



# TAX TREATMENT OF THE INTERACTION BETWEEN WATER AND ENERGY

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# 1. INTRODUCTION

## ➤ UN WATER Report (2014)

WATER-ENERGY NEXUS ... is more than  
hydropower & biofuels

## ➤ GOAL OF THE PAPER

- ✓ To analyse **current legislation** (EU & Spain)
- ✓ To identify **critical tax issues**
- ✓ To find **ways to improve** current patterns
- ✓ **Scope** limited to specific water & energy taxes

## 2. EU LEGAL CONTEXT

### THE EU WATER FRAMEWORK DIRECTIVE (WFD-2000)

- The need to **conserve adequate water supplies**
- The need for **greater integration** between energy policy and water policy (Recital 16)
- Technical specifications should be laid down to ensure a **coherent approach** (Recital 49)
- PRICE OF WATER: Member States shall take account of the principle of **recovery of the costs of water services** (Article 9)

# THE EU ENERGY TAXATION DIRECTIVE (ETD-2003)

- Tax harmonization - minimum level of taxation
- Certain exemptions/reduced levels of taxation are possible - Article 15 - hydraulic origin produced in hydroelectric installations, of solar, wind, wave, tidal or geothermal origin and energy products and electricity used for combined heat and power generation ...

# THE EU ENERGY EFFICIENCY DIRECTIVE (EED-2012)

- Member States shall set an indicated national energy efficiency target at all stages of energy chain (Article 3)
- Member States may opt to take other policy measures to achieve energy savings among final customers - including energy or CO2 taxes, financing schemes & instruments or fiscal incentives (article 7)

## TAX INCENTIVES AND STATE AIDS

*‘Save as otherwise provided in the Treaties, **any aid granted by a Member State** or through State resources in any form whatsoever which **distorts or threatens to distort competition** by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be **incompatible with the internal market**’ (Article 107(1) of the [EU Treaty](#))*

# GUIDELINES ON STATE AIDS FOR ENVIRONMENTAL PROTECTION & ENERGY

- **Environmental harmonized taxes** – simplified approach
- **Non-harmonized environmental taxes** & taxes below the EU minimum level of taxation – the State should clearly define the scope of the tax reduction in order to demonstrate the **necessity** and the **proportionality** of the aid



### 3. THE SPANISH CASE

➤ **PARTICULARITIES** (insufficient rainfall; orography very irregular, strong importance of the agriculture ...)

➤ **TAXES ON THE USE OF WATER**

✓ State, regional and local level

➤ **TAXES ON PRODUCTION & CONSUMPTION OF ELECTRIC ENERGY**



## 4. INTERFERENCES AND INEFICIENCIES

- The **indirect benefits** of the possible actions on water & energy that indirectly generates less consumption or additional production on the other - are not contemplated with regard to the tax incentives
- In many cases potential beneficiary actions are **penalised** by the accumulation of taxes and charges
- EU State aid regulation creates **additional difficulties** to introduce water & energy nexus in tax policies

## 5. PROPOSALS

- **Tax incentives** - leading role instead subsidies
- They should be established in a **case by case basis** and linked to specific policies in each action to improve efficiency in the joint management of water & energy and their environmental effects
- The very concept of **‘environmental tax incentive’** requires an integrated approach

## 6. CONCLUSIONS

- Is there a water & energy nexus on tax issues ? **NO**
- We need to fix the targets at EU level, considering strategic and macroeconomic considerations and the environmental point of view
- State aid EU regulation should change – for expressly contemplate the compatibility of tax incentives on the joint water & energy nexus within EU law, to ensure the legality of them and to promote a greater level of legal certainty



**Thanks!**

**And enjoy the Congress**