

**Position Paper: Special excise on electricity and natural gas**

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**Description**

As from January 1, 2022 all existing federal surcharges on electricity (federal surcharge, offshore levy, strategic reserve, cost of the offshore wind energy connection) and on natural gas (federal surcharge) were transposed into a special excise<sup>1</sup>. This reform was necessary to offer legal certainty to companies, as the exemption mechanism of the offshore levy was subject to debate due to a possible incompatibility with European state aid guidelines. Furthermore, the reform offers the advantage to allow federal authorities to adapt in a smoother way the federal surcharges on electricity, and it protects in principle the electricity consumers from the impact of possible additional costs subsequent to choosing the capacity remuneration mechanism (CRM), which enters into force as from 2025.

**Electricity**

With this reform, industrial electricity consumers are now subject to only one federal surcharge, i.e. the special excise on electricity<sup>2</sup>. The amounts per consumption segment are given in the table below.

Consumption segment (MWh/year)	Professional customers <sup>3</sup> (€/MWh)
0-20	14,21
20-50	12,09
50-1000	11,39
1.000-25.000	10,69
25.000-100.000	2,73
>100.000	0,5

In the framework of the energy crisis, the federal government decided to fix the special excise for electricity to the minimum (0,5 €/MWh) for a consumption up to 1.000 MWh, initially for a period of Two months (November – December 2022)<sup>4</sup>, which was extended to 31<sup>st</sup> of March 2023 included<sup>5</sup>.

In principle, the special excise is applied to the total consumption, but in some specific cases exemptions are possible. These are summed up in article 429 of the Program Law of 27 December 2004 (adapted several times)<sup>6</sup>. The most important exemptions for electricity concern amongst others:

- electricity primarily used for chemical reduction and electrolytical and metallurgical processes;
- taxable products used for pilot projects for the technological development of environmental friendly products or for fuels from renewable sources;
- electricity not taken off the transmission or distribution<sup>7</sup> grid:
  - from solar, wind, waves, tidal or geothermal origin,
  - from hydraulic origin, generated in hydraulic plants,

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<sup>1</sup> See the Program Law of 27 December 2021 (<https://www.ejustice.just.fgov.be/eli/wet/2021/12/27/2021043625/staatsblad>) and the Royal Decree of 27 December 2021 “tot wijziging van het koninklijk besluit van 28 juni 2015 betreffende de belasting van energieuropducten en elektriciteit” (<https://www.ejustice.just.fgov.be/eli/besluit/2021/12/27/2021022817/staatsblad>) .

<sup>2</sup> The “normall” excise on electricity currently has a zero tariff for all consumers in Belgium. The energy levy (excise on electricity)- is only due on low tension (<1kV) and is subsequently not discussed in this document.

<sup>3</sup> The tariffs are different for non-professional customers.

<sup>4</sup> Royal Decree of 6 September 2022 “tot voorlopige wijziging van artikel 420, § 3, 1° van de programmawet van 27 december 2004”, Belgian Bulletin 27/09/2022.

<sup>5</sup> Law of 21 December 2022 “houdende diverse fiscale bepalingen”, Belgian Bulletin 29/12/2022.

<sup>6</sup> See <http://www.ejustice.just.fgov.be/eli/wet/2004/12/27/2004021170/justel>.

<sup>7</sup> We are talking about the public distribution grid.

- from biomass or products derived from biomass,
- generated by fuel cells.

This exemption is limited to electricity complying with the legal criteria on the granting of green certificates or cogeneration certificates.

- energy products and electricity used for combined production of heat and power
- energy products and electricity used in mineralogical process
- ...

In order to benefit from these exemptions, a license is required. A request for an exemption can be introduced at the Administration for Customs & Excises<sup>8</sup>.

### **Natural gas**

The federal levy for natural gas has been replaced by a special excise on natural gas. The amounts per consumption segment are given in the table below.

Consumption segment (GWh/year)	Professional customers <sup>9</sup> (€/MWh)
0-20	0,66
20 – 50	0,56
50 – 250	0,54
250 -1.000	0,42
1.000 -2.500	0,22
>2.500	0,15

In parallel, the already existing energy tax on natural gas continues to exist in its current form<sup>10 11</sup>.

In the framework of the energy crisis, it was decided for natural gas to fix the total excise tariff for two months (November – December 2022) at the European minimum for a consumption up to 50.000 MWh<sup>12</sup>. To this effect, the special excise was fixed at 0 €/MWh for a consumption up to 50.000 MWh and the energy levy to the minimum (0,54 €/MWh) for professional customers. This ruling was extended until the 31<sup>st</sup> of March 2023 included<sup>13</sup>.

