

Electricity Tax

Chapter 1 of Part 2 of Finance Act 2008 (as amended)

Electricity Tax (ET) is provided for in Chapter 1 of Part 2 of Finance Act 2008. These provisions have been amended several times since 2008 by Finance Acts. The 2008 Act and subsequent amending Acts are published in the [Irish Statute Book](#).

This non-statutory consolidation of Chapter 1 of Part 2 of Finance Act 2008 has been prepared by Revenue for reference purposes. All amendments to date have been incorporated and these are annotated in the sidenotes. While every care has been taken in its preparation, Revenue can assume no responsibility for the accuracy, completeness or up to date nature of the information provided.

Non-Statutory Consolidation effective from 1 January 2020
For Reference Purposes Only

Contents

| | |
|--|-----------|
| Interpretation..... | 3 |
| Charging and rates of electricity tax..... | 4 |
| Liability to pay electricity tax..... | 4 |
| Returns and payment by electricity suppliers..... | 5 |
| Mixed supply..... | 6 |
| Registration of electricity supplier..... | 6 |
| Reliefs from electricity tax..... | 6 |
| Repayments..... | 9 |
| Offence and penalty..... | 9 |
| Regulations..... | 10 |
| Care and management..... | 10 |
| Commencement | 10 |
| SCHEDULE 2..... | 11 |

57.—(1) In this Chapter and in *Schedule 2* —

“accounting period” means a calendar year, or such other period as the Commissioners may prescribe for the purposes of payment and returns under section 60;

“business use” has the same meaning that it has in Article 11 of the Directive;

“claimant” means a person claiming repayment under section 64;

Amended by S.81 & Schedule 3,
paragraph 8,
FA 2011

“CN Code” means a Community subdivision to the combined nomenclature of the European Communities referred to in Article 1 of Council Regulation (EEC) No. 2658/87 of 23 July 1987¹ as amended by Commission Regulation (EC) No. 2031/2001 of 6 August 2001²;

“Commissioners” means the Revenue Commissioners;

“consumer” means a person who receives electricity for consumption;

“Directive” means Council Directive No. 2003/96/EC of 27 October 2003³;

“dwelling” means a premises or part of a premises used primarily as a residence;

“electricity” means electricity falling within CN Code 2716;

“electronic means” includes electrical, digital, magnetic, optical, electromagnetic, biometric, photonic means of transmission of data and other forms of related technology by means of which data is transmitted;

“household use” means use in a dwelling, other than for the purposes of any business activity in such dwelling;

“local authority” has the same meaning that it has in the Local Government Act 2001;

“mixed supply” means a single supply of electricity to a consumer for more than one use, where such uses are not all chargeable at the same rate of tax;

¹ O.J. No. L256 of 7 September, 1987, p.1

² O.J. No. L279 of 23 October, 2001, p.1

³ O.J. No. L260 of 11 October, 2003, p.8

“non-business use” means any use other than business use and includes household use, and use by a public authority or a local authority;

“officer” means an officer of the Commissioners;

“prescribed” means prescribed by regulations made by the Commissioners under section 66;

“public authority” has the same meaning that it has in section 2 of the Local Government Act 2001 and includes any body prescribed by the Minister for the Environment, Heritage and Local Government pursuant to paragraph (g) of that definition;

“supply” means a quantity of electricity supplied to a consumer;

“tax” means electricity tax within the meaning of *subsection (1) of section 58*;

“unit” means a megawatt hour.

- (2) A word or expression that is used in this Chapter and which is also used in the Directive has, unless a meaning is provided by *subsection (1)* or the contrary intention otherwise appears, the same meaning in this Chapter as it has in the Directive.

Charging and rates.

Amended by S.80(a) FA 2012

58. —(1) Subject to the provisions of this Chapter and any regulations made under it, a duty of excise, to be known as electricity tax, shall be charged, levied and paid at the rates specified in *Schedule 2* on all electricity supplied in the State to consumers.

- (2) *Subsection (1)* shall apply to all electricity supplied by a supplier, for consumption by such supplier, where the average quantity so supplied in a calendar year exceeds 50 units.

Liability.

Amended by S.80(b) FA 2012

59. —(1) Tax shall be charged at the time the electricity is supplied by a supplier to a consumer.

- (2) Except where *subsection (4)* or *(5)* applies, a supplier shall be accountable for and liable to pay the tax charged on the electricity supplied by such supplier.

