

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 21

1 In addition to the general provisions defining the chargeable event and the provisions for payment set out in Directive 92/12/EEC, the amount of taxation on energy products shall also become due on the occurrence of one of the chargeable events mentioned in Article 2(3).

2 For the purpose of this Directive, the word ‘production’ in Article 4(c) and 5(1) of Directive 92/12/EEC shall be deemed to include ‘extraction’, when appropriate.

3 The consumption of energy products within the curtilage of an establishment producing energy products shall not be considered as a chargeable event giving rise to taxation, if the consumption consist of energy products produced within the curtilage of the establishment. Member States may also consider the consumption of electricity and other energy products not produced within the curtilage of such an establishment and the consumption of energy products and electricity within the curtilage of an establishment producing fuels to be used for generation of electricity as not giving rise to a chargeable event. Where the consumption is for purposes not related to the production of energy products and in particular for the propulsion of vehicles, this shall be considered a chargeable event, giving rise to taxation.

4 Member States may also provide that taxation on energy products and electricity shall become due when it is established that a final use condition laid down in national rules for the purpose of a reduced level of taxation or exemption is not, or is no longer, fulfilled.

5 For the purpose of applying Articles 5 and 6 of Directive 92/12/EEC, electricity and natural gas shall be subject to taxation and shall become chargeable at the time of supply by the distributor or redistributor. Where the delivery to consumption takes place in a Member State where the distributor or redistributor is not established, the tax of the Member States of delivery shall be chargeable to a company that has to be registered in the Member State of delivery. Tax shall in all cases be levied and collected according to procedures laid down by each Member State.

Notwithstanding the first subparagraph, Member States have the right to determine the chargeable event, in the case where there are no connections between their gas pipe lines and those of other Member States.

An entity producing electricity for its own use is regarded as a distributor. Notwithstanding Article 14(1)(a), Member States may exempt small producers of electricity provided that they tax the energy products used for the production of that electricity.

For the purpose of applying Articles 5 and 6 of Directive 92/12/EEC, coal, coke and lignite shall be subject to taxation and shall become chargeable at the time of delivery by companies, which have to be registered for that purpose by the relevant authorities. Those authorities may allow the producer, trader, importer or fiscal representative to substitute the registered company for the fiscal obligations imposed upon it. Tax shall be levied and collected according to procedures laid down by each Member State.

6 Member States need not treat as ‘production of energy products’:
a operations during which small quantities of energy products are obtained incidentally;

- b operations by which the user of an energy product makes its reuse possible in his own undertaking provided that the taxation already paid on such product is not less than the taxation which would be due if the reused energy product were again to be liable to taxation;
- c an operation consisting of mixing, outside a production establishment or a tax warehouse, energy products with other energy products or other materials, provided that:
 - (i) taxation on the components has been paid previously; and
 - (ii) the amount paid is not less than the amount of the tax which would be chargeable on the mixture.

The condition under (i) shall not apply where the mixture is exempted for a specific use.