

## PORTUGAL

Vieira de Almeida &amp; Associados



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## The evolution of green taxation in Portugal

Tiago Marreiros Moreira and Filipe de Vasconcelos Fernandes of Vieira de Almeida discuss the types of policy objectives aligned with green taxation in Portugal, and predict upcoming changes.

It is generally accepted that green taxation is crucial to address the effects of climate change and global warming, as well as to promote resource allocation efficiency. This is despite the fact that, at the Paris Agreement level, there is no express mention of green taxation.

According to the European Commission, the recovery from the COVID-19 pandemic must be green, and in that context, the EU's flagship Recovery and Resilience Facility (RRF) – established through Regulation (EU) 2021/241 of the European Parliament and of the Council of February 12 2021 – provides an opportunity to extend the scope and use of green taxes in each member state.

Therefore, the speech of the main public actors, in particular the EU and its member states, is no longer concerned only with the ability to raise revenues. Instead, they are interested in revenue collection as a way to induce environmentally friendly behaviors, and the 'recycling' of tax revenue associated with the taxation of non-renewable products or activities, in order to create benefits or incentives for renewable vectors, such as green hydrogen.

At the same time, the impact that the current armed conflict between Russia and Ukraine is having on the energy markets cannot be ignored, with a special reflection on the level of natural gas prices. It can be anticipated that member states will be somewhat cautious in increasing the green taxation levied on hydrocarbons.

At least temporarily, countries may prefer measures that minimise the impact on final consumers, as has been the case with fuels. For example, in Portugal the government lowered the tax on petroleum and energy products to the extent of the increased tax revenue it obtained through VAT on energy.

In this sense, one can anticipate that

### General taxation of income and consumption (CIT and VAT)

- At the CIT level, good examples are the absence of autonomous taxation on the purchase of electric vehicles, and schemes such as deductible provisions for environmental damage repairs.
- At the VAT level, there is the tax rate reduction from 23% to 13%, applicable to the first 100 kWh of monthly electricity consumption (only for powers above 6.90 kVA).

### Excise taxes (tax on petroleum and energy products)

- There is an exemption for advanced biofuels and green hydrogen, if duly certified (with Biofuel Title (TdB) or Certificate of Origin (GO), respectively).
- There is also an exemption for electricity produced for self-consumption from renewable energy sources, up to a limit of 30 kW of installed capacity. The measure was included in the State Budget Proposal for 2022, which was rejected and led to early elections, and it is expected to appear again in the new proposal.

### Parafiscal taxes

- There is a carbon tax levied on tickets for commercial passenger air transport departing from airports and aerodromes located in Portuguese territory.
- The contribution on single-use packaging applies from July 1 2022 for packaging made of plastic or multi-material with plastics. It applies from January 1 2023 for packaging made of aluminum or multi-material with aluminum.

the future role of green taxes will be more relevant than ever. This is why it is important to anticipate some of the main short- and medium-term trends, which we will discuss with a focus on the Portuguese tax system.

### A polygonal tax model

According to the European Commission, green taxes include taxes on energy, transport, pollution, and resources. This means that green taxes are a broader category than energy taxes, which are levied specifically on energy products and electricity used for transport, such as petrol and diesel, and for other purposes, such as fuel oils, natural gas, coal, and electricity used in heating.

Therefore, green taxation must fit into a wider policy context that integrates a broad range of instruments, such as pricing instruments, subsidies, standards – including those related to environmental, social, and governance (ESG) objectives – and investment in public infrastructure.

Regardless of the topics included in the EU Energy Taxation Directive, which is currently under revision, EU member states still have significant scope for intervening in their tax systems, including the set of taxes that, in some way, can be considered to have a green component.

### Types of green taxes in Portugal

Green taxation in Portugal can be divided into three types of taxation. Below, we lay out some examples of each:

### Predicting the future of Portuguese green tax policy

In light of the EU's energy transition objectives, it will be interesting to see how member states will manage the trade-off between increasing the range of tax bene-

fits for the different renewable energy segments (wind, solar PV, renewable gases, and others) and the need to preserve tax revenues. This is especially true at the level of general and special consumption taxation (VAT and excise taxes, respectively), which represent the most substantial part of national tax revenues.

Given the state of play in many member states, including Portugal, the following short-term tax policy options seem likely:

#### 1) The adaptation of indirect taxes to target renewable energy

Indirect taxation may be adapted to target new renewables vectors, in particular renewable gases such as hydrogen and biomethane. This could include the creation of excise tax exemptions for the inputs of each production process (the electricity).

In the case of VAT, exemptions tend to be more neutral, and it can be anticipated that they will be applied mainly from the end-consumer perspective, as is already the case in several member states. For example, VAT exemption can be applied to the purchase of Hydrogen-powered vehicles, as is already the case in Norway.

#### 2) The proliferation of sectoral parafiscal taxation

In the past decades, Portugal has undergone a true revolution in terms of so-called 'tax regulation', with the creation of parafiscal taxes in almost all sectors of activity. These regimes are particularly complex, in terms of interpretation and application, when compared to standard tax regimes.

However, some of these parafiscal taxes reveal positive discrimination towards a green purpose. An example of this is the exemption for the production of electricity from renewable sources, providing it does

not benefit from a guaranteed remuneration regime, in the Extraordinary Contribution on the Energy Sector (CESE), created in 2014.

### 3) Increased incentives for renewables

We also predict the establishment of incentives specifically dedicated to new renewable vectors, such as renewable gases.

A good example in Portugal is the Incentive System for the Support of Renewable Hydrogen Production and Other Renewable Gases, with funds from the National Recovery and Resilience Plan. The regulation was approved by Order No. 98-A/2022 on February 18 2022.

This incentive system, designed to support capital expenditures (CAPEX), is based on the financing of a set of eligible expenses in renewable gas production projects. This financing will correspond to the difference between the investment costs for the production of gases from renewable origin, such as hydrogen or biomethane, and the investment costs of a conventional plant for the production of hydrogen from the steam reforming of natural gas, of identical capacity in terms of effective energy production.

The fiscal state is becoming increasingly greener, with the adaptation of the main taxes to the challenges of energy transition and decarbonisation. Therefore, even for enforcers of tax law, especially tax administrations, new challenges are arising in terms of achieving the green purposes of tax law and giving taxpayers certainty.

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