



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 8.5.2006
COM(2006) 198 final

Proposal for a

COUNCIL DECISION

amending Decision 2005/231/EC

**authorising Sweden to apply a reduced rate of taxation to electricity consumed
by certain households and service sector companies in accordance with Article 19
of Directive 2003/96/EC**

(presented by the Commission)

EXPLANATORY MEMORANDUM

1) CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

The Swedish energy tax levied on electricity in compliance with Council Directive 2003/96/EC¹ is due in full by households and, in general, by companies in the service sector.

Under Article 19(1) of Council Directive 2003/96/EC, the Council, acting unanimously on a proposal from the Commission, may authorise any Member State to introduce further exemptions or reductions in excise duties for specific policy considerations.

- **General context**

On 7 March 2005 by means of Council Decision 2005/231/EC² Sweden was authorised under Article 19 of Council Directive 2003/96/EC to implement a reduced rate of taxation to electricity consumed by households and service sector companies in the north of Sweden.

The state aid to service sector companies in the north of Sweden consisting in reduced rate of taxation on electricity was authorised by the Commission until the end of 2005³. Therefore the authorisation granted by the Council was set to expire by the same date.

By a letter dated 9 December 2005 the Swedish authorities applied to the Commission for an extension of the authorisation until 31 December 2011. At about the same time, namely by letter dated 15 November 2005, the Swedish authorities notified the Commission according to Article 88(3) of the Treaty prolongation of the regionally differentiated energy tax for the service sector⁴.

Sweden justifies its request for authorisation under Article 19 of Council Directive 2003/96/EC for specific regional policy objectives.

The tax differentiation is based on climate considerations and aims at placing households and service sector companies in the north of Sweden at an equal footing with such consumers in the southern parts of the country by way of reducing the costs of electricity for the consumers up north (where the electricity consumption needed to heat an average house in the northern parts of Sweden is deemed to be about 25 percent higher than in the south). The geographical differentiation has been made on an objective basis of information about mean temperatures during those parts of the year

¹ OJ L 283, 31.10.2003, p. 51. Directive last amended by Directive 2004/75/EC, OJ L 157, 30.4.2004, p. 100.

² OJ L 072, 18.03.2005, p. 27.

³ State aid Case "C42/03 (ex-NN 3/B/2001) Sweden", OJ C 189 of 09.08.2003, p.6.

⁴ State aid Case N 593/2005 Sweden "Prolongation of service sector's regionally differentiated energy tax on electricity".

when houses normally are heated.

For 2006, the general energy tax on electricity in Sweden is SEK 0.261 (ca. EUR 0.028⁵) per kWh. For the period 1 January 2006 until 31 December 2011 Sweden intends to apply for households and companies in the service sector in the North of Sweden a lower tax rate on electricity, which corresponds presently to SEK 0.201 (ca. EUR 0.022) per kWh, i.e. to 77% of the tax levied on electricity in the remaining part of the country.

Sweden considers that the tax-induced incentive to increase energy efficiency is maintained.

The annual budgetary expenditure related to the tax reduction is anticipated to be SEK 146 million (16 million euros).

The measure is granted in the form of a reduced energy tax rate. The effect of the reduced tax rate is given directly, when the tax is levied. The chargeable event occurs at the time of supply to the consumer by the distributor of the electricity.

The measure is to be terminated by 31 December 2011.

- **Existing provisions in the area of the proposal**

Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity.

Council Decision of 7 March 2005 authorising Sweden to apply a reduced rate of taxation to electricity consumed by households and service sector companies situated in certain areas in the north of Sweden in accordance with Article 19 of Directive 2003/96/EC.

- **Consistency with the other policies and objectives of the Union**

Under Article 19(1) of Council Directive 2003/96/EC, the Council, acting unanimously on a proposal from the Commission, may authorise any Member State to introduce further exemptions or reductions in excise duties for specific policy considerations.

Each request must be examined by the Commission taking into account the proper functioning of the internal market, the need to ensure fair competition and Community health, environment, energy and transport policies.

The differentiation places households and service sector companies in the north of Sweden at an equal footing with such consumers in the southern parts of the country by way of reducing the costs of electricity for the consumers up north. Therefore, the measure has regional and cohesion policy objectives.

⁵ In compliance with Article 13 of Council Directive 2003/96/EC the calculation into EUR for 2006 is based on the exchange rate obtained on the first working day of October 2005 and published in the Official Journal of the European Union (1 EUR = 9.3086 SEK).

The reduced level of taxation on electricity for consumption in the north of Sweden (22 euros per MWh) remains much higher than the Community minimum rate set out in directive 2003/96/EC (1 euro per MWh for non business use). Furthermore, the tax reduction will be proportionate to the extra heating costs borne by households and service sector companies in northern Sweden (cf. Article 1 (2) of Decision 2005/231/EC). Consequently, the Commission is of the view that this tax level insures that the incentive effect of taxation to increase energy efficiency is maintained.

