Corporate Income Tax Incentives for Renewable Energy Generation:

Has the Double Dividend Gone Astray?

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Eu Perspective

- No EU framework for fiscal incentives
- Problem: Unanimity requirement in field of taxation
- BUT: EU *support* of national direct fiscal measures

- EU level focus on indirect taxes: Energy Tax Directive
- Both Academic & Political

EU Renewable Energy Strategy

- White Paper COM/97/0599 final
- Council Resolution 98/C 198/01
- Commission Communications
  - COM(2001) 69 final
  - COM (2005) 627 final
- Renewable Energy Directive 2001/77/EC

Commission suggests…

- MS use direct tax incenitves, e.g. flexible deprectiation, favourable tax treatment for 3rd party financing,
- Fiscal meaures and subsidies,
- role for fiscal and financial measures in promotion of renewable energy,
- MS should use tax exemtpions & reductions for renewable energy.

Energy Tax Directive

- Preamble to Energy Tax Directive Proposal:

- ‘Tax incentives: an effective instrument.

  The use of tax incentives has shown that they could be especially effective in altering the behaviour of firms and individuals.’

Revenue Raised from Energy Tax…

- To be used for tax incentives, direct tax reductions or direct subsidies for environmental protection.

- … translated into direct (labour) tax reductions?

Both direct and indirect tax policy enouraged by Commission

BUT: academic & political focus on Indirect taxes

Case Studies

- The Netherlands,
- The United Kingdom,
- Ireland

a. Investments in own energy efficient assets
   i. Accelerated Depreciation Incentive
   ii. Percentage Deducution in Year 1

b. Investments in 3rd party projects

(a) Investments in own energy efficient assets: (i) Accelerated Depreciation

- The Netherlands – VAMIL (1991)

- 100% depreciation in year 1
- Listed new assets situated & used in the Netherlands of particular interest for the protection of the Dutch environment
    - Includes renewable energy equipment
- Revenue Foregone €38 million p.a.

Can be used with MIA or EIA

(a) Investments in own energy efficient assets: (i) Accelerated Depreciation

- United Kingdom – Enhanced Capital Allowance (2001)

  - 100% depreciation in Year 1
  - Listed assets
  - Revenue Foregone €200 million p.a.

- Only CHP & Solar covered
- No Electricity generation renewable equipment

- Rationale: electricity generators – de facto specific group. Contrary to state aid rules?

(a) Investments in own energy efficient assets: (ii) Percentage Deducution in Year 1

➢ The Netherlands (I)

Energy Investment Deduction, EIA (1997)

- 44% of cost of energy investment deductible
- Listed new assets situated & used in the Netherlands
- Revenue foregone: €139 million p.a.

(a) Investments in own energy efficient assets: (ii) Percentage Deducution in Year 1

➢ The Netherlands (II)

Environmental Investment Deduction, MIA (2000)

- 15%, 30% or 40% of investment deductible
- Listed new assets situated & used in the Netherlands of particular interest for the protection of the Dutch environment

- Revenue Foregone €98 million p.a.

(EIA & MIA mutually exclusive)

(b) Investment in third party projects

- The Netherlands

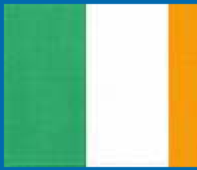
Green Funds Scheme (1995)

- Project situated & carried out in the Netherlands
- Investors provide funds to banks for loans to green project developers at preferential rates
- Investors exempted from divdiend/savings tax related to this investment up to €52,579 p.a.

- Revenue Foregone €7.5 million p.a.

(b) Investment in third party projects

- **Ireland** Investment tax incentive (1998)



  - Investment in Renewable Energy Projects
  - Max €12.7 million deductible p.a.
  - (€9.525m per project)
  - R.E. Project incorporated and resident in Ireland
  - No residence requirement for investor

  - Revenue Forgone €1 million p.a.

  - N.B. Corporate tax rate *only* 12.5%

Overview of Incentives

	The Netherlands	United Kingdom	Ireland
yoto Protocol emissions eduction commitment	6% below 1990	12.5% below 1990	13% above 199
urrent Renewable energy share	6.35%	4.32%	7.19%
enewable energy share by 2010	9%	10%	13.2%
) Own investment incentive) Accelerated depreciation	€38 million p.a. since 1991	€200 million p.a.* since 2001	X
a) Own investment incentive i) % deduction year 1	€139m (EIA 1997)+ €98m (MIA 2000) p.a.	X	X
) 3rd Party investment incentive	€7.5 million p.a. since 1995	X	€1 million p.a. since 1998
otal Revenue foregone	€282.5 million p.a.	€200 million p.a.*	€1 million p.a.

