



- Declarație comună a sectorului energiei -

Mentineră piețelor de energie și certificate de emisii din UE protejate împotriva fraudei de TVA și după 2018

Necesitatea urgentă de a confirma prelungirea derogării pentru aplicarea mecanismului de taxare inversă pentru energie electrică, gaze și emisii conform art. 199a din Directiva privind TVA

Bruxelles, 4 septembrie 2018 | Frauda în materie de TVA în spațiul intracomunitar rămâne o amenințare permanentă pentru integritatea și buna funcționare a piețelor de energie și de certificate de emisii din Europa¹. Miliarde de euro au fost fraudate din bugetele europene înainte de a se decide de către Consiliul UE introducerea unei derogări de la Directiva TVA² privind tranzacțiile cu energie electrică, gaze și certificate de emisii. Derogarea permite statelor membre să aplice mecanismul intern de taxare inversă acestor servicii. În cazul în care derogarea existentă nu va fi prelungită în mod proactiv de către Consiliu înainte de sfârșitul anului, aceasta se va încheia automat la 31 decembrie 2018 datorită unei clauze incluse în art. 199a³ din Directiva TVA.

¹ Dimensiunea pericolului și importanța derogării pentru sectorul european al energiei au fost, de asemenea, recunoscute într-un raport al Comisiei Europene către Consiliu și Parlamentul European referitor la efectele articolelor 199a și 199b din Directiva 2006/112/CE a Consiliului privind combaterea fraudei, care a fost publicat la 8 martie 2018:

<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=COM%3A2018%3A0118%3AFIN>

² <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32006L0112> (denumită în continuare: Directiva TVA)

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:3A32013L0043>

Noi, optsprezece asociații reprezentative ale sectorului energiei, solicităm Consiliului și în mod particular Președinției Austriece a Consiliului UE să prioritizeze adoptarea unei decizii privind propunerea legislativă a Comisiei Europene din 25 mai 2018⁴ referitoare la prelungirea derogării prevăzută la articolul 199a din Directiva TVA. Acest lucru va împiedica evazionistii să pună în aplicare cu succes fraudă intracomunitară de tip carusel pe piețele europene de energie electrică și emisii caracterizate de o lichiditate ridicată. De asemenea, adoptarea unei decizii favorabile va asigura menținerea încrederii participanților la piață în transparența și integritatea piețelor de energie electrică, gaze și certificate de emisii, ca un element esențial al lanțului valoric pentru economia europeană.

În acest context, și pentru a menține piețele europene de energie și emisii protejate de fraudă de TVA și după anul 2018, am dori să recomandăm adoptarea următoarelor patru măsuri:

1. Adoptarea prelungirii în timp util

Adoptarea în timp util a prelungirii este esențială pentru a sprijini administrațiile fiscale și întreprinderile din statele membre în cauză să continue practica actuală fără a fi nevoie să se pregătească pentru o eventuală modificare până la începutul anului viitor. Propunerea Comisiei din 25 mai 2018 reprezintă o bună bază în acest sens.

2. Extinderea termenului de derogare cu cel puțin cinci ani

Propunerea de prelungire a articolului 199a cu doar trei ani și jumătate, până la 30 iunie 2022, este foarte scurtă. Deși există într-adevăr un proces legislativ în curs de desfășurare pentru introducerea unui mecanism definitiv de taxare inversă a mărfurilor, ar fi de preferat să se definească cel puțin încă un termen de cinci ani, reprezentând o prelungire până la 31 decembrie 2023.

3. Includerea garanțiilor de origine în mod explicit

În plus, ar trebui să se precizeze că garanțiile de origine⁵, care sunt foarte asemănătoare cu certificatele de emisii, pot beneficia, de asemenea, de derogarea prevăzută la articolul 199a din Directiva TVA, care în prezent este interpretată în mod diferit în diverse state membre. Austria și Irlanda, de exemplu, au specificat deja în orientările lor fiscale naționale că garanțiile de origine intră într-adevăr sub incidența mecanismului intern de taxare inversă, astfel cum se prevede la articolul 199a din Directiva TVA. Prin urmare, din motive de claritate și de încurajare a armonizării normelor privind TVA în Europa, articolul 199a ar trebui modificat în consecință, iar garanțiile de origine ar trebui menționate în mod explicit.