In principle, the special excise is applied to the total consumption, but in some specific cases exemptions are possible. These are summed up in article 429 of the Program Law of 27 December 2004 (adapted several times)<sup>14</sup>. The most important exemptions for natural gas concern amongst others:

- energy products used for purposes other than combustion or heating;
- energy products for dual use. The use of energy products for chemical reduction or electrolytical and metallurgical processes is considered to be dual use;
- energy products and electricity used for combined production of heat and power;
- energy products and electricity used in mineralogical process
- ...

<sup>8</sup> See <https://financien.belgium.be/nl/Actueel/vanaf-1-januari-2022-wijzigen-de-structuur-en-de-accijnstarieven-voor-aardgas-en>.

<sup>9</sup> The tariffs are different for non-professional customers.

<sup>10</sup> The “normal” excise on natural gas has currently a zero tariff for all consumers in Belgium.

<sup>11</sup> See the Position Paper “Surcharges on natural gas”.

<sup>12</sup> Royal Decree of 6 September 2022 “tot voorlopige wijziging van artikel 420, § 3, 1° van de programmawet van 27 december 2004”, Belgian Bulletin 27/09/2022.

<sup>13</sup> Law of 21st of December 2022 “houdende diverse fiscale bepalingen”, Belgian Bulletin 29/12/2022.

<sup>14</sup> See <http://www.ejustice.just.fgov.be/eli/wet/2004/12/27/2004021170/justel>.

In order to benefit from these exemptions, a license is required. A request for an exemption can be introduced at the Administration for Customs & Excises. If one benefitted from an exemption in the past, it is still applicable after the reform.

### **Energy norm**

Finally, the federal government has realized the energy norm. In this framework, the four energy regulators will yearly compare the Belgian energy prices with the neighboring countries, and propose correcting measures to guarantee the companies' competitiveness and the residential consumers' purchasing power. The authorities will decide whether to introduce correcting measures or not<sup>15</sup>.

### **Conclusions and positioning of Febeliec**

The consecutive analyses of Deloitte on behalf of Febeliec show that industrial companies' competitiveness in Belgium are put permanently under pressure, amongst others due to the higher surcharges on electricity<sup>16</sup>. This trend is being reinforced by the war in Ukraine and the sanctions against Russia which led to substantially higher energy prices in all Europe. For industry in Belgium, the situation is even worse: Belgian industry faces higher electricity prices of 19 to 25% compared to the average in Central Western Europe, an additional handicap<sup>17</sup>.

Febeliec welcomes the simplification of federal surcharges, which offer moreover legal certainty in the offshore levy issue. Febeliec also insists upon a rapid application of the new energy norm so that the energy prices in our country, and especially for electricity, would not be higher than those in our neighboring countries. Permanent efforts are required to reduce the handicap compared to our neighboring countries (the Netherlands, France and Germany).

Febeliec also asks the different authorities to review their policy as regards surcharges:

- Core tasks of the authorities must be financed out of taxation revenues, not out of levies on energy consumption.
- Surcharges for green electricity must be reduced through correct aid measures and a coherent policy.
- Evaluate the impact on the electricity cost of the national obligations as regards renewable energy.
- Not introduce new surcharges on consumption, for example to support investments in new production capacity.
- Adapted measures to limit the impact of the passing through of the cost of the strategic reserve or of any other capacity remuneration mechanism.

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<sup>15</sup> "Wet van of 28/2/2022 houdende diverse bepalingen inzake energie" (see <http://www.ejustice.just.fgov.be/eli/wet/2022/02/28/2022040472/justel>).

<sup>16</sup> See

[http://www.febeliec.be/web/deloitte%20study%20electricity%20prices%20%20update%202021%2018\\_03\\_2021\\_/1011306087/list1187970135/f1.html](http://www.febeliec.be/web/deloitte%20study%20electricity%20prices%20%20update%202021%2018_03_2021_/1011306087/list1187970135/f1.html).

<sup>17</sup> [http://www.febeliec.be/data/165087085720220425\\_Energy%20prices%20-%20dubbele%20concurrentiehandicap%20Belgische%20industrie%20-%20Febeliec%20Resultaten%20Deloitte%20studie.pdf](http://www.febeliec.be/data/165087085720220425_Energy%20prices%20-%20dubbele%20concurrentiehandicap%20Belgische%20industrie%20-%20Febeliec%20Resultaten%20Deloitte%20studie.pdf)