

Council Directive 2003/96/EC of 27 October 2003
restructuring the Community framework for the taxation of
energy products and electricity (Text with EEA relevance)

Article 18

1 ^{[F1[X1]}By way of derogation from the provisions of the present Directive, the Member States specified in Annex II are authorised to continue to apply the reductions in the levels of taxation or the exemptions set out in that Annex.]]

Subject to a prior review by the Council, on the basis of a proposal from the Commission, this authorisation shall expire on 31 December 2006 or on the date specified in Annex II.

2 Notwithstanding the periods set out ^{[F1[X1]}in paragraphs 3 to 13]] and provided that this does not significantly distort competition, Member States with difficulties in implementing the new minimum levels of taxation will be allowed a transitional period of until 1 January 2007, particularly in order to avoid jeopardising price stability.

3 The Kingdom of Spain may apply a transitional period until 1 January 2007 to adjust its national level of taxation on gas oil used as propellant to the new minimum level of EUR 302 and until 1 January 2012 to reach EUR 330. Until 31 December 2009, it may furthermore apply a special reduced rate on commercial use of gas oil used as propellant, provided that this does not result in taxation at below EUR 287 per 1 000 l and that the national levels of taxation in force on 1 January 2003 are not reduced. From 1 January 2010 until 1 January 2012, it may apply a differentiated rate on commercial use of gas oil used as propellant, provided that it does not result in taxation at below EUR 302 per 1 000 l and that the national levels of taxation in force on 1 January 2010 are not reduced. The special reduced rate on commercial use of gas oil used as propellant may also be applied for taxis until 1 January 2012. With respect to Article 7(3)(a), it may apply, until 1 January 2008, a maximum permissible gross laden weight of not less than 3,5 tonnes in the definition of commercial purposes.

4 The Republic of Austria may apply a transitional period until 1 January 2007 to adjust its national level of taxation on gas oil used as propellant to the new minimum level of EUR 302 and until 1 January 2012 to reach EUR 330. Until 31 December 2009, it may furthermore apply a special reduced rate on commercial use of gas oil used as propellant, provided that this does not result in taxation at below EUR 287 per 1 000 l and that the national levels of taxation in force on 1 January 2003 are not reduced. From 1 January 2010 until 1 January 2012, it may apply a differentiated rate on commercial use of gas oil used as propellant, provided that it does not result in taxation at below EUR 302 per 1 000 l and that the national levels of taxation in force on 1 January 2010 are not reduced.

5 The Kingdom of Belgium may apply a transitional period until 1 January 2007 to adjust its national level of taxation on gas oil used as propellant to the new minimum level of EUR 302 and until 1 January 2012 to reach EUR 330. Until 31 December 2009, it may furthermore apply a special reduced rate on commercial use of gas oil used as propellant, provided that this does not result in taxation at below EUR 287 per 1 000 l and that the national levels of taxation in force on 1 January 2003 are not reduced. From 1 January 2010 until 1 January 2012, it may apply a differentiated rate on commercial use of gas oil used as propellant, provided that it does not result in taxation at below EUR 302 per 1 000 l and that the national levels of taxation in force on 1 January 2010 are not reduced.

6 The Grand Duchy of Luxembourg may apply a transitional period until 1 January 2009 to adjust its national level of taxation on gas oil used as propellant to the new minimum level of EUR 302 and until 1 January 2012 to reach EUR 330. Until 31 December 2009, it

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may furthermore apply a special reduced rate on commercial use of gas oil used as propellant, provided that this does not result in taxation at below EUR 272 per 1 000 l and that the national levels of taxation in force on 1 January 2003 are not reduced. From 1 January 2010 until 1 January 2012, it may apply a differentiated rate on commercial use of gas oil used as propellant, provided that this does not result in taxation at below EUR 302 per 1 000 l and that the national levels of taxation in force on 1 January 2010 are not reduced.

7 The Portuguese Republic may apply levels of taxation on energy products and electricity consumed in the Autonomous Regions of the Azores and Madeira lower than the minimum levels of taxation laid down in this Directive in order to compensate for the transport costs incurred as a result of the insular and dispersed nature of these regions.

