

LEGAL ALERT

2019 BUDGET LAW PROPOSAL FOR THE ENERGY SECTOR

KEY HIGHLIGHTS

Expansion of the Energy Sector Extraordinary Contribution

As per the [Government's Budget Law Proposal](#), the Energy Sector Extraordinary Contribution (ESEC) shall be levied in 2019 on generators operating renewable energy power plants that have been licensed under the guaranteed remuneration scheme, *i.e.*, selling electricity to the last resort supplier against payment of a legally or contractually determined feed-in tariff. These are to this date exempted from paying ESEC.

According to the Proposal, the following generators continue to be exempted from the ESEC regime, even though they most likely benefit from a feed-in tariff: *i)* generators who hold licenses or rights granted to them in the context of a public tender, *ii)* generators operating small scale generation units or self-consumption generation units, *iii)* generators of electricity and heat through microcogeneration plants.

Hydropower plants with an installed capacity of 20 MW or higher shall, according to the Proposal, remain subject to the ESEC regime. Under this threshold, the holders of operation licenses for hydropower plants benefitting from the guaranteed remuneration scheme shall now be subject to the ESEC's payment obligation – which is expected to apply only to hydropower plants with an installed power up to 10 MW.

The exemption regime for cogeneration is expected to remain in force as previously approved.

The ESEC regime now proposed by the Government has a special focus on special regime generation (through endogenous resources, renewable and nonrenewable), whereas, in the previous years and with the exception of cogeneration, this type of electricity generation had been excluded from its scope, as a recognition of its role in reducing both our external energy dependence and the emissions of greenhouse gas, as well as in contributing to fulfill national and European targets with regards to renewable energy generation and consumption.

Despite the so called ‘extraordinary’ nature, the Proposal acknowledges the need for the ESEC to keep track of the evolution of the National Electric System’s tariffs debt and the need to finance social and environmental policies within the energy sector.

Other proposals

Within the Energy Sector proposals for the State Budget in 2019, we would also highlight the following:

- a) Authorization for the Government to legislate on the following measures:
 - i. Decrease of **VAT rate** from 23% to 6% on the non-variable part of the electricity and natural gas invoices for low voltage electricity consumers with a contracted power up to 3.45 kVA and low pressure natural gas consumers not exceeding 10,000 m³ per year; and
 - ii. Gradual **carbon tax** on certain oil and energy products;
- b) **Market aggregators**: approval of a new framework for an activity to be carried out by suppliers under a specific license who would be obliged to acquire the electricity generated by special regime generators operating under the market regime (*i.e.*,

trading energy through organized markets or bilateral agreements) in very similar terms to the existing framework for the market facilitator;

- c) Assignment of 50% of part of the income generated by the oil and energy products tax and the carbon tax to the National Electric System or to the respective **tariff deficit**, through the Fund for the Energy Sector's Systemic Sustainability;
- d) Amendment, until the end of the first quarter of 2019, to the **regulatory mechanism** that promotes competitive balance in the wholesale electricity market in Portugal, as established by [Decree-Law no. 74/2013, of 4 June](#), pursuant to the Iberian Electricity Market's new rules, as to created harmonized mechanisms and reinforce competition and consumers' protection;
- e) Transferring to the Transmission System Operator the powers to issue and monitor **origin guarantees and certificates**, which had been assigned to the Directorate General for Energy and Geology in 2015;
- f) Allocation in 2020 of budget incentives to Public Administration services and entities that, during 2019, showcase the biggest **energy consumption reduction**;
- g) Funding of **natural gas social tariff** by natural gas transmission operators and natural gas suppliers, according to the volume of natural gas traded in the previous year;
- h) Introduction of **600 electric vehicles** for Public Administration entities' exclusive use, funded by the Environmental Fund.

The 2019 Budget Law Proposal will be presented and explained to the Parliament and reviewed by the relevant parliamentary committees during the next weeks. The Proposal may be amended in the context of this parliamentary assessment procedure, in particular

due to proposals submitted by the parties' parliamentary groups. The revision of the State Budget Law by the Parliament is expected to be concluded by mid-December.

MLGTS is available for clarify any additional questions.

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