* this incentive covers CHP & solar energy *not* primarily for electricity generation

All Pre- Kyoto Protocol

- Case-study incentives

- Introduced Prior to EU Approval of Kyoto Protocol
  - (31 May 2002)

- No new post Kyoto Protocol direct tax incentives introduced yet…

State aid Dimension

- Case-study incentives:

- Approved after MS notification;
- Approved after ‘unnotified’ procedure; or
- Not investigated (*de facto* appoval).

- Also, increases in budgets of previously approved aid: Approved

UK a step too far?

- Enhanced Capital Allowance
- No hydo or wind energy
- Only CHP & solar as long as *not* primarily for electricity generation

  - Based on German State aid decision
  - aid considered 'State aid' as electricity generators – de facto specific group
  - UK aims to avoid ECA constituting 'State aid'.

State aid… but allowed!

‘State aid’ justified or saved by:

Commission Guidelines for State Aid for Environmental Protection

VAMIL & Capital Allowance scheme similiar

VAMIL included renewable electricity equipment

UK *could* include renewable energy equipment and still comply with State aid regime

Future of State aid regime

- Review of State aid regime
  - State Aid Action Plan 2005
- Member State Questionnaires 2005
- Guidelines on State aid for Environmental Protection

  - Simplify approval procedures
  - Increase levels of aid
  - Improve regime re: renewables
  - Block exemption for common forms of aid

Results

- May 2007
- New Draft Guidelines on State Aid for Environmental Protection Published

- Simplified Balancing test for approval
- Increased aid levels
- Renewable energy support enhanced

Environmental Guidelines & Renewable Energy

- Inclusion of *inter alia*
  - Aid for energy saving
  - Aid for renewable energy sources
  - Aid for CHP
  - Aid for district heating
  - Aid in the form of tax exemtions & reductions

Draft General Block Exemption Regulation

Simplified rules for:

- Investment aid for environmental protection improving on Community standards
- Environmental aid for investment in energy saving measures.
- Environmental aid for investment in high efficiency cogeneration
- Environmental aid for investments to exploit renewable energy sources
- Environmental aid in the form of tax reductions

Future?

- Increased Transparency
- Increased accessibility

- Healthy proliferation of State aid for Environmental Protection

- Including direct tax incenitves for renewblable energy?

Double Dividend – gone astray?

- EU Energy Tax Directive
  - Only EU level environmental fiscal policy

- Creates double dividend
  - Increased taxes on environmentally harmful substances
  - Balanced by:
  - Reduction of labour taxes

- Requirement:
  - fiscal neutrality of new environmental taxes

No double dividend for Renewable energy?

- Fiscal neutrality required.
- Only through reduction of labour tax?

- No new direct tax incentives for renewable energy *derived from* fiscal neutrality requirement.
  - Introduced prior to adoption of Energy Tax Directive

- No Kyoto Protocol double dividend
  - Only single dividend

Path laid for new tax incentives…

- By virtue of:

- Neutrality requirement of environmental fiscal reform

- Increased revenue raised by environmental taxes
  - Budget for direct tax incenitves meagre compared to revenue raised by indirect environmental taxes

- EU support - environmental state aid regime

Kyoto Protocol objectives pursued on only one side of ‘double dividend’

- Double dividend gone astray? when:
- Environmental Fiscal Reform

  does not result in

  new direct tax incentives for renewable energy
- Reduction in taxes relates only to non-environmental goals
  - reduction of labour taxes

Conclusion

- Direct tax incentives for renewable energy
  - Neglected
- Focus on indirect taxation & exemptions

- MS use of fiscal policy for renewable energy development supported by Commission
- Commission support only increasing
  - N.B. New Draft Guidelines on State aid for environmental Protection

- In use to some extent, but limited.

Suggestion

- Fulfill fiscal neutrality requirement & create environmental double dividend by

- Introducing *new Pro-Kyoto Protocol*

  Direct tax incentives for renewable energy

- Take cue from Commission positive revision of Guidelines

Final Word…

- EU Legal Climate prepared
- For Member State tax systems to pursue
- Pro Kyoto Protocol Direct & Indirect tax policy

- Are politicians & academics prepared to follow?