

# Renewables in Italy - The "*Decreto del Fare*" Briefing

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## Law Decree of 21 June 2013 No. 69

Important changes to the tax and incentive regime applicable to renewable energy plants were introduced by Article 5 of Law Decree of 21 June 2013 No. 69 (the "Law Decree"), which was passed by the Italian Council of Ministers as the "Decreto del Fare" ("Decree of Doing"), and published in the Official Gazette of the Italian Republic on 21 June 2013. It entered into force on 22 June 2013.

Under Article 77 of the Italian Constitution, a law decree becomes ineffective 60 days after the date of publication in the Official Gazette, unless it is converted into law by the Parliament. When converting into law, Parliament may also make amendments to the law decree, provided that a law decree that is not converted into law retains its validity limited to the 60-day period.

## Robin Hood Tax extension

An additional surcharge to the "IRES" corporate income tax (better known as the "Robin Hood Tax") is payable by energy companies with revenues over €10m and taxable profit of more than €1m. This is pursuant to paragraph 16 of Article 81 of Law Decree of 25 June 2008 No. 112, converted into Law 6 August 2008 No. 133.

In article 5 of the recent Law Decree, paragraph 1 reduces the relevant Robin Hood Tax thresholds to include those energy companies with yearly revenues of more than €3m and taxable profit of at least €300,000.

For the year 2013, the Robin Hood Tax shall be applied as a 10.5% rate increase on the tax base. It is expected to decrease to 6.5% for the year 2014.

The Robin Hood Tax extension, which could potentially affect renewable energy plants with capacity starting as low as 300 kW, has been driven by a desire to reduce utility bills and other energy-related costs for consumers.

However, a closer inspection of Article 5 of the Law Decree reveals that it is unlikely that more than a fraction of the anticipated revenues will be used

to reduce the “A2” component (i.e. the costs associated with dismantlement of nuclear plants and the disposal of waste), whilst the greater share of revenues may be used for other purposes, which are not necessarily energy-related.

### CIP6 redetermination

Paragraphs 3 to 6 of Article 5 of the Law Decree provide for the redetermination of the “avoided cost of fuel” (CEC) calculation, which is applied to plants benefitting from the “CIP6” (Comitato Interministeriale dei Prezzi No. 6/1992) incentivised tariff.

By linking the CIP6 subsidies to the wholesale spot price of methane gas (rather than the price of a basket of mostly oil products), and in light of the lower and decreasing gas prices, the provision of the Law Decree shall result in cuts of the CIP6 subsidies equal to around 7%, as calculated by the Authority for Electric Energy and Gas (AEEG).

Notably, the seven incinerators (“termovalorizzatori dei rifiuti”) which have entered into operation within the past eight years are exempted.

### Bio-liquids incentives

Paragraph 7 of the Law Decree also cancels altogether the upward revision of the incentives for plants generating electricity from bio-liquids, as initially envisaged by paragraph 364 of article 1 of Law of 24 December 2012 No. 228.

The upward revision was supposed to be granted on the condition that there has been a reduction of production, and on the basis of criteria that had to be set forth by Decree of the Ministry of Economic Development (MSE).

## Contacts

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