renewables	23/12/2021	31/12/2023			
MOVES Plan I, II, III	Transport	Support for energy efficiency	Petroleum derivatives	01/01/2019	31/12/2023			