

Council Directive 2003/96/EC of 27 October 2003
restructuring the Community framework for the taxation of
energy products and electricity (Text with EEA relevance)

Article 16

1 Member States may, without prejudice to paragraph 5, apply an exemption or a reduced rate of taxation under fiscal control on the taxable products referred to in Article 2 where such products are made up of, or contain, one or more of the following products:

- products falling within CN codes 1507 to 1518;
- products falling within CN codes [F¹3824 99 55] and [F¹3824 99 80, 3824 99 85, 3824 99 86, 3824 99 92 (excluding anti-rust preparations containing amines as active constituents and inorganic composite solvents and thinners for varnishes and similar products), 3824 99 93, 3824 99 96 (excluding anti-rust preparations containing amines as active constituents and inorganic composite solvents and thinners for varnishes and similar products), 3826 00 10 and 3826 00 90] for their components produced from biomass;
- products falling within CN codes 2207 20 00 and 2905 11 00 which are not of synthetic origin;
- products produced from biomass, including products falling within CN codes 4401 and 4402.

Member States may also apply a reduced rate of taxation under fiscal control on the taxable products referred to in Article 2 where such products contain water (CN codes 2201 and [F¹2853 90 10]).

‘Biomass’ shall mean the biodegradable fraction of products, waste and residues from agriculture (including vegetal and animal substances), forestry and related industries, as well as the biodegradable fraction of industrial and municipal waste.

2 The exemption or reduction in taxation resulting from the application of the reduced rate laid down in paragraph 1 may not be greater than the amount of taxation payable on the volume of the products referred to in paragraph 1 present in the products eligible for the reduction.

The levels of taxation applied by Member States on the products made up of or containing the products referred to in paragraph 1 may be lower than the minimum levels specified in Article 4.

3 The exemption or reduction in taxation applied by Member States shall be adjusted to take account of changes in raw material prices to avoid over-compensating for the extra costs involved in the manufacture of the products referred to in paragraph 1.

4 Until 31 December 2003, Member States may exempt or continue to exempt products solely or almost solely made up of the products referred to in paragraph 1.

5 The exemption or reduction provided for the products referred to in paragraph 1 may be granted under a multiannual programme by means of an authorisation issued by an administrative authority to an economic operator for more than one calendar year. The exemption or reduction authorised may not be applied for a period of more than six consecutive years. This period may be renewed.

As part of a multiannual programme authorised by an administrative authority prior to 31 December 2012, Member States may apply the exemption or reduction under

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paragraph 1 after 31 December 2012 and until the end of the multiannual programme. The period may not be renewed.

6 Should Member States be required by Community law to comply with legally binding obligations to place on their markets a minimum proportion of the products referred to in paragraph 1, paragraphs 1 to 5 shall cease to apply as from the date when such obligations become binding on the Member States.

7 Member States shall communicate to the Commission the schedule of tax reductions or exemptions applied in accordance with this Article by 31 December 2004 and every 12 months thereafter.

8 No later than 31 December 2009, the Commission shall report to the Council on the fiscal, economic, agricultural, energy, industrial and environmental aspects of the reductions granted in accordance with this Article.

Textual Amendments

- F1** Substituted by [Commission Implementing Decision \(EU\) 2018/552 of 6 April 2018 updating the references in Council Directive 2003/96/EC to the codes of the Combined Nomenclature for certain products.](#)