

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 17

1 Provided the minimum levels of taxation prescribed in this Directive are respected on average for each business, Member States may apply tax reductions on the consumption of energy products used for heating purposes or for the purposes of Article 8(2)(b) and (c) and on electricity in the following cases:

a in favour of energy-intensive business

An 'energy-intensive business' shall mean a business entity, as referred to in Article 11, where either the purchases of energy products and electricity amount to at least 3,0 % of the production value or the national energy tax payable amounts to at least 0,5 % of the added value. Within this definition, Member States may apply more restrictive concepts, including sales value, process and sector definitions.

'Purchases of energy products and electricity' shall mean the actual cost of energy purchased or generated within the business. Only electricity, heat and energy products that are used for heating purposes or for the purposes of Article 8(2)(b) and (c) are included. All taxes are included, except deductible VAT.

'Production value' shall mean turnover, including subsidies directly linked to the price of the product, plus or minus the changes in stocks of finished products, work in progress and goods and services purchased for resale, minus the purchases of goods and services for resale.

'Value added' shall mean the total turnover liable to VAT including export sales minus the total purchases liable to VAT including imports.

Member States, which currently apply national energy tax systems in which energy-intensive businesses are defined according to criteria other than energy costs in comparison with production value and national energy tax payable in comparison with value added, shall be allowed a transitional period until no later than 1 January 2007 to adapt to the definition set out in point (a) first subparagraph;

b where agreements are concluded with undertakings or associations of undertakings, or where tradable permit schemes or equivalent arrangements are implemented, as far as they lead to the achievement of environmental protection objectives or to improvements in energy efficiency.

2 Notwithstanding Article 4(1), Member States may apply a level of taxation down to zero to energy products and electricity as defined in Article 2, when used by energy-intensive businesses as defined in paragraph 1 of this Article.

3 Notwithstanding Article 4(1), Member States may apply a level of taxation down to 50 % of the minimum levels in this Directive to energy products and electricity as defined in Article 2, when used by business entities as defined in Article 11, which are not energy-intensive as defined in paragraph 1 of this Article.

4 Businesses that benefit from the possibilities referred to in paragraphs 2 and 3 shall enter into the agreements, tradable permit schemes or equivalent arrangements as referred to in paragraph 1(b). The agreements, tradable permit schemes or equivalent arrangements must lead to the achievement of environmental objectives or increased energy efficiency, broadly

equivalent to what would have been achieved if the standard Community minimum rates had been observed.