Deleted by S.80(c) FA 2012

- (3) *Deleted*

- (4) A supplier shall not be liable for any deficiency in the amount of tax charged on a supply of electricity, where such amount has been calculated in accordance with *section 60*.

- (5) A consumer shall be liable for any deficiency in the amount of tax charged on a supply of electricity, where such deficiency has

resulted from false or misleading information furnished to a supplier by such consumer.

Returns and payment.

60.—(1) For the purposes of *section 59*, a supplier shall, before the end of the month following an accounting period, deliver to an officer a return in such form as the Commissioners may require, of—

- (a) the units supplied during such accounting period for business use and non-business use,
- (b) in respect of the reliefs under *section 63*, the number of such units that have been deemed by the supplier to have qualified for relief under each paragraph of *subsection (1)* of that section.

Inserted by S.80(d) FA 2012

- (1A) Any supplier that is not established in the State shall make such arrangements with the Commissioners as the Commissioners may require for the payment of the tax and accounting for it, and those arrangements shall include the appointment of a competent person in the State to give effect to them.
- (2) For the purposes of *subsection (1)*, the supplier shall, in accordance with prescribed criteria, deem whether a supply is taxable at a rate set down in Schedule 2 or is relieved from tax under *section 63*.
- (3) The Commissioners may require that the return under *subsection (1)* be delivered to them by electronic means.
- (4) (a) Except where *paragraph (b)* applies, the supplier shall, in accordance with the return under *subsection (1)*, pay the amount of tax due in respect of an accounting period before the end of the month following such accounting period, and such supplier shall ensure that the Commissioners are authorised to debit such amount from the account of such supplier in a financial institution.
- (b) Without prejudice to *paragraph (a)*, where it is estimated that the tax liability of a supplier for an accounting period will exceed €100,000, the Commissioners may require such supplier to pay the tax due in respect of interim periods, determined by them, during such accounting period, and any such interim period shall not be less than one month or greater than 6 months.
- (c) Where *paragraph (b)* applies, the supplier shall pay the amount of tax due in respect of an interim period before the end of the month following such interim period, and shall ensure that the Commissioners are authorised to debit such amount from the account of such supplier in a financial institution.

(5) (a) Where, at the time when the return under subsection (1) is made, a supplier does not have all the information required to determine the tax liability for supplies made during the last 2 months of an accounting period, the return may be completed on the basis of an estimate of that liability.

(b) Where paragraph (a) applies, the supplier shall, as soon as the required information is available and at the latest within 3 months of the end of the accounting period, submit a final return for that accounting period, and pay any amount of tax outstanding.

(c) No interest shall be charged on any amount of tax paid in accordance with paragraph (b), where that amount does not exceed 5 per cent of the total tax liability for the calendar year.

Mixed supply.

61.—(1) In the case of a mixed supply, except where *subsection (2)* or (3) applies, tax shall, as appropriate, be charged on the quantity of electricity supplied for each use.

(2) In the case of a mixed supply involving household use, it shall be assumed that any quantity up to one unit of such supply has been supplied for such use during each calendar month in an accounting period.

(3) In the case of a mixed supply involving business and non-business use (other than household use), it shall be assumed that any quantity up to one unit of such supply has been supplied for business use during each calendar month in an accounting period.

Registration.

62.— Every supplier shall register with the Commissioners in accordance with such procedures as the Commissioners may prescribe or otherwise impose.

Reliefs.

63.—(1) Without prejudice to any other relief from tax which may apply, and subject to such conditions as the Commissioners may prescribe or otherwise impose, a relief from tax shall be granted on any electricity which is shown to the satisfaction of the Commissioners—

(a) to have been supplied for household use,

(b) to have been generated from renewable sources,

(c) to have been produced from environmentally friendly heat and power cogeneration, where such cogeneration meets the requirements for high-efficiency cogeneration under Directive 2004/8/EC of the European Parliament and of the Council of 11 February 2004¹,

¹ O.J. No. L52 of 21 February, 2004, p.50

(d) to have been used for chemical reduction, or in electrolytic or metallurgical processes,

(e) to have been used for combined heat and power generation,

(f) to have been used for the production of electricity or in connection with such production,

Amended by S.59(a) of FA 2013

(g) to have been produced on board a boat or other craft,

(h) to have been used under diplomatic arrangements in the State.