Article 19(2) of Directive 2003/96/EC provides that measures adopted under its provisions must be limited in time, and sets a maximum period of 6 years, with a possibility of renewal. At the present stage, it appears appropriate to renew the authorisation for six years and thus to extend the application of Decision 2005/231/EC accordingly.

It should be ensured that the authorisation under Decision 2005/231/EC, granted for similar reasons but for a short period, continues to apply, without creating a gap between the expiry of that decision and the adoption of the proposed draft decision. The present evaluation is without prejudice to the outcome of the state aid case N 593/2005.

2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

The proposal contains a prolongation of an existing derogation, which only concerns Sweden.

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

Non applicable.

3) LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

On the basis of the above and without prejudice to the outcome of the state aid case N 593/2005, Commission proposes to extend the validity of Council Decision 2005/231/EC until 31 December 2011 authorising thereby Sweden to apply a reduced rate of taxation on electricity consumed by households and service sector companies in the North of Sweden.

- **Legal basis**

Article 19 of Council Directive 2003/96/EC.

- **Subsidiarity principle**

The subsidiarity principle applies insofar as the proposal does not fall under the exclusive competence of the Community.

The objectives of the proposal cannot be sufficiently achieved by the Member States for the following reason(s).

With Council Directive 2003/96/EC the EU laid down harmonized provisions for taxation of energy products and electricity. Any changes to these provisions require a Community act of legislation and can not be subject of a Member States decision.

The proposal therefore complies with the subsidiarity principle.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reason(s).

The proposal complies with the proportionality principle because it intends to modify a Council decision.

The measure does not imply financial and administrative burden for the Community.

- **Choice of instruments**

Proposed instruments: other.

Other means would not be adequate for the following reason(s).

The proposal complies with the proportionality principle because it intends to modify a Council decision.

4) BUDGETARY IMPLICATION

The proposal has no implication for the Community budget.

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(Only the Swedish text is authentic)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity,⁶ and in particular Article 19(1) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) By Council Decision 2005/231/EC⁷ Sweden was authorised to apply a reduced rate of taxation to electricity consumed by certain households and service sector companies in accordance with Article 19 of Directive 2003/96/EC. That authorisation was limited until 31. December 2005. By letter dated 9 December 2005, the Swedish authorities applied to the Commission for an extension of the authorisation, until the end of 2011.
- (2) In the northern parts of the country, electricity consumption for heating purposes is higher than elsewhere in the country, the difference being 25 % at present. Therefore, a reduced energy tax rate has been applied in Sweden to electricity used in the northern parts of the country since July 1981. The percentage of the reduction as compared to the normal rate has however declined since that time.
- (3) By reducing the costs of electricity for households and service sector companies in the north of Sweden those consumers are placed on an equal footing with such consumers in the southern parts of the country. Therefore, the measure has regional and cohesion policy objectives.

⁶ OJ L 283, 31.10.2003, p. 51, Directive as last amended by Directive 2004/75/EC (OJ L 157, 30.4.2004, p. 100).

⁷ OJ L 72, 18. 3. 2005, P. 27.

- (4) The reduced level of taxation on electricity for consumption in the north of Sweden, which amounts presently to 22 euros per MWh, remains much higher than the Community minimum rate set out in Directive 2003/96/EC. Furthermore, the tax reduction should remain proportionate to the extra heating costs borne by households and service sector companies in northern Sweden. That level of taxation should ensure that the incentive effect of taxation to increase energy efficiency is maintained.
- (5) The scheme has been reviewed by the Commission and been found not to distort competition or hinder the operation of the internal market and it is not considered incompatible with Community policy on the environment, energy and transport.
- (6) Without prejudice to the outcome of the state aid case N 593/2005 Sweden "Prolongation of service sector's regionally differentiated energy tax on electricity", it is therefore appropriate to renew, in accordance with the terms of Article 19(2) of Directive 2003/96/EC, the authorisation for Sweden to apply a reduced rate of taxation to electricity for consumption in the north of Sweden, until 31 December 2011.
- (7) Decision 2005/231/EC should therefore be amended accordingly.
- (8) It should be ensured that the authorisation under Decision 2005/231/EC, granted for similar reasons but for a short period, continues to apply, without creating a gap between the expiry of that Decision and the taking effect of this Decision,

HAS ADOPTED THIS DECISION:

Article 1

In Article 2 of Decision 2005/231/EC the date "31 December 2005" is replaced by the date "31 December 2011".

Article 2

This Decision shall apply from 1. January 2006.

Article 3

This Decision is addressed to the Kingdom of Sweden.

Done at Brussels,

*For the Council
The President*