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New reduced energy contribution rate on natural gas supplies announced

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On 25 June 2015, the Council of Ministers approved a draft amendment to the Program Law of 27 December 2004, introducing a reduced energy contribution rate on supplies of natural gas to companies adhering to an environmental agreement. The draft law will be submitted in Parliament after the summer.

Context

Energy contribution is an excise tax due on the supply of electricity and natural gas to end-consumers; in B2B as well as B2C markets. The energy contribution rates are governed by the Program Law of 27 December 2004, which implements the European Energy Products Directive (Directive 2003/96/EC).

Until 31 December 2013 (for Walloon Region) or 31 December 2014 (for Flemish region), companies who adhered to an environmental agreement ("accords de branche – 1st generation" in the Walloon Region, "audit- or benchmarkingconvenant" in the Flemish Region) could benefit from a nil or reduced energy contribution rate on their natural gas consumption.

Following the introduction of new environmental agreements ("accords de branche – 2nd generation" in the Walloon Region on 1 January 2014, "Energy Policy Agreements" in the Flemish Region on 1 January 2015), no new approval was obtained from the European Commission regarding the continuation of the nil or reduced energy contribution rates. Consequently, the nil and reduced energy contribution rates were terminated on 31 December 2013 (in Walloon Region) and 31 December 2014 (in Flemish Region).

As a consequence, even if industrial consumers have entered into a new environmental agreement, they are charged with the standard energy contribution rate of 0.9916 EUR/MWh, unless they can qualify for one of the other exemptions foreseen under the energy contribution legislation.

New reduced rate for supplies of natural gas

The draft amendment to the Program Law of 27 December 2004 approved by the Council of Ministers foresees the introduction of a new reduced energy contribution rate of 0.54 EUR/MWh as of 1 August 2015. This reduced rate would apply to all supplies of natural gas to companies who adhere to one of the new environmental agreements. This rate corresponds to the European minimum energy contribution rate for natural gas as foreseen by Directive 2003/96/EC and can therefore be introduced without the European Commission's upfront approval.

Practical consequences

In order to benefit from the reduced rate, companies will need to have adhered to an “Energy Policy Agreement” in the Flemish Region, or to an “accord de branche” in the Walloon Region. The draft amendment also foresees that companies located in the Brussels Region can benefit from the reduced rate in case they have entered an “accord de branche”. To date however, no environmental agreements are available in the Brussels Region.

Further practical modalities for benefiting from the reduced energy contribution rate will be determined in a Royal Decree. Although no details have been published to date, it is expected that, in line with the previous regime, the reduced rate will be subject to the possession of a license “energy products and electricity” issued by the excise authorities. This would mean that eligible companies should apply for a new license or for a modification of their existing one.

As mentioned above, in addition to or in anticipation of the newly introduced reduced rate, there are also numerous cases in which companies can benefit from specific energy contribution exemptions. For natural gas, these typically apply when gas is consumed for dual use purposes, cogeneration, methalurgical or mineralogical processes, production of electricity, agriculture and horticulture, etc.

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