(2) (a) For the relief under *paragraph (b)* of subsection (1), electricity shall be considered to have been generated from renewable sources if it is—

(i) of solar, wind, wave, tidal or geothermal origin,

(ii) of hydraulic origin produced in a hydroelectric installation,

(iii) generated from biomass or from products produced from biomass,

(iv) generated from fuel cells.

(3) For the relief under *paragraph (c)* of subsection (1), a determination as to whether the co-generation concerned meets the requirements for high-efficiency cogeneration under Council Directive 2004/8/EC, shall be made by a competent authority designated for that purpose by the Minister for Finance.

(4) (a) The amount of the relief under *paragraph (b)* of subsection (1) shall be determined by the formula—

$$A \times P_1 \times R_1 + A \times P_2 \times R_2$$

where—

A is the total units from renewable sources, supplied by the claimant during the payment period,

P_1 is the percentage of the total units, supplied by the claimant during the payment period, that was subject to tax at the rate for business use,

P_2 is the percentage of the total units, supplied by the claimant during the payment period, that was subject to tax at the rate for non-business use,

R_1 is the rate for business use, and

R_2 is the rate for non-business use.

(b) The amount of the relief under *paragraph (c)* of subsection (1) shall be determined by the formula—

$$C \times P_1 \times R_1 + C \times P_2 \times R_2$$

where—

C is the total units produced from environmentally friendly heat and power cogeneration, supplied by the claimant during the payment period,

P_1 is the percentage of the total units, supplied by the claimant during the payment period, that was subject to tax at the rate for business use,

P_2 is the percentage of the total units, supplied by the claimant during the payment period, that was subject to tax at the rate for non-business use,

R_1 is the rate for business use, and

R_2 is the rate for non-business use.

(c) (i) For the purposes of paragraphs (a) and (b), where the total units produced from renewable sources or from environmentally friendly heat and power cogeneration (as the case may be) cannot otherwise be determined, a determination shall be made by reference to the data on the fuel mix in respect of the supplier concerned, as published by the Commission for Energy Regulation.

Substituted by S.49(b) FA (No. 2)2008

(ii) For the purposes of subparagraph (i) the data on the fuel mix shall be that in respect of the most recent year for which, at the end of the accounting period concerned in the return, the Commission for Energy Regulation has published such data.

Repayments.

Amended by S.59(b) of FA 2013

64.—(1) Effect may be given to the reliefs under paragraphs (b), (c), (d) and (h) of subsection (1) of section 63 by means of repayment.

(2) (a) Claims for repayment under this section shall be in such form as the Commissioners may direct and shall be in respect of electricity supplied during an accounting period.

(b) Except where the Commissioners may in any particular case otherwise allow, a repayment may not be made unless the claim is made within 6 months following the end of each such accounting period.

Substituted by S.49(c) of FA (No. 2)2008

(3) (a) Repayments in respect of relief under paragraphs (b) and (c) of subsection (1) of section 63 shall be made to the supplier of the electricity concerned.

(b) Repayments in respect of relief under paragraph (d) of subsection (1) of section 63 shall be made to the consumer of the electricity concerned.

Offence and penalty.

65.—(1) It is an offence under this subsection for any person to contravene or fail to comply with any provision of this Chapter, or any regulation made under *section 66*, or any condition imposed under this Chapter, or under such regulation in relation to such provision.

(2) Without prejudice to any other penalty to which a person may be liable, a person convicted of an offence under *subsection (1)* is liable on summary conviction to a fine of €5,000.

(3) Where an offence under *subsection (1)* is committed by a body corporate and the offence is shown to have been committed with the consent or connivance of any person who, when the offence was committed, was a director, manager, secretary or other officer of the body corporate, or a member of the committee of management or other controlling authority of the body corporate, that person shall also be deemed to be guilty of an offence and may be proceeded against and punished as if guilty of the first-mentioned offence.

Regulations (Chapter 1).

66.— The Commissioners may, for the purposes of managing, securing and collecting electricity tax, or for the protection of the revenue derived from that tax, make regulations.

Care and Management (Chapter 1).

67.— Electricity tax imposed by this Chapter is placed under the care and management of the Commissioners.

Commencement (Chapter 1).

68.— This Chapter comes into operation on 1 October 2008.

| | | |
|---|--|--|
| Section 58. Amended by S.44 FA 2019 | SCHEDULE 2 RATES OF ELECTRICITY TAX | |
| | Description of use Rate of tax | |
| | Business use... | |
| | Non-business use | |