4. Aplicarea comprehensivă a mecanismului intern de taxare inversă în toate statele membre

Este important, întrucât nu toate statele membre utilizează în prezent derogarea, ca propunerea de prelungire să fie utilizată pentru a solicita o aplicare comprehensivă a dispozițiilor art. 199a (a) (b) (f) în toate statele membre și, în egală măsură, în ceea ce privește energia electrică, gazele, emisiile și garanțiile de origine. Pentru a eradică posibilitatea fraudării TVA în cadrul sistemului actual de TVA, este important ca aceste măsuri de protecție să fie aplicate în mod cuprinzător. În caz contrar, riscul de fraudă pe piețele neprotejate va crește semnificativ.

⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52018PC0298&from=EN>

⁵ <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32009L0028>

Cele optprezece asociații europene participante sunt:



About AIB – the Association of Issuing Bodies

The AIB represents European certificate system administrators and is the leading enabler of international energy certificate schemes throughout Europe, and in particular those relating to guarantees of origin under Directives 2009/28/EC and 2012/28/EC. The AIB has developed, uses and promotes a standardised system: the European Energy Certificate System - EECs - which ensures the reliable operation of international certificate schemes. These schemes satisfy the criteria of objectivity, non-discrimination, transparency and cost effectiveness in order to facilitate the international exchange of certificates. In order to further facilitate the international exchange of energy certificates, the AIB operates an inter-registry telecommunications hub. The AIB also provides a knowledge centre for energy certificate authorities across Europe, providing and sharing advice and guidance.

www.aib-net.org



About CEDEC – The European Federation of Local Energy Companies

CEDEC represents the interests of more than 1,500 local and regional energy companies, mostly in public hands. These predominantly medium-sized local and regional energy companies have developed activities as electricity and heat generators, electricity and gas distribution grid & metering operators and energy (services) suppliers. Local energy companies provide services which are reliable, sustainable and close to the consumer.

www.cedec.com



About CEER – The Council of European Energy Regulators

CEER is the voice of Europe's national energy regulators. Its members and observers are the independent statutory bodies responsible for energy regulation in 36 European countries. CEER, based in Brussels, deals with a broad range of energy issues, including retail markets and consumers, distribution networks, smart grids, flexibility, sustainability and international cooperation.

www.ceer.eu



About EACH - The European Association of CCP Clearing Houses

EACH represents the interests of Central Counterparties (CCPs) in Europe since 1992. CCPs are financial market infrastructures that significantly contribute to safer, more efficient and transparent global financial markets. EACH currently has 19 members from 15 different European countries.

www.eachccp.eu



About EFET – The European Federation of Energy Traders

EFET promotes and facilitates European energy trading in open, transparent, sustainable and liquid wholesale markets, unhindered by national borders or other undue obstacles. EFET currently represents more than 100 energy trading companies, active in over 28 European countries.

www.efet.org



About ENTSOG – The European Network of Transmission System Operators for Gas

ENTSOG was founded on 1 December 2009 in line with Regulation (EC) 715/2009 (Regulation) and currently comprises 45 TSO Members and 3 Associated Partners from 27 European countries, and 8 Observers from EU affiliate countries. ENTSOG works to promote the completion and functioning of the internal market and cross-border trade for gas and to ensure the optimal management, coordinated operation and sound technical evolution of the European natural gas transmission network.

www.entsog.eu



About EUGINE – the European Engine Power Plants Association

EUGINE is the voice of the European engine power plants industry, representing the leading European manufacturers of this flexible, energy-efficient, reliable and environmentally sound technology. Engine power plants are an optimal solution for backing-up and generating renewable energy (e.g. biogas), cogeneration and security of supply.

www.eugine.eu



About Eurelectric

Eurelectric represents the interests of the European electricity industry. Eurelectric represents the power sector in over 30 European countries, speaking for more than 3,500 companies in power generation, distribution and supply. Eurelectric seeks to contribute to the competitiveness of the electricity industry, provide effective representation in public affairs and promote the role of electricity to help provide solutions to the challenges of sustainable development. Eurelectric's opinions, papers and reports are formulated in working groups composed of experts from the electricity industry. This structure of expertise ensures that Eurelectric's publications are based on high-quality input with up-to-date information.

