

Government to introduce CO2 emissions tax for industrial companies

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Introduction

In the Climate Agreement, the government announced its plans to impose a CO2 emissions tax on industrial companies as part of proposed measures to cut greenhouse gas emissions by 49% by 2030 compared with 1990 levels (for further details please see "[New milestones to combat climate change](#)"). These plans were further developed in the draft bill concerning a CO2 tax on emissions from industrial installations, which was presented for consultation on 24 April 2020. The levy aims to ensure that the reduction target for industry as agreed in the Climate Agreement is achieved while limiting the effect on the level playing field with neighbouring countries as much as possible.

Objectives, form and subjects of levy

The levy is designed to stimulate more efficient technologies and ensure that industrial companies pay a fair share of the costs of the energy transition.

The Environmental Taxes Act sets an ascending rate, which is the basis for the national levy per tonne of CO2. Companies are granted dispensation rights, which are deducted from the tax base. This 'tax-free' emission space is determined mainly on the basis of the rules of the [EU emissions trading system](#) (ETS).⁽¹⁾ The dispensation rights will be phased out on a straight-line basis by means of a reduction factor until 2030, when only the part that corresponds to the reduction target will be exempt from the levy.

The CO2 tax mainly relates to CO2 emissions caused by industrial production and waste incineration and applies to all companies that are already participating in the EU ETS, plus waste incinerators and companies that emit a large amount of nitrous oxide. Electricity generation is not covered by the levy, but heat supply (partially) is.

Levy and EU ETS

Most companies covered by the CO2 tax are also subject to the EU ETS. The national CO2 tax is additional and closely aligns with the EU ETS.

In the explanatory memorandum to the draft bill, the government states that the current design of the EU ETS is insufficient to achieve the Paris Agreement's goals. Hence, the Netherlands has set a more ambitious national reduction target and introduced the CO2 levy to ensure that this target is achieved.

Not all emissions covered by the EU ETS are subject to the CO2 levy. Emissions relating to electricity generation are exempt. As explained below, these emissions are already covered by the minimum CO2 price for electricity generation. Emissions associated with heat supply for district heating are also not included in the levy. Further, some EU ETS emitters in the agricultural sector and the built environment (ie, glasshouse growers, a few hospitals, a university, Schiphol Airport and the Aalsmeer flower auction) are not included in the levy as the achievement of the CO2-reduction

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targets in these sectors is already being ensured through different legal instruments.

Amount of levy

The amount of the CO₂ levy per tonne of CO₂ depends on the EU ETS price, as it is calculated as the difference between the rate set out in the Environmental Taxes Act and the EU ETS price. The statutory rate is set as a minimum price. This means that the lower the price of an EU ETS emission allowance, the higher the levy. If the price of an EU ETS emission allowance exceeds the statutory rate, the levy will be zero as it cannot be negative.

The rate set in the Environmental Taxes Act will increase between 2021 and 2030. The draft bill currently contains no specific rates. The draft explanatory memorandum states that the government will use further information – including a pricing study by the Netherlands Environmental Assessment Agency and a playing field analysis to be carried out by consultancy firm PricewaterhouseCoopers – to set specific rates when the bill is submitted.

After the end of the relevant calendar year, the levy due must be reported on tonnes of industrial emissions that were emitted in the previous calendar year above the exempted emissions. In order to determine the levy, companies will therefore have to collect and report information about their industrial CO₂ emissions and the dispensation rights to which they are entitled. For the purpose of the levy, companies will have to set up an industrial monitoring plan and submit it to the Dutch Emission Authority (NEA). In addition, they must submit two annual reports to the NEA:

- an industrial emission report on the quantity of emissions; and
- a report on the calculation of dispensation rights.

Transferability of dispensation rights

The transfer of dispensation rights between installations is permitted. To this end, the NEA is setting up a register for industry dispensation rights. After the end of the calendar year, all companies subject to the levy will have to submit the above reports to the NEA. On the basis of these reports, the number of dispensation rights to be obtained will be credited to their account in the register. Companies can then register a transfer of dispensation rights to their account from 15 May to 1 September.

Companies cannot save dispensation rights for following years. However, they can use a surplus of dispensation rights over a calendar year to make up for a shortage of dispensation rights in a previous year up to five years prior. This allows the company to recover the levy paid over a previous year.

Levy and national minimum carbon price

The CO₂ tax for industry is an addition to the introduction of the minimum carbon price for electricity generation. A bill to that effect was submitted to Parliament in 2019 but has been delayed by the COVID-19 crisis. The minimum carbon price applies to the emission of greenhouse gas from electricity generation by companies that fall under the EU ETS. This concerns both electricity producers and other EU ETS companies, such as industrial companies. The draft bill on the CO₂ levy is aligned with the bill on the minimum carbon price. This means that emissions that form the basis of the minimum CO₂ price for electricity generation do not fall within the scope of the CO₂ tax for industry and vice versa. Companies will therefore not have to deal with both instruments for the same emissions.

The minimum carbon price is also linked to the EU ETS. The price on the market of the ETS emission allowances is determined by supply and demand. Because this price fluctuates greatly, the government has decided to introduce a minimum carbon price. Should the EU ETS price fall below this minimum price, the difference will be levied in the form of a national carbon tax.

Levy and SDE++

The Climate Agreement contains a wide range of instruments that apply to industrial companies. In addition to the price incentives of the EU ETS, the national CO₂ levy and the CO₂ emissions goal, new subsidies are available under the main subsidy scheme for renewable energy in the Netherlands, the Stimulation of Sustainable Energy Production (SDE+) (for further details please see "[Broadening subsidy scheme for renewable energy: from SDE+ to SDE++](#)"). With the introduction of the Stimulation of Sustainable Energy Transition (SDE++), the subsidy scheme will be expanded to an incentive for sustainable energy transition and will cover, among other things, CO₂-reducing options in industry (eg, carbon capture, utilisation and storage). Together, these measures form the 'stick and carrot' required to achieve the emission reduction target for the industrial sector.

Responses

The draft bill was open for consultation until 20 May 2020 and received 1,556 responses. It follows from these responses that both industry and environmental associations are almost unanimous in their rejection of the CO2 levy.

The vast majority of industrial companies advocate following the EU ETS. Other industrial associations argue that their members should be exempt from the levy. For example, glasshouse growers do not consider themselves 'industrial companies' and waste incinerators argue that they are disproportionately affected by the levy.

Conversely, environmental associations argue that the levy is insufficient. Greenpeace, for example, advocates a flat levy and other associations reject the fact that the levy seems to be less far reaching than intended in the Climate Agreement.

What's next?

The levy is intended to enter into force on 1 January 2021.

In the first few years, the levy is expected to impose virtually no additional financial burden on the industry. The government plans to allow industrial companies sufficient time to plan investments and complete the necessary technical preparations to reduce CO2 emissions. To this extent, a relatively large amount of dispensation rights will be granted in 2021. In addition, due to the COVID-19 crisis, companies will receive more dispensation rights in the first years than necessary. However, as the emission-reduction target for industry remains 14.3 megatons, industrial companies will pay a fair share of the costs of the energy transition at some point between 2021 and 2030.

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Endnotes

(1) Under the EU ETS, the operator of an industrial installation must hold permits covering its greenhouse gas emissions. One allowance gives the holder the right to emit one tonne of CO2. The EU ETS was set up to regulate the trade in emission allowances. The price on the market is determined by supply and demand.

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