The Portuguese Republic may apply a transitional period until 1 January 2009 to adjust its national level of taxation on gas oil used as propellant to the new minimum level of EUR 302 and until 1 January 2012 to reach EUR 330. Until 31 December 2009, it may furthermore apply a differentiated rate on commercial use of gas oil used as propellant, provided that this does not result in taxation at below EUR 272 per 1 000 l and that the national levels of taxation in force on 1 January 2003 are not reduced. From 1 January 2010 until 1 January 2012, it may apply a differentiated rate on commercial use of gas oil used as propellant, provided that this does not result in taxation at below EUR 302 per 1000 l and that the national levels of taxation in force on 1 January 2010 are not reduced. The differentiated rate on commercial use of gas oil used as propellant may also be applied for taxis until 1 January 2012. With respect to Article 7(3)(a) it may apply, until 1 January 2008, a maximum permissible gross laden weight of not less than 3,5 tonnes in the definition of commercial purposes.

The Portuguese Republic may apply total or partial exemptions in the level of taxation of electricity until 1 January 2010.

8 The Hellenic Republic may apply levels of taxation up to EUR 22 per 1 000 l lower than the minimum rates laid down in this Directive on gas oil used as propellant and on petrol consumed in the departments of Lesbos, Chios, Samos, the Dodecanese and the Cyclades and on the following islands in the Aegean: Thasos, North Sporades, Samothrace and Skiros.

The Hellenic Republic may apply a transitional period until 1 January 2010 to convert its current input electricity taxation system into an output taxation system and to reach the new minimum level of taxation for petrol.

The Hellenic Republic may apply a transitional period until 1 January 2010 to adjust its national level of taxation on gas oil used as propellant to the new minimum level of EUR 302 per 1 000 l and until 1 January 2012 to reach EUR 330. Until 31 December 2009 it may furthermore apply a differentiated rate on commercial use of gas oil used as propellant, provided that this does not result in taxation at below EUR 264 per 1 000 l and that the national levels of taxation in force on 1 January 2003 are not reduced. From 1 January 2010 until 1 January 2012, it may apply a differentiated rate on commercial use of gas oil used as propellant, provided that this does not result in taxation at below EUR 302 per 1 000 l and that the national levels of taxation in force on 1 January 2010 are not reduced. The differentiated rate on commercial use of gas oil used as propellant may also be applied for taxis until 1 January 2012. With respect to Article 7(3)(a) it may apply, until 1 January 2008, a maximum permissible gross laden weight of not less than 3,5 tonnes in the definition of commercial purposes.

9 Ireland may apply total or partial exemptions or reductions in the level of taxation of electricity until 1 January 2008.

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10 The French Republic may apply total or partial exemptions or reductions for energy products and electricity used by the State, regional and local government authorities or other bodies governed by public law, in respect of the activities or transactions in which they engage as public authorities until 1 January 2009.

The French Republic may apply a transitional period until 1 January 2009 to adapt its current electricity taxation system to the provisions set out in this Directive. During this period, the global average level of the current local electricity taxation is to be taken into account to assess whether the minimum rates set out in this Directive are respected.

11 The Italian Republic may apply, until 1 January 2008, a maximum permissible gross laden weight of not less than 3,5 tonnes in the definition of commercial purposes as given in Article 7(3)(a).

12 The Federal Republic of Germany may apply, until 1 January 2008, a maximum permissible gross laden weight of 12 tonnes in the definition of commercial purposes as given in Article 7(3)(a).

13 The Kingdom of the Netherlands may apply, until 1 January 2008, a maximum permissible gross laden weight of 12 tonnes in the definition of commercial purposes as given in Article 7(3)(a).

14 Within the transitional periods established, Member States shall progressively reduce their respective gaps with respect to the new minimum levels of taxation. However, when the difference between the national level and the minimum level does not exceed 3 % of that minimum level, the Member State concerned may wait until the end of the period to adjust its national level.

Editorial Information

X1 Substituted by [Corrigendum to Council Directive 2004/74/EC of 29 April 2004 amending Directive 2003/96/EC as regards the possibility for certain Member States to apply, in respect of energy products and electricity, temporary exemptions or reductions in the levels of taxation \(Official Journal of the European Union L 157 of 30 April 2004\)](#).

Textual Amendments

F1 Substituted by [Council Directive 2004/74/EC of 29 April 2004 amending Directive 2003/96/EC as regards the possibility for certain Member States to apply, in respect of energy products and electricity, temporary exemptions or reductions in the levels of taxation](#).