

## Description of the Portuguese legal context regarding the local fiscal policies and the Renewable Energy Sources

### 0 Introduction

In Portugal, there are local authorities (municipalities) and the national authority (government), there are not any regional governments. In general, the administrative system is centralized and the local authorities have little autonomy to manage tax, tariffs/fees and other revenues. Some taxes (namely the IMI - Property tax) leaves some room to put in place fiscal measures to promote the renewable energy sources. Actually, if a real estate owner has the energy certificate of the property, he/she is enabled to obtain tax benefits in the IMI - Property tax.

### 1 What **taxes** do the local authorities usually manage? Can they be used by the local authorities to promote the Renewable Energy Sources?

In Portugal, the national taxes that generate more revenues are:

- IVA - Value-added tax
- IRS - Individual Income Tax
- IRC - Corporate Income Tax
- ISV - Vehicle tax
- IMI - Property tax
- IMT - Municipal Tax on Real Estate Transmission
- IS – Stamp tax.

As mentioned, most of such taxes are managed by the state and the local authorities are not entitled to modify them. The IMI - Property tax is managed by the local authorities and leave room to put in place some fiscal incentives to promote the renewable energy sources.

### 2 What **tariffs/fees** do the local authorities usually manage? Can they be used by the local authorities to promote the Renewable Energy Sources?

In Portugal, the local authorities manage some tariffs/fees, namely:

- Contribuição audiovisual - Audiovisual contribution (the rate used to provide funding for public television and public radio).
- Taxa de ocupação de subsolo - Subsoil occupation rate (the rate charged by the municipalities resulting from the occupation of the subsoil by the natural gas distribution networks).

- Taxa municipal de direitos de passagem - Rights-based municipal fee (the rate charged by the municipalities resulting from the passage through the subsoil of telephone cables).
- TRH - Water Resources Rate (the tax charged to use the water resources to offset the benefit resulting from such use, the respective environmental cost and the administrative costs, inherent to the planning, management, supervision and the guarantee of water quantity and quality).
- TGR – Waste management rate (sanitation and solid waste).

The local authorities can define reductions, exemptions or other modification of few of the mentioned tariffs/fees, namely the rights-based municipal fee and the subsoil occupation rate. The authorization of the central government is required to modify such fees/tariffs. Furthermore, such two tariffs/fees charge sectors where it is not relevant to promote renewable energy sources.

**3 What other fiscal revenues** (see definition in the glossary) do the local authorities usually manage? Can they be used by the local authorities to promote the Renewable Energy Sources?

In Portugal, the other fiscal revenues managed by local authorities are:

- IUC - Vehicle circulation tax (annual)
- ISP - Oil Products Tax
- IABA - Tax on Alcohol and Alcoholic Beverages
- IT – Tobacco Tax
- VERDE - Tax on plastic bags.

The local authorities are not entitled to define reductions, exemptions or other modifications of the mentioned other revenues.

## **4 Glossary**

### **Municipalities or local authorities**

The methodology has been designed for local authorities, considered as Local Administrative Units (LAUs) under the EUROSTAT classification in its correspondence table (EUROSTAT, 2016), which was created to facilitate the comparison of administrative structures in each member country. The methodology has particularly been designed for local administrative units classified as LAU1, whose administrative boundaries correspond to a single Local Administrative Unit. Furthermore, the methodology covers Local Administrative Units classified as LAU2, whose administrative boundaries include various compulsory local administrative units. Therefore, voluntary associations are not included in this category. In the case of Greece and Portugal, for example, this clarification is important as their administrative systems provide for local authorities classified as LAU1 and LAU2

by EUROSTAT. We will use local authorities, public bodies and municipalities interchangeably in this guidebook to refer to all local authorities/bodies classified as LAU1 and LAU2 by EUROSTAT.

### **Fees, taxes, tariffs and charges**

One of the challenges in promoting renewable energy through fiscal policies at local level is the differences that exist among local legal systems, as well as the differences between concepts and terms relating to local fiscal systems. In this regard, the guidebook takes into account that local fiscal policies include different concepts, such as taxes, fees, charges and tariffs. All these concepts share the common characteristic of being revenue that municipalities receive by virtue of being public powers. Even though these types of tax-related revenue may have different names in each country and may include different aspects, even if they do share the same name, the essential features that we refer to in this guidebook are set out below.

The sole aim of this conceptualisation, beyond the legal-administrative, is that the different types of tax-related revenues in each country may relate to one concept or another.

#### ***Taxes and fees***

Both concepts are forms of revenue deriving from State taxation power. Both are revenues that a taxable entity has to pay when a situation arises for which there is an obligation to pay, taking coercive measures in the event of non-payment. In general, the ability of taxpayers to pay is taken into consideration when establishing and managing both cases. They are both at the top in terms of strictness regarding their imposition formalities and management requirements.

**Taxes:** have to be paid on receiving an income, being the owner of property and undertaking a particular activity. For example: income tax, immovable property tax and VAT. In general, the wealth that one declares is taxed.

**Fees:** have to be paid for using a public service or for occupying public-owned property. For example: fees for occupying a stall in a municipal market, entering a municipal swimming pool, studying a training course taught by the municipality, receiving a healthcare service provided by the municipality, receiving a waste collection service and a water supply service, etc. In some cases, the obligation to pay for waste collection and water supply services, for example, arises from the mere fact of being the owner or tenant of a property who could potentially, although in actual fact may not, use the service.

#### ***Tariffs***

The difference between tariffs and fees is not very clear. For the purpose of this guidebook, a tariff is the amount to pay for using a property or facility, or for the provision of a public service when it is managed through a public-owned company or when it is paid to a concessionaire of a public service.

### **Charges**

Charges are both the amount a public authority pays a concessionaire to provide a service and the amount paid by a concessionaire to the public authority in order to provide such service.

It must be borne in mind that in some cases the public authority pays the provider for the service and in others it charges the provider of the service.

The difference emerges when the municipality pays, then later charges the users of the service, and when it charges the concessionaire, which then charges the users of such service.

### **What is a concessionaire?**

For the purpose of this guidebook, a concession is a right granted by a public authority or public company to another actor, usually private, to operate public property or services for a fixed period of time.

The management and, occasionally, the tariff collection is transferred to the concessionaire through what is known as a Public–Private Partnership (PPP). The public authority holds the ownership and policing power of the service, while the concessionaire physically provides it, receiving a payment called a tariff.

The concessionaire is, therefore, the title holder of the concession.

### **Non-ETS sectors**

The methodology centres on municipal fiscal policies that affect the so-called non-ETS sectors. Said sectors undertake activities that are not subject to the Emissions Trading System (ETS). They represent, therefore, the sectors that use energy less intensively. The following sectors are included in this category:

- ✓ Residential, commercial and institutional
- ✓ Transport
- ✓ Agriculture and farming
- ✓ Waste management
- ✓ Fluorinated gases
- ✓ Industrial not subject to trade emissions.

(Filippi, F., García Maties, R., 2017, 13-15).

## **5 Bibliography**

LN119/2002.

Filippi, F., García Maties, R., (2017). *Participatory method-based preparation of local fiscal policies to promote renewable energy sources at a municipal level*. València: Fundación MUSOL.