www.eurelectric.org



About Eurogas

Eurogas is an association representing the European gas wholesale, retail and distribution sectors towards the EU institutions. Eurogas was founded in 1990 and currently includes 44 companies and associations from 22 countries. Eurogas aims to strengthen the role of gas in the energy mix in an ongoing dialogue with European industry players, global gas producers, and relevant institutions and organisations. Eurogas promotes the smooth functioning of the European internal gas market, supports the EU's climate goals, and provides structured support to its members on EU policy issues.

www.eurogas.org



About Europex – the Association of European Energy Exchanges

Europex is a not-for-profit association of European energy exchanges with currently 26 members. It represents the interests of exchange-based wholesale electricity, gas and environmental markets, focuses on developments of the European regulatory framework for wholesale energy trading and provides a discussion platform at European level.

www.europex.org



About FIA

FIA is the leading global trade organisation for the futures, options and centrally cleared derivatives markets, with offices in Brussels, London, Singapore and Washington, D.C.. FIA's membership includes clearing firms, exchanges, clearinghouses, trading firms and commodities specialists from more than 48 countries as well as technology vendors, lawyers and other professionals serving the industry.

www.fia.org



About GIE – Gas Infrastructure Europe

GIE is a representative organisation towards the European Institutions (European Commission, European Parliament, Council of the European Union) as well as the European bodies of regulators (ACER, CEER) and other stakeholders. GIE was formally established on 10 March 2005 as a legally independent and non-profit association. GIE - Gas Infrastructure Europe - is representing 68 member companies from 25 countries, gathering operators of gas infrastructures across Europe: transmission pipelines, storage facilities and LNG terminals.

www.gie.eu



About IETA – the International Emissions Trading Association

IETA is the leading voice of the business community on carbon markets around the world. Established in 1999, IETA's member companies include some of the world's leading corporations, including global leaders in oil, electricity, cement, aluminium, chemical, and other industrial sectors; as well as leading firms in the data verification and certification, broking and trading, legal, finance, and consulting industries.

www.ieta.org



About LEBA

The London Energy Brokers' Association ['LEBA'], under the European Venues and Intermediaries' Association ['EVIA'] promotes and enhances the value and competitiveness of Wholesale Market Venues, Platforms and Arranging Intermediaries by providing members with co-ordination and a common voice to foster and promote liquid, transparent and fair energy and commodity markets.

www.leba.org.uk



About RECS International

RECS International is a non-profit members' organisation with the mission to create transparent and reliable renewable energy markets, facilitated by commonly accepted energy attribute tracking systems. Members of RECS International represent the whole chain of the electricity market – from producers to consumers – who all endorse the principles of cost-efficient, consumer driven growth in renewable electricity. RECS International believes that the future of the electricity market will be driven by consumers and that energy attribute certificates (EACs), suitable policies and best practices must be in place to enable bottom-up growth in that market.

www.recs.org



About smartEN

smartEn is the European business association for digital and decentralised energy solutions. smartEn's members include innovators in services and technology for energy and data management, finance and research. By taking an integrated perspective on the interaction of demand and supply, smartEn's mission is to promote system efficiency, encourage innovation and diversity, empower energy consumers and drive the decarbonisation of the energy sector.

www.smarten.eu



About SolarPower Europe

SolarPower Europe is a member-led association representing organisations active along the whole value chain. Its aim is to shape the regulatory environment and enhance business opportunities for solar power in Europe.

www.solarpowereurope.org



About WindEurope

WindEurope is the association for wind energy in Europe. It represents the entire value chain: utilities/developers, manufacturers, banks, insurance companies and research institutes. Its members also include the national wind energy associations of all the countries in Europe.

www.windeurope.org

Press Contact

Europex – Association of European Energy Exchanges

Address: Rue Archimède 44, 1000 Brussels, Belgium

Phone: +32 2 512 34 10

Website: www.europex.org

Email: secretariat@europex.org

Twitter: @Europex_energy