

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

0 Introduction

In Spain the local authorities have certain autonomy to define extra charges, reductions or exemptions in a wide range of taxes, tariffs/fees and other revenues. Many municipal taxes, tariffs/fees and other revenues affect very sensitive sectors (buildings, etc.), where it is possible to promote the renewable energy sources. Even if the central government regulates some municipal taxes, limiting the autonomy of the local authorities, most of the municipal taxes, the tariffs/fees and other revenues offer room to promote the renewable energy sources through local fiscal measures.

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

The Spanish local authorities manage the following taxes:

- A real estate tax: this charge usually levies the value of the property.
- A tax on buildings, installations and works ("ICIO"): this tax levies the value of the works to be carried out.
- A tax on the increase in Value of Urban Land: In the sales of a property, the tax levies the deemed increase in the value of urban land from the date of the last sale to the date of the current sale.
- A tax on Motor Vehicles: Each owner of a vehicle pays such tax according to the vehicle's power.
- A tax on businesses: the charge levies the legal persons that invoice more than one million euros.

The real estate tax and the tax on business are jointly regulated by the local authorities and the State. The State defines the kinds of reductions/exemptions as well as the minimum and maximum rates of the all the taxes. In general, the local authorities do not require any authorization to define reductions, exemptions or extra-charges of such fees, as long as they respect the mentioned limits established by the law. In terms of revenues, the real estate tax is the most important municipal tax.

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

The Spanish local authorities manage many kinds of fees/tariffs as well as special contributions. The most important are:

- Fee for the collection and transportation of solid urban refuse.
- Fee for the water supply.
- Fee for building permits and urbanistic control.
- Fee for the use of the public land owned by the municipality.
- Subsoil occupation fee (the rate charged by the municipalities resulting from the occupation of the subsoil by the natural gas distribution networks).
- Sewage collection fee.

The Spanish local authority can create any other fee, as long as it is charged for providing a service. In general, the local authorities do not require any authorization to define reductions, exemptions or extra-charges of such fees.

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?

The local authorities manage other fiscal revenues related to their competences. For example, when the public services are provided throughout a private-public partnership, the local authority receive a payment by the company running the service. The most common services provided throughout a private-public partnership for which the local authorities receive a payment are:

- Water supply.
- Operation of municipal sports centres.
- Operation of municipal slaughterhouse.
- Operating the crane municipal.

The local authorities could shape the private-public partnership, affecting the payments received for operating the mentioned services, in order to promote the renewable energy sources in the provision of such services.

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 revenues 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 revenue 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

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.