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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL IMPLEMENTING DECISION authorising Finland to apply a reduced rate of taxation to electricity supplied to certain heat pumps, electric boilers and recirculating water pumps, in accordance with Article 19 of Directive 2003/96/EC

COUNCIL IMPLEMENTING DECISION (EU) 2022/…

of …

authorising Finland to apply a reduced rate of taxation to electricity supplied to certain heat pumps, electric boilers and recirculating water pumps, in accordance with Article 19 of Directive 2003/96/EC

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity[1], and in particular Article 19 thereof,

Having regard to the proposal from the European Commission,

[1] OJ L 283, 31.10.2003, p. 51.

Whereas:

(1) By letter of 6 August 2021, Finland, in accordance with the procedure laid down in Article 19 of Directive 2003/96/EC, requested authorisation to apply a reduced rate of taxation to electricity supplied to heat pumps and electric boilers that generate heat for the district heating network, to heat pumps with a nominal thermal output of at least 0.5 MW not connected to the district heating network, and to recirculating water pumps in geothermal heating plants. The Finnish authorities provided additional information and clarifications in support of the request on 4 November 2021, 26 January 2022 and 16 February 2022.

(2) Through the envisaged reduced rate, Finland aims to increase the electrification of the heating end-use sector and promote non-combustion heat production in order to reduce emissions. The increased use of electrically powered heating installations is expected to yield environmental and climate benefits.

(3) Allowing Finland to apply a reduced rate of taxation to electricity supplied to heat pumps and electric boilers that generate heat for the district heating network, to heat pumps with a nominal thermal output of at least 0.5 MW not connected to the district heating network and to recirculating water pumps in geothermal heating plants does not go beyond what is necessary to increase electrification of the heating end-use sector. Such heating installations promote the green transition and decrease the use of heat production based on the burning of fuels. Those installations are not yet competitive on the market, and the application of a reduced rate of taxation as requested by Finland would limit the administrative burden. Therefore, that measure is unlikely to lead to significant distortions in competition during its lifetime and will thus not negatively affect the proper functioning of the internal market.

(4) In accordance with Article 19(2) of Directive 2003/96/EC, each authorisation granted under Article 19(1) of that Directive is to be strictly limited in time. In order to ensure that the authorisation period is sufficiently long so as not to discourage relevant economic operators from making the necessary investments, it is appropriate to grant the authorisation from 1 January 2022 until 31 December 2027. However, in order not to undermine future general development of the existing legal framework, it is appropriate to provide that, in the event that the Council, acting on the basis of Article 113 or any other relevant provision of the Treaty on the Functioning of the European Union, introduces a modified general system for the taxation of energy products and electricity to which the authorisation would not be adapted, the authorisation should cease to apply on the date on which that modified general system becomes applicable.

(5) In order to enable installation operators to pursue the promotion of heat pumps and electric boilers that generate heat for the district heating network, heat pumps with a nominal thermal output of at least 0.5 MW not connected to the district heating network, and recirculating water pumps in geothermal heating plants, it should be ensured that Finland is able to apply the tax reduction, as requested, with effect from 1 January 2022. By providing for application from a date prior to the taking effect of the authorisation, the legitimate expectations of economic operators are respected, as the authorisation does not encroach upon their rights and obligations.

(6) This Decision is without prejudice to the application of Union rules regarding State aid,

HAS ADOPTED THIS DECISION:

Article 1

Provided that the minimum level of taxation referred to in Article 10 of Directive 2003/96/EC, as set out for business use in Table C of Annex I to that Directive, is respected, Finland is authorised to apply a reduced rate of taxation to electricity supplied to any of the following:

(a) heat pumps and electric boilers that generate heat for the district heating network;

(b) heat pumps with a nominal thermal output of at least 0.5 MW not connected to the district heating network;

(c) recirculating water pumps in geothermal heating plants.

Article 2

This Decision shall apply from 1 January 2022 until 31 December 2027.

However, in the event that the Council, acting on the basis of Article 113 or any other relevant provision of the Treaty on the Functioning of the European Union, introduces a modified general system for the taxation of energy products and electricity to which the authorisation granted in Article 1 of this Decision would not be adapted, this Decision shall cease to apply on the date on which that modified general system becomes applicable.

Article 3

This Decision is addressed to the Republic of Finland.

Done at …,

For